Peru, and Tunisia.[6] As for CVD measures, seven WTO Members notified CVD actions taken during the latter half of 2000, whereas seven Members also notified actions taken in the first half of 2001. The Committee reviewed actions taken by Argentina, Australia, Canada, the EU, Peru, South Africa and the United States. With respect to subsidy notifications, the Committee continued its examination of new and full notifications submitted for 1998, as well as updating notifications submitted for 1999 and 2000. The table contained in Annex II of this report shows the WTO Members whose subsidy notifications were reviewed by the Committee in 2001.

As of January 1, 2002, when Membership in the WTO had reached 144, only 50 Members had submitted new and full subsidy notifications for 1998, while 43 and 35 Members, respectively, had submitted updating notifications for the 1999 and 2000 periods. Notably, 41 Members have never made a subsidy notification to the WTO.

In view of the ongoing difficulties experienced by Members, including the United States, in meeting the Agreement's subsidy notification obligations, the Committee took several actions in 2001 aimed at improving the situation. At the end of 2000, the Working Party on Subsidy Notifications was reconvened to take a fresh look at the notification problems confronting Members and develop possible long-term solutions for the Committee's consideration. Following a questionnaire to Members circulated by the Secretariat inquiring about the specific problems faced in making notifications and several informal meetings in the spring of 2001, a three-prong strategy was agreed upon to address the problems of subsidy notifications. The first prong was to examine alternative practical approaches to the frequency and nature of subsidy notifications, as well as their review. Examination of the format for a subsidy notification constitutes the second prong of the strategy –the effort began in 2001 and will continue into 2002. The third prong is the organization of a subsidy notification seminar in the fall 2002, coinciding with the regular Committee meeting, for government officials from developing countries responsible for notification.

An important action was taken by the Committee in 2001 with respect to the frequency and nature of subsidy notifications. Under Article 26 of the Agreement, "new and full notifications" are submitted every third year; while "updating notifications" are submitted in intervening years. At a special meeting held in May 2001, the Committee recognized that most Members were having significant difficulties in making their notifications, primarily due to resource constraints. Importantly, Members indicated that the effort and resources required to prepare the annual updating notifications are essentially equal to those required for new and full notifications. Generally, Members expressed their belief that their resources would be best utilized by devoting maximum effort to submitting new and full notifications, every two years, and by de-emphasizing the review of the annual updating notifications. Under this new approach, Members can concentrate their resources in alternating years, first on making their own new and full notifications, and then on reviewing other Members' notifications. It is expected that this approach will have the effect of increasing transparency, which is the objective of the notification obligation under the Agreement.

Implementation Issues: Over the course of 2001 and especially during the period just prior to the Fourth Ministerial Conference, the Committee held numerous informal and formal meetings to discuss several implementation issues. Pursuant to various General Council decisions, the

[6] In keeping with WTO practice, the review of legislative provisions which pertain or apply to both antidumping and CVD actions by a Member generally took place in the Antidumping Committee.

Committee held extensive discussions on five general topics:

- determining "export competitiveness" under Articles 27.5 and 27.6 of the Agreement, including the possibility of extending the period for establishing export competitiveness;
- special procedures, under Article 27.4 of the Agreement, for small exporter developing countries seeking an extension of the transition period for the phase-out of export subsidies;
- the appropriate methodology for calculating the permissible level for rebates of indirect taxes and import duties on exported products under Annex I of the Agreement;
- a general review of the Agreement's provisions regarding countervailing duty investigations; and,
- the methodology for the calculation of the GNP per capita threshold delineated in Annex VII of the Agreement for the designation of certain developing countries entitled to particular types of "special and differential treatment" under the Agreement.

1. Determining "Export Competitiveness" under Article 27.5 and 27.6

Under Article 27.2 developing countries not listed in Annex VII of the Agreement must phase-out their export subsidies no later than January 1, 2003. Notwithstanding this provision, Article 27.5 and 27.6 of the Agreement provide that a developing country which has reached 3.25 percent of world trade in a given product over two consecutive years must accelerate the phase-out of its export subsidies on that product. The product scope is defined as a section heading of the Harmonized System nomenclature. Application of this provision can be triggered either by a notification made by the developing country or a computation done by the WTO Secretariat at the request of another Member.

Many developing countries sought: (1) an extension of the period for establishing export competitiveness under Article 27.6 from two to five years; and, (2) a mechanism to allow developing countries that have achieved export competitiveness to resume export subsidization if exports fall below the level of export competitiveness. An expansion of the countries eligible for the special and differential treatment provided to Annex VII countries and a broadening of the product scope for the determination of export competitiveness were also sought.

Despite extensive discussions, the Committee was unable to agree on whether the two-year period could be effectively extended in some manner without violating the express terms of the Agreement, or whether, the two-year period could be calculated on an alternative basis, such as a multi-year rolling average. As to the mechanism for the resumption of export subsidization after export competitiveness is lost, numerous issues remained unresolved as to the terms under which a resumption could be authorized. Nor was agreement reached regarding the appropriate level of aggregation under the Harmonized System nomenclature when defining the product scope and the expansion of the countries eligible for the special and differential treatment provided to Annex VII countries under the Agreement. This implementation proposal was not considered at the Fourth Ministerial Conference.

2. Special Article 27.4 procedures for small exporter developing countries

As noted above, the Agreement requires developing countries to eliminate their export subsidies by January 1, 2003. Article 27.4 of the Agreement allows for an extension of this deadline on a year-to-year basis if a request is made to the Subsidies Committee by December 31, 2001. The Committee must then decide

whether an extension is justified based on relevant "economic, financial and development needs" of the developing-country Member. If the Committee grants an extension, annual consultations with the Committee must be held to determine the necessity of maintaining the subsidies.[7] If the Committee does not affirmatively sanction a continuation, the export subsidies must be phased out within two years.

Two developing-country proposals were made that would have permanently grandfathered the export subsidy programs of developing countries under certain conditions. One of the conditions proposed was that the exports of the developing country represent a small share of total world exports. Several countries, including the United States, objected to the proposed permanent exemption from the Agreement's export subsidy disciplines. Nonetheless, in an attempt to try and address the concerns of small exporter developing countries, a special procedure was discussed within the context of Article 27.4 of the Agreement under which countries whose share of world exports was not more than 0.10 percent and whose Gross National Income was not greater than $20 billion could be granted a limited extension for particular types of export subsidy programs subject to rigorous transparency and standstill provisions. While the Committee could not reach a consensus on all the particular provisions of the extension procedure –such as the length of the extension –based on the Committee's work, the Committee chairman made a recommendation to the General Council which substantially formed the basis of the procedure agreed upon as part of the implementation decision taken at the Fourth Ministerial Conference. Members meeting all the qualifications for the agreed upon special procedures will be eligible for a five-year extension of the transition period, in addition to the two years referred to under Article 27.4.[8] To date, Barbados, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Jamaica, Kenya, Panama, Papua New Guinea, St. Kitts and Nevis, and St.Vincents, have applied for the special procedures under Article 27.4. The Committee will conduct a detailed review of all extension requests in 2002.

3. The appropriate methodology for the calculation of the rebate of indirect taxes and import duties

Under the Agreement's export subsidy rules, countries are permitted to rebate certain indirect taxes (*e.g.*, sales taxes) and import duties on inputs used in the production process and physically incorporated in an exported product. The Committee considered two implementation proposals with respect to this issue. The first was a request that countries be permitted to calculate the level of the rebate on an "aggregate" or "generalized" basis rather than on a product- or company-specific basis. Under such an approach, a particular rebate level would be established on an industry-wide basis and the same rate applied to each company in the industry. Due primarily to serious reservations – expressed by the United States and other developed country Members – that any aggregate methodology for calculating the rebate could result in an excessive rebate, no consensus within the Committee was reached.

The second proposal related to the question of whether indirect taxes and import duties on capital equipment used in the production of exports could be included when calculating the amount of the rebate. As noted above, under the

[7] Any extension granted by the Committee would only preclude a WTO dispute settlement case from being brought against the export subsidies at issue. A Member's ability to bring a countervailing duty action under its national laws would not be affected.

[8] In addition to agreement on the specific length of the extension, it was also agreed at the Fourth Ministerial Conference, in essence, that the Committee should look favorably upon the extension requests of Members which do not meet all the specific eligibility criteria for the special small exporter procedures but which are similarly situated to those that do meet all the criteria.

Agreement indirect taxes and import duties on *inputs* consumed in the production process can be rebated when a product is exported. However, the phrase "inputs consumed in the production process" as defined in the Agreement does not specifically include capital equipment. Due to the clarity of the language in the Agreement many countries, including the United States, voiced concern that this was not an issue of implementation and that adoption of this proposal would effectively constitute an amendment or authoritative interpretation of the Agreement – neither of which the Committee is empowered to do. Other countries expressed doubts as to how the rebate could be accurately and transparently calculated. Consequently, no consensus was reached on this issue.

4. Review of the provisions of the Agreement regarding countervailing duty investigations

The General Council referred this topic to the Committee on August 2, 2001. Brazil and India submitted papers making specific proposals as to how to clarify or, in some instances, modify the provisions of the Agreement regarding countervailing duty investigations. The proposals related to: the appropriate definitions of "domestic industry"and "like product;" the use of "facts available;" numerous calculation issues; and the conduct of annual reviews of countervailing duty orders already in place. Due to the breadth and complexity of the issues raised and the relatively short period of time prior to the Fourth Ministerial Conference, very little substantive discussion occurred with respect to the specific proposals made beyond the formal presentation of proposals. Thus, the Committee recommended to the General Council that the Committee continue to consider these issues. This recommendation was adopted as part of the implementation decision adopted at the Fourth Ministerial Conference.

In December of 2001, the Committee met and adopted a plan to examine and discuss the two previously submitted papers. The Committee must report to the General Council by July 31, 2002. In light of the anticipated rules negotiations, it is unclear the extent to which the Committee is the appropriate forum for addressing some of the proposals, especially those which affect the rights and obligations of countries under the existing Agreement.

5. The methodology for the calculation of the per capita GNP threshold in Annex VII of the Agreement

Annex VII of the Agreement identifies certain countries that are eligible for particular special and differential treatment. Specifically, the export subsidies of these countries are not prohibited and, therefore, are not actionable under the dispute settlement process. Secondly, a higher *de minimis* threshold applies in countervailing duty investigations of imports from these countries, although this standard expires at the end of 2002.[9] The countries identified in Annex VII include those WTO Members designated by the United Nations as "least-developed countries" (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under $1,000 per annum and are specifically listed in Annex VII(b).[10] A country automatically "graduates" from Annex VII(b) status when its per capita GNP rises above the $1,000 threshold. When a country crosses this threshold it becomes subject to the subsidy disciplines of other developing countries.

[9] This *de minimis* for Annex VII countries is 3 percent, compared with the 2 percent for other developing countries.

[10] Annex VII(b) countries are Bolivia, Cameroon, Congo, Cote d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka, and Zimbabwe. In recognition of an apparent technical error made in the initial compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

Since the adoption of the Agreement in 1995, the *de facto* interpretation by the Committee of the $1,000 threshold has been current (*i.e.*, nominal or inflated) dollars. The concern with this interpretation, however, was that a country could graduate from Annex VII on the basis of inflation alone, rather than on the basis of real economic growth. The possible use of a $1000 constant 1990 dollar threshold was first raised as part of the preparatory process for the Third Ministerial Conference in Seattle, and at that time some work on different possible methodologies for deriving GNP per capita in constant 1990 US dollars was developed.[11]

In October 2001, the Chairman of the General Council requested that the Committee take up the question of the methodology for calculation of the $1000 threshold in constant 1990 US dollars. The Chairman of the Committee, in conjunction with the WTO Secretariat, developed an approach based on certain World Bank data that were used by the Uruguay Round negotiators in 1990 in developing Annex VII(b). While many Members expressed the view that they could accept this proposed methodology, other Members indicated that it was more appropriate to rely on more recently available data. Thus, it was not possible to reach a consensus on the question of methodology.

At the Fourth Ministerial Conference, it was agreed:

> . . . that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US $1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US $1000 based upon the most recent data from the World Bank.[12]

Pursuant to this decision, the Committee will re-examine the methodology proposed by the Chairman of the Committee in the course of 2002.[13]

6. *Financial Support by the Government of Korea for Hynix Semiconductor*

At the two formal meetings of the Committee in 2001, the United States made statements expressing serious concerns regarding the continued financial support which various Korean government authorities have been providing to Hynix Semiconductor, Inc. This support has had the effect of shielding Hynix from market discipline and exacerbating the already distressed state of the global semiconductor market. At the May 2001

[11] While some Members were concerned that they might graduate from Annex VII due, in part, to inflation, other countries were concerned that use of constant 1990 dollars might result in their being closer to Annex VII graduation relative to their position calculated using nominal dollars.

[12] The addition of the phrase "for three consecutive years" was added at the request of Honduras which was concerned that their possible graduation from Annex VII in the near future might place them in a worse condition than those Members which avail themselves of the special procedures under Article 27.4 for small developing-country exporters.

[13] In addition to the subsidy-related implementation issues noted above, the Fourth Ministerial Conference agreed to three other proposals which were not discussed by the Committee. The first permits a Member whose GNP per capita income rose above $1000 and graduated from Annex VII to be re-included if its GNP per capita income falls back below $1000. The second reaffirms the rights of least-developed countries to provide export subsidies and to have an eight-year phase-out period for export subsidies after export competitiveness is reached with respect to a particular product. The third takes note of a proposal to treat certain types of subsidies provided by developing countries as non-actionable and urges Members to exercise due restraint with respect to challenging such measures.

meeting, Korean officials attempted to assure the United States that: (1) Hynix benefits from no government-subsidized support; and, (2) the special government-orchestrated measures, which Korea claims are intended to compensate for an underdeveloped capital market, would be of limited duration.

At the time of the November meeting, the United States again expressed concern regarding the variety and magnitude of government support for Hynix as a result of the adverse trade effects likely to result. The Korean government's financial and other support has enabled Hynix to maintain capacity and production at uneconomic levels, contributing significantly to the global supply/demand imbalance for DRAM semiconductors. Given the continued state ownership in many of Hynix's creditors, and the historical record of government influence over the allocation of credit in the Korean economy, the United States expressed its view to the Committee that it is critical for the Korean authorities to demonstrate unequivocally their commitment to the stated policy of non-interference in the commercial judgment of banks and other financial institutions with respect to the future of Hynix. In conclusion, the United States urged the Korean authorities to take immediate, transparent and affirmative steps to assure that the Korean government will not provide any additional subsidies to Hynix and that the creditors of Hynix will not be pressured or influenced by the government into taking any decisions that cannot be justified solely on commercial terms. At the November meeting, the EU made an equally strong statement while Japan and Singapore raised concerns as well.

7. Export Credits

At the May meeting, Brazil made a statement regarding the Agreement's provisions on export financing. Brazil's concerns stemmed from its participation in aircraft dispute settlement proceedings. Brazil made four basic points regarding export credits. First, the existing provisions of the Agreement – items (j) and (k) of the Illustrative List of export subsidies found in Annex I of the Agreement – covering export credit guarantees and export credits are insufficient to deal with the diversity of mechanisms utilized in the market today and are potentially unfair to developing countries. Second, the manner in which the OECD Arrangement on Guidelines for Officially Supported Export Credits was incorporated into the Agreement allows participants of that Arrangement to effectively alter the Agreement without the participation of other Members. Third, the use of the so-called "market window," pursuant to which a participant of the OECD Arrangement may depart from the OECD rules by claiming that it is operating as a private entity, is "virtually unchallengeable" and generally unavailable to developing countries. Fourth, the Appellate Body's definition and interpretation of the *de facto* export subsidies provisions in the Agreement was overly narrow and insufficient to discipline such subsidies.

In a related matter, the Committee received a communication from the OECD that was distributed at the May meeting. In this communication, the Participants to the Arrangement on Guidelines for Officially Supported Exports Credits decided to publish the country risk classifications that were used for the Premium Agreement of the Arrangement and made these classifications available on their website. The OECD also requested the Secretariat to make available to any requesting Member the full text of the Export Credit Arrangement and the Premium Agreement, unless the Committee believed that it might be more useful simply to circulate these to all Members of the Committee. In addition, in informal discussions between the WTO Secretariat, as observer to the Participants Group on the Export Credits Arrangement, and the OECD Secretariat, the possibility was discussed that representatives of the OECD Secretariat make a factual presentation on the operation of the Arrangement for interested Members.

8. Permanent Group of Experts

Article 24 of the Agreement directs the Committee to establish a Permanent Group of Experts (PGE), "composed of five independent persons, highly qualified in the fields of subsidies and trade relations." The Agreement articulates three possible roles for the PGE: (i) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy, within the meaning of Article 3 of the Agreement; (ii) to provide, at the request of the Committee, an advisory opinion on the existence and nature of any subsidy; and (iii) to provide, at the request of a WTO Member, a "confidential" advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. (To date, the PGE has not yet been called upon to perform any of the aforementioned duties.) Article 24 further provides for the Committee to elect the experts to the PGE, with one of the five experts being replaced every year. One PGE member, Mr. A. V. Ganesan of India, resigned his membership, effective May 18, 2000, prior to the end of his term. At a special meeting in February 2001, the Committee elected Professor Okan Aktan to replace Mr. Ganesan, for the remainder of Mr. Ganesan's term, which expires in 2002. At its May 2001 regular meeting, the Committee elected Mr. Jorge Castro Bernieri to replace Mr. Gary Horlick, whose term expired in 2001.

Prospects for 2002

In 2002, the Subsidies Committee will continue its attention to implementation issues in a variety of respects. First, as noted above, the United States will continue to work with others to try to identify ways to rationalize the burdens of subsidy notification for all WTO Members without diminishing transparency or taking away from the other substantive benefits of the notification obligation. Second, the United States will participate actively in the review of other WTO Members' CVD legislation and actions, and will bring to Members' and the Committee's attention any concerns which may arise about such laws or actions, whether in general or in the context of specific proceedings. As noted above, as a direct result of the decision taken at the Fourth Ministerial Conference, the Committee will continue its examination of the provisions of the Agreement regarding countervailing duty investigations and report to the General Council by July 31, 2002. Finally, the United States will actively review the normal and special extension requests made under Article 27.4 of the Agreement to ensure the close adherence to the provisions of the Agreement and the agreed upon procedures for small exporter developing countries.

10. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary product standards, mandatory technical regulations, and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. Its aim is to prevent the use of technical requirements as unnecessary barriers to trade. The Agreement applies to a broad range of industrial and agricultural products, though sanitary and phytosanitary (SPS) measures and specifications for government procurement are covered under separate agreements. It establishes rules that help to distinguish legitimate standards and technical regulations from protectionist measures. Standards, technical regulations and conformity assessment procedures are to be developed and applied on a non-discriminatory basis, developed and applied transparently, and should be based on relevant international standards and guidelines, when appropriate.

The TBT Committee[14] serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This includes discussions and/or presentations concerning specific standards, technical regulations and conformity assessment procedures maintained by a Member that are creating adverse trade consequences and/or are perceived to be violations of the Agreement. It also includes an exchange of information on Member government practices related to implementation of the Agreement and relevant international developments.

Transparency and Availability of WTO/TBT Documents: A key opportunity for the public resulting from the TBT Agreement is the ability to obtain information on proposed standards, technical regulations and conformity assessment procedures, and to provide written comments for consideration on those proposals before they are finalized. Members are also required to establish a central contact point, known as an inquiry point, which is responsible for responding to requests for information on technical requirements or making the appropriate referral.

U.S. Inquiry Point

National Center for Standards and Certification Information
National Institute of Standards and Technology (NIST)
100 Bureau Drive, Stop 2150
Gaithersburg, MD 20899-2150

Telephone: (301) 975-4040
Fax: (301) 926-1559
email: ncsci@NIST.GOV

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point. NIST maintains a reference collection of standards, specifications, test methods, codes and recommended practices. This reference material includes U.S. Government agencies' regulations, and standards of U.S. private standards-developing organizations and foreign national and standardizing bodies. The inquiry point responds to all requests for information concerning federal, state and private regulations, standards and conformity assessment procedures. Upon request, NIST will provide copies of notifications of proposed regulations from foreign governments received under the TBT Agreement. The NIST also will provide information on central contact points for information maintained by other WTO Members. On questions concerning standards and technical regulations for agricultural products, including SPS measures, the NIST refers requests for information to the U.S. Department of Agriculture, which maintains the U.S. inquiry point under the Sanitary and Phytosanitary Agreement.

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: www.wto.org.

[14] Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed by the General Council. Representatives of a number of international intergovernmental organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA) and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis, pending final agreement by the General Council on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

TBT Committee documents are indicated by the symbols, "G/TBT/...." Notifications by Members of proposed technical regulations and conformity assessment procedures which are available for comment are issued as: *G/TBT/N* (the "N" stands for "notification")/*USA* (which, in this case stands for the United States of America; three letter symbols will be used to designate the WTO Member originating the notification)/*X* (where "x" will indicate the numerical sequence for that country).[15] Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point at the address above. Minutes of the Committee meetings are issued as "G/TBT/M/..." (followed by a number). Submissions by Members (*e.g.*, statements; informational documents; proposals; etc.) and other working documents of the Committee are issued as "G/TBT/W/..." (followed by a number). As a general rule, written information provided by the United States to the Committee is provided on an "unrestricted" basis and available to the public on the WTO's website.

Major Issues in 2001

The TBT Committee met three times in 2001. At the meetings, the Committee addressed implementation of the Agreement, including an exchange of information on actions taken by Members domestically to ensure implementation and ongoing compliance. A number of Members used the Committee meetings to raise concerns about specific technical regulations which affected, or had the potential to affect, trade adversely and were perceived to create unnecessary barriers to trade. U.S. interventions were primarily targeted at a variety of proposals from the European Commission that could seriously disrupt trade. The United States compiled information on the range of notifications under the TBT Agreement (G/TBT/W/115), as well as the Agreement on Sanitary and Phytosanitary Measures (SPS) (G/SPS/GEN/186), to emphasize to WTO Members that the provisions of both agreements were relevant to international trade in bio-engineered products.

The Committee conducted its sixth Annual Review of the Implementation and Operation of the Agreement based on background documentation contained in G/TBT/10, and its Sixth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) based on background documentation contained in WTO TBT Standards Code Directory (Sixth Edition), G/TBT/CS/1/Add.5 and G/TBT/CS/2/Rev.7. Decisions and recommendations adopted by the Committee are contained in G/TBT/1/Rev.7.

A Special Meeting on Procedures for Information Exchange was held in conjunction with the Committee's second meeting in order to give Members the opportunity to discuss issues relating to information exchange and to ensure a focused review of how well notification procedures under the Agreement are functioning.

Follow-up to the Second Triennial Review of the Agreement: The primary focus of the Committee in 2001 was the work program arising from its Second Triennial Review (see G/TBT/9). The review provided the opportunity for WTO Members to review and discuss all of the provisions of the Agreement, which facilitated a common understanding of their rights and obligations under the Agreement. In follow-up to that review, in 2001 priority attention was given to technical assistance and the implementation needs of developing countries, as well as trade effects resulting from mandatory labeling requirements.

Technical Assistance: In the Second Triennial Review, the Committee recognized the importance of ensuring that solutions were

[15] Before 2000, the numbering of notifications of proposed technical regulations and conformity assessment procedures read: "G/TBT/Notif./..." (followed by a number).

targeted at the specific priorities and needs identified by individual or groups of developing-country Members. This called for effective coordination at the national level between authorities, agencies, and other interested parties to identify and assess priority infrastructure needs of a specific Member. The Committee recognized the need for coordination and cooperation between donor Members and organizations, and between the Committee, other relevant WTO bodies, and other donor organizations. In order to enhance the effectiveness of technical assistance and cooperation, the Committee agreed to develop a demand-driven technical cooperation program beginning with the identification and prioritization of needs by developing countries, and working with other relevant international and regional organizations. To this end, work was begun to develop a survey both to elicit the needs of developing countries and to target assistance provided by donors. The Committee agreed to assess progress made in the context of the Third Triennial Review.

Labeling: The Committee intensified its exchange of information on issues associated with mandatory labeling requirements, noting the frequency with which specific concerns regarding labeling were raised at meetings of the Committee during discussions on implementation, and stressing that although such requirements can be legitimate measures, they should not become disguised restrictions on trade.

Prospects for 2002

The Committee will continue to monitor implementation of the Agreement by WTO Members. The number of specific trade concerns raised in the Committee appears to be increasing and the Committee has been a useful forum for Members to raise concerns and facilitate bilateral resolution of specific concerns. In 2002, the United States expects continued attention to issues relating to technical assistance and implementation of the Agreement by developing-country Members in particular. Priority will be given to enhancing the awareness of Committee Members regarding the trade impediments which can result from mandatory labeling requirements, the relevance of existing trade disciplines, and the need for good regulatory practice in the development and adoption of technical regulations.

11. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (TRIMS) prohibits investment measures that violate the GATT Article III obligations to treat imports no less favorably than domestically produced products, or the GATT Article XI obligation not to impose quantitative restrictions on imports. The Agreement thus expressly requires elimination of measures such as those that require or provide benefits for the incorporation of local inputs or "local content requirements" in the manufacturing process, or measures that restrict a firm's imports to an amount related to its exports or related to the amount of foreign exchange a firm earns ("trade balancing requirements"). It also includes an illustrative list of measures that violate its requirements. The Agreement requires that any such measures existing as of the date of entry into force of the WTO (January 1, 1995) be notified and eventually eliminated. Developed countries were required to bring notified measures into conformity by January 1, 1997. Developing countries had until January 1, 2000 unless additional time was granted by the Council for Trade in Goods (CTG), and least-developed countries have until January 1, 2002.

Major Issues in 2001

The TRIMS Committee held no meetings this year. As was the case last year, the key TRIMS issues related to Article 5.3, which outlines the process for granting an extension of the transition periods for developing countries, and Article 9, which describes a mandated review of

the Agreement, were both required topics for discussion in the Council for Trade in Goods (CTG), rather than in the TRIMS Committee (see separate section on the CTG).

The Committee did produce two documents this year. The first was on notifications under Article 6.2 of the Agreement. Under Article 6.2, Members with non-conforming TRIMS must provide a notification to the WTO regarding the publications in which information on such measures can be found. The other document was Part I of a report drafted by the WTO Secretariat and UNCTAD on the impact of TRIMS for developing countries. This portion of the report describes definitions of performance requirements found in various agreements as well as the disciplines applied to such measures. The United States is still reviewing the report and has not yet commented on it. Part II of the report, which is not yet available, will focus specifically on developing country experiences with TRIMS.

Prospects for 2002

Once both portions of the report on the impact of TRIMS have been drafted, consensus in the CTG on the scope of the work to be undertaken in response to the Article 9 mandate may be possible which may invigorate discussions in the TRIMS Committee. Absent such a mandate, work in the TRIMS Committee will be limited.

12. Textiles Monitoring Body

Status

The Textiles Monitoring Body (TMB), established in the Agreement on Textiles and Clothing (ATC), supervises the implementation of all aspects of the Agreement. In 2001, TMB membership was composed of appointees and alternates from the United States, the EU, Japan, Canada/Norway, Switzerland/Turkey, Brazil, Thailand, Pakistan/Macau, India/Egypt, and Hong Kong/Republic of Korea. Upon its accession in December 2001, China assumed membership on the TMB. Each TMB member serves in a personal capacity.

The ATC succeeded the Multifiber Arrangement (MFA) as an interim arrangement establishing special rules for trade in textile and apparel products on January 1, 1995. All Members of the WTO are subject to the disciplines of the ATC, whether or not they were signatories to the MFA, and only Members of the WTO are entitled to the benefits of the ATC. The ATC is a ten-year, time-limited arrangement which provides for the gradual integration of the textile and clothing sector into the WTO and provides for improved market access and the gradual and orderly phase-out of the special quantitative arrangements that have regulated trade in the sector among the major exporting and importing nations.

The United States has implemented the Agreement on Textiles and Clothing in a manner in which ensures that the affected U.S. industries and workers as well as U.S. importers and retailers have a gradual, stable and predictable regime under which to operate during the quota phase-out period. At the same time, the United States has aggressively sought to ensure full compliance with market opening commitments by U.S. trading partners, so that U.S. exporters may enjoy growing opportunities in foreign markets.

Under the ATC, the United States is required to "integrate" products which accounted for specified percentages of 1990 imports in volume over three stages during the course of the transition period, that is, to designate those textile and apparel products for which it will henceforth observe full GATT disciplines. Once it has "integrated" a product, a WTO Member may not impose or maintain import quotas on that product other than under normal GATT procedures, such as Article XIX. As required by Section 331 of the Uruguay Round Agreements Act, the United States selected the products for early integration after seeking public comment, and published the list of items at the outset of the transition period, for

purposes of certainty and transparency. The integration commitments for stages one and two were completed in 1995 and 1998. The United States notified the TMB in 2001 of the integration commitments for stage three and implemented these commitments on January 1, 2002. The list for all three stages may be found in the *Federal Register*, volume 60, number 83, pages 21075-21130, May 1, 1995.

Also keyed to the ATC "stages" is a requirement that the United States and other importing Members increase the annual growth rates applicable to each quota maintained under the Agreement by designated factors. Under the ATC, the weighted average annual growth rate for WTO Members' quotas increased from 4.9 percent in 1994 to 5.7 percent in 1995 and 7.3 percent in 2001.

Article 5 of the ATC requires that Members cooperate to prevent circumvention of quotas by illegal transshipment or other means. The United States actively worked with trading partners to improve cooperation and information sharing, and concluded a new agreement with Hong Kong to this end. The United States also established a Textile Transshipment Task Force at the U.S. Customs Service to improve enforcement of textile quotas at U.S. borders and has tightened enforcement actions vis-a-vis other trading partners where an improved bilateral agreement was not possible.

Major Issues in 2001

Safeguard Restraints: A special three-year safeguard is provided in the ATC to control surges in uncontrolled imports that cause or threaten to cause serious damage to domestic industry. Actions taken under the safeguard are automatically reviewed by the TMB. In 2001, the TMB reviewed a safeguard action taken by Poland on synthetic fiber imports from Romania. The TMB found that Poland had not demonstrated serious damage or actual threat thereof with respect to these imports.

Notifications and Other Issues: A considerable portion of the TMB's time was spent reviewing notifications made under Article 2 of the ATC dealing with textile products integrated into normal GATT rules and no longer subject to the provisions of the ATC. WTO Members wishing to retain the right to use the Article 6 safeguard mechanism were required in 2001 to submit a list of products comprising at least 18 percent by trade volume of the products included in the annex to the ATC. A number of these notifications were defective for various reasons and in a number of cases the TMB's review has carried into 2002. The TMB expressed concern that a number of countries which announced their intention to retain the right to use Article 6 safeguards failed to make the required integration notification. TMB documents are available on the WTO's web site: http://www.wto.org. Documents are filed in the Document Distribution Facility under the document symbol "G/TMB." The TMB's report on the implementation of the second stage of the ATC covering the years 1998-2001 appears as document G/L/459.

Prospects for 2002

The United States will continue to monitor compliance by trading partners with market opening commitments, and will raise concerns regarding the implementation of these commitments in the TMB or other WTO fora, as appropriate. The United States will also pursue further market openings, including in the negotiation of new Members' accessions to the WTO. In addition, the United States will continue to respond to surges in imports of textile products which cause or threaten serious damage to U.S. domestic producers. The United States will also continue efforts to enhance cooperation with U.S. trading partners and improve the effectiveness of customs measures to ensure that restraints on textile products are not circumvented through illegal transshipment or other means.

13. Working Party on State Trading

Status

Article XVII of GATT 1994 requires Members to place certain restrictions on the behavior of state trading firms and on private firms to which they accord special or exclusive privileges to engage in importation and exportation. Among other things, Article XVII requires Members to ensure that these "state trading enterprises," act in a manner consistent with the general principle of non-discriminatory treatment; *e.g.*, to make purchases or sales solely in accordance with commercial considerations, and to abide by other GATT disciplines. To address the ambiguity regarding which types of firms fall within the scope of "state trading enterprises," agreement was reached in the Uruguay Round on "The Understanding on the Interpretation of Article XVII." It provides a working definition of a state trading enterprise and instructs Members to notify the Working Party of all firms in their territory that fall within the agreed definition, whether or not such entities have imported or exported goods.

A WTO Working Party was established to review the notifications of state trading enterprises, and their adequacy, and develop an illustrative list of relationships between Members and state trading enterprises and the kinds of activities engaged in by these enterprises. All Members are required under Article XVII of GATT 1994 and paragraph 1 of the Understanding to submit annually notifications of their state trading activities.

The Uruguay Round ensured, for the first time, that the operation of agricultural state trading enterprises would be subject to international scrutiny and disciplines. Before the Uruguay Round, agricultural products were effectively outside the disciplines of GATT 1947. This exclusion limited the scrutiny of state trading enterprises since many of them directed trade in agricultural products. The lack of tariff bindings on agricultural products in most countries also limited the scope of GATT 1947 disciplines because without tariff bindings state trading enterprises could capriciously raise import duties and/or domestic mark-ups on imported products.

The Uruguay Round Agreement on Agriculture marked an important step in bringing the activities of agricultural state trading entities under the same disciplines that apply to non-agricultural products. All agricultural tariffs (including tariff-rate quotas) are now bound. While further work is needed on the administration of tariff-rate quotas, bindings do act to limit the scope of state traders to manipulate imports. Likewise, the disciplines on export competition, including value and quantity ceilings on export subsidies, apply fully to state trading enterprises. U.S. agricultural producers and exporters have expressed concerns about the operation of certain state trading enterprises, particularly single-desk importers or exporters of agricultural products and called for more meaningful disciplines.

Major Issues in 2001

New and full notifications were first required in 1995 and, subsequently, every third year thereafter, while updating notifications are to be made in the intervening years, indicating any changes. As of October 2001, 25 Members submitted new and full notifications for 2001. In 1998, the previous period requiring full notification by Members, 45 Members submitted new and full notifications. In the intervening period, 34 Members submitted updating notifications for 2000, and 39 Members submitted updating notifications for 1999.

The Working Party held one formal meeting in October 2001 to review Member notifications. During the meeting, the Working Party reviewed 57 notifications, including the 25 new and full notifications. At the meeting, the Chairman made statements concerning the need for timely compliance with notification requirements.

Prospects for 2002

As part of the mandated agricultural negotiations already underway, several countries have identified issues to be addressed in negotiations related directly to measures used by state trading enterprises, such as in tariff-rate quota administration or export competition. Several countries have called for stricter disciplines on privileges enjoyed by state trading enterprises. The United States has tabled a proposal, to be further discussed in 2002, that calls for the development of new disciplines on agricultural export state trading enterprises that would ensure export transactions are non-discriminatory and transparent. Specifically, disciplines should be established that eliminate exclusive rights of single desk exporters and importers, strengthen notification requirements, and eliminate the use of government funds or guarantees to finance potential operational deficits or to otherwise insulate state trading enterprises from market or pricing risk.

The Working Party on state trading enterprises will contribute to the ongoing discussion of these and other state trading issues through its review of new notifications and its examination of what further information might be appropriate to notify to enhance transparency of state trading enterprises. In anticipation of more expanded negotiations during the year, the Working Party also will intensify efforts to improve the notification record.

C. Council for Trade in Services

Status

The General Agreement on Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership. The Agreement provides a legal framework for addressing barriers to trade and investment in services. It includes specific commitments by WTO Members to restrict their use of those barriers and provides a forum for further negotiations to open services markets around the world. These commitments are contained in national schedules, similar to the national schedules for tariffs. The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council.

Major Issues in 2001

The major activity of the Council this year consisted of the Built-In-Agenda (BIA) negotiations described at the beginning of this chapter. In addition to the BIA, the CTS is conducting two previously agreed reviews.

The air transport review, required in the GATS Annex on Air Transport Services, began in late 2000 and continued in 2001. The review examines "developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector." While a small number of countries have advocated changes to the current exclusion, the United States has taken the position that to date bilateral and plurilateral venues outside the WTO have proven to be effective in promoting liberalization in this important sector. In October 2001, the United States submitted a written statement presenting these views (available at http://docsonline.wto.org:80/DDFDocuments/t/S/C/W198.doc).

The second review, regarding the status of basic telecommunications accounting rates under GATS MFN provisions, was provided for in the course of the 1997 basic telecommunications negotiations and continued through 2001. During that review, some Members requested that those seeking to retain a "gentleman's agreement" not to bring a dispute on accounting rates on MFN grounds explain why there is a need to retain this agreement. The United States supports a more thorough examination of why

Members need to retain such an agreement, particularly in light of increased competition in the telecommunications sector.

Separately, at the initiative of the United States, the CTS took steps to ensure that preferential free trade agreements are reviewed for their consistency with countries' GATS obligations. In 2001, the CTS decided to refer nine such agreements to the WTO Committee on Regional Trade Agreements for review.

Prospects for 2002

The air transport review will continue in 2002. The main work of the CTS, however, will be related to the WTO services negotiations described at the beginning of this chapter.

1. Agreement on Basic Telecommunications Services

Status

The WTO Agreement on Basic Telecommunication Services, which came into force in February 1998, opened over 95 percent of the world telecommunications market, by revenue, to varying levels of competition. The range of services and technologies covered by the Agreement ranges from submarine cables to satellite systems, from broadband data to cellular services, to business networks based on the Internet. The majority of WTO Members have made regulatory as well as market access commitments, ensuring adherence to a multilateral framework for promoting competition in this sector. The Philippines, and Papua New Guinea made commitments that have yet to be ratified. Brazil's offer was contingent on expected improvements, details of which, however, were not accepted by other WTO Members.

Through the Agreement on Basic Telecommunications, the United States has largely succeeded in shaping an international consensus that telecommunications monopolies must be replaced with competitive markets for any economy to enjoy the benefits of the digital economy.

Accordingly, WTO Members around the world are rewriting rules to permit effective competition and to promote the growth of new markets. The results continue to promote growth: usage of telecommunications networks has increased as prices have dropped, fueling new services and introducing new efficiencies throughout economies. With demand for advanced services, including the Internet, new entrants willing to innovate with different technologies are creating markets that would never have developed had control of other nations' networks remained in the hands of monopolists.

As a result of this Agreement, U.S. firms have invested billions of dollars abroad, extending their networks, bringing down the cost of communications for U.S. consumers and businesses, and laying the infrastructure for global electronic commerce. The experience U.S. firms have gained in developing competitive markets in the United States has provided an enormous advantage in these newly opened markets, allowing them to bring to these markets the same innovation and efficiency U.S. consumers have long enjoyed. Opening foreign markets has had immediate benefits for U.S. consumers and businesses as well. Prices for calls to many competitive markets now differ little from domestic long-distance prices.

In addition to fueling growth in new services, market liberalization has stimulated a boom in equipment sales. U.S. manufacturers have been major beneficiaries in the growth of a global market for telecommunications equipment, with U.S. equipment exports in 2000 increasing 23 percent over the previous year to $28 billion. This spending is largely dedicated to investment in new networks, or upgrades to existing networks, driven by competitive pressures.

Major issues in 2001

Governments have recognized the value of reducing the governmental role in the supply of telecommunications services, and have continued to divest shares in government-owned operators – including in Germany, Greece, Israel, Japan, Korea, Norway and Taiwan. This trend is expected to continue. Governments have also taken significant steps to increase market access opportunities through pro-competitive regulatory initiatives, including the unbundling directive in the EU and establishment of dominant carrier regulation in Japan. Newly-acceding WTO Members, such as China also brought into force broad-based telecommunications commitments in 2001.

Prospects for 2002

The global investment needs in the telecommunications sector, and U.S. firms' interest in meeting this demand show no sign of abating. Demand for high-capacity (broadband) services on wireline networks and the development of advanced wireless services (*e.g.* so-called Third Generation services) ensure that competitive opportunities, and the importance of the Agreement as a framework for ensuring market access, will increase.

Given the recent trend in unilateral liberalization, prospects are good that the WTO services negotiations now underway will expand existing commitments to cover a broader range of telecommunications sub-sectors with fewer market access limitations. In regions that were previously not a major market focus (*e.g.*, in developing countries) there is substantial room for improved commitments.

2. Agreement and Committee on Trade in Financial Services

Status

The Committee on Trade in Financial Services (CTFS) met four times in 2001. It serves as a forum for discussion of important issues related to WTO Members' existing liberalization commitments and for technical approaches regarding further liberalization.

Major Issues in 2001

Several WTO Members reported on developments under their financial services regimes. The United States provided information on the processes it follows to ensure transparency in its development and application of financial services regulations. The United States encouraged other countries to provide similar information on their national regimes for development of regulations.

The United States also worked with other trading partners to maintain pressure on those few countries that have not ratified their commitments under the 1997 Financial Services Agreement - the Fifth Protocol to the GATS - to do so as quickly as possible and to provide status reports of progress underway. In October, 2001, the Dominican Republic notified that it had completed its domestic ratification procedures. The United States expects that the Dominican Republic will complete the procedures necessary to accept the Fifth Protocol in the near future. Six countries – Bolivia, Brazil, Jamaica, Poland, the Philippines and Uruguay – have not yet ratified their commitments or accepted the Protocol. Progress was reported by the majority of these six countries.

Prospects for 2002

Work of the CTFS will continue to pick up pace in 2002. The CTFS will enable WTO Members to hold substantive discussions of some of the issues raised in negotiating proposals tabled in financial services.

3. Working Party on Domestic Regulation

Status

GATS Article VI, on Domestic Regulation, directs the CTS to develop any necessary disciplines "with a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services." A 1994 Ministerial Decision had assigned priority to the professional services sector, for which the Working Party on Professional Services (WPPS) was established. The WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO in May 1997. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998 (The texts are available at www.wto.org/english/news_e/pres97_e/pr73_e.htm and www.wto.org/english/news_e/ pres98_e/pr118_e.htm, respectively.)

After the completion of the Accountancy Disciplines, in May 1999 the CTS established a new Working Party on Domestic Regulation (WPDR) which also took on the work of the predecessor WPPS and its existing mandate. Using the experience from accountancy, the WPDR is now charged with determining whether these or similar disciplines may be generally applicable across sectors. The Working Party is to report its recommendations to the CTS not later than the conclusion of the services negotiations.

Major Issues in 2001

With respect to development of generally applicable regulatory disciplines, Members have discussed needed improvements in GATS transparency obligations, which the United States supports. Members also have begun discussion of possible disciplines aimed at ensuring that regulations are not more trade restrictive than necessary to fulfill legitimate objectives for the full range of service sectors. The United States has taken a deliberate approach in this second area and has supported discussion first of problems or restrictions for which new disciplines would be appropriate.

To continue work on professional services, Members agreed to solicit views on the accountancy disciplines from their relevant domestic professional bodies, addressing whether those other professions would favor use of the accountancy disciplines with appropriate modifications. As agreed, Members contacted their domestic professional bodies, requesting comments on the applicability of the accountancy disciplines to those professions. Some professions in various countries found that the disciplines, with perhaps a few modifications, could apply to their profession; some professions in several countries found otherwise. Given the large number of professions and Member countries, the information thus far is incomplete and work is continuing. Members also reviewed a list of international professional organizations, compiled by the Secretariat from Member submissions, and are considering whether the organizations listed are the appropriate ones to consult regarding the applicability of the accountancy disciplines to those professions.

Prospects for 2002

The Working Party will continue discussion of possible regulatory disciplines, both horizontal and sector-specific, to promote the GATS objective of effective market access.

The work program on accounting was an important step in the multilateral liberalization of this important sector. While the United States was disappointed that Members ultimately were not able to agree to early application of the accountancy disciplines, the disciplines remain open for improvement before they are to become effective at the conclusion of the current GATS negotiations. The United States will be working to improve the accountancy disciplines, as well as working with

interested U.S. constituencies to consider their applicability to other professions.

4. Working Party on GATS Rules

Status

The Working Party on GATS Rules was established to determine whether the GATS should include new disciplines on safeguards, government procurement, or subsidies.

Major Issues in 2001

Of the three issues, the GATS established a deadline only for safeguards. In 2000, this deadline was again extended, to March 2002, reflecting the continuing disagreement among WTO Members on both the desirability and feasibility of a safeguards provision similar to the WTO provisions for goods.

Discussions were more focused in 2001 than in previous years, benefitting from submissions by ASEAN, Canada, Mexico, Mauritius, Argentina, and Chile, Switzerland, and Costa Rica. The United States also submitted a paper arguing that for safeguards to be desirable in the services context they would need to be shown to promote liberalization of services trade. In the first part of the year, discussion among Members focused on feasibility of safeguards, and addressed concepts including domestic industry, acquired rights, modal application of safeguards, situations justifying safeguards, and indicators and criteria to determine injury and causality. In its submission, the United States argued that a case for the desirability of safeguards has not been made and needs to be discussed. All discussions were without prejudice to the question of whether the GATS should include such provisions.

Regarding government procurement, work continued on definitional questions relevant to services and how such disciplines would relate to the results of ongoing negotiating in the WTO Working Group on Transparency in Government Procurement.

With respect to subsidies negotiations, the Committee is working through a "checklist" of issues to help understand better whether new provisions are appropriate in this area, including identification of trade distortions caused by subsidy-like measures. Discussion was limited in this area due to the Working Party's increased focus on safeguards resulting from the March 2002 deadline.

Prospects for 2002

Information-gathering and discussion of all three issues will continue. The continuing sharp divergence of views on safeguards may result in a decision to extend the negotiating deadline once again.

5. Committee on Specific Commitments

Status

The Committee on Specific Commitments examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the GATS negotiations, and oversees application of the procedures for the modification of schedules under Article XXI of the GATS. The Committee also oversees implementation of commitments in country schedules in sectors for which there is no sectoral body, currently all sectors except financial services.

Major Issues in 2001

The Committee concluded its work on revising scheduling guidelines. These guidelines, which originally were developed by the GATT Secretariat for use in scheduling country commitments during the Uruguay Round, are intended to improve transparency and consistency of new commitments. The CTS formally adopted the revised guidelines in March 2001.

The Committee also continued work on improving classification of services in individual sectors for which problems have been

identified. The United States has advocated changes in express delivery services, energy services, environmental services, and legal services and has made submissions in each of these areas.

At the end of 2001, the Committee decided to begin work on procedures for consolidation of country schedules; these procedures will be important in light of new market access and national treatment expected in the current GATS negotiations.

Prospects for 2002

Work will continue on technical issues in support of the ongoing negotiations.

D. Council on Trade-Related Aspects of Intellectual Property Rights

Status

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) is a multilateral agreement that sets minimum standards of protection for copyrights and neighboring rights, trademarks, geographical indications, industrial designs, patents, integrated- circuit layout designs, and undisclosed information. Minimum standards are established by the TRIPS Agreement for the enforcement of intellectual property rights in civil actions for infringement and, at least in regard to copyright piracy and trademark counterfeiting, in criminal actions and actions at the border. The TRIPS Agreement requires as well that, with very limited exceptions, WTO Members provide national and most-favored-nation treatment to the nationals of other WTO Members with regards to the protection and enforcement of intellectual property. In addition, the TRIPS Agreement is the first multilateral intellectual property agreement that is enforceable between governments through WTO dispute settlement provisions.

The TRIPS Agreement entered into force on January 1, 1995, and its obligations to provide "most favored nation" and national treatment became effective on January 1, 1996 for all Members. However, some obligations are phased in based on a country's level of development. Developed country Members were required to implement by January 1, 1996; developing-country Members generally had to implement by January 1, 2000; and least-developed country Members must implement by January 1, 2006. However, based on a proposal made by the United States, Ministers agreed in Doha to change the implementation date for least-developed Members with respect to certain obligations related to pharmaceutical products to 2016 as part of the Declaration on the TRIPS Agreement and Public Health. Several specific obligations became effective on January 1, 1995, including a general "standstill" obligation, and, with respect to Members that do not provide patent protection for pharmaceuticals and agricultural chemicals, an obligation to provide a patent "mailbox" in which to file applications for such inventions to preserve a filing date, and an obligation to provide exclusive marketing rights systems.

TRIPS Council: The WTO TRIPS Council monitors implementation of the TRIPS Agreement, provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement. The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods.

Major Issues in 2001

In 2001, the TRIPS Council held four formal meetings, including several "special discussion" sessions on the issue of intellectual property and access to medicines. In addition to continuing its work reviewing the implementation of the

Agreement by developing countries and newly acceding Members, the Council's work in 2001 focused on defining the TRIPS issues to be addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health.

Review of Developing-Country Members' TRIPS Implementation: As a result of the Agreement's staggered implementation provisions, the TRIPS Council during 2001 devoted much of its time to reviewing the Agreement's implementation by developing-country Members and newly acceding Members as well as to providing assistance to developing-country Members so they can fully implement the Agreement. In particular, the TRIPS Council called for developing-country Members to respond to the questionnaires already answered by developed country Members regarding their protection of geographical indications and implementation of the Agreement's enforcement provisions, and to provide detailed information on their implementation of Article 27.3(b) of the Agreement that permits Members to exclude from patentability plants, animals, and essential biological processes for producing plants and animals. The Council also concentrated on institution building internally and with the World Intellectual Property Organization (WIPO). During the TRIPS Council meetings, the United States continued to press for full implementation of the TRIPS Agreement by developing-country Members and participated actively during the reviews of legislation by highlighting specific concerns about how individual Member's had implemented their obligations.

During 2001, laws of the following 50 Members were reviewed: in April - Bolivia, Cameroon, Congo, Grenada, Guyana, Jordan, Namibia, Papua New Guinea, Saint Lucia, Suriname, Venezuela; in June - Albania, Argentina, Bahrain, Botswana, Costa Rica, Cote d'Ivoire, Croatia and St. Kitts and Nevis; in July - Dominica, Dominican Republic, Egypt, Fiji, Georgia, Honduras, Jamaica, Kenya, Mauritius, Morocco, Nicaragua, Oman, The Philippines and United Arab Emirates; in November - Antigua and Barbuda, Barbados, Brazil, Brunei Darussalam, Cuba, Gabon, Ghana, India, Lithuania, Malaysia, Pakistan, Sri Lanka, Thailand, Tunisia, Uruguay and Zimbabwe.

Intellectual Property and Access to Medicines: Health activists and certain WTO Members have expressed concern about the relationship between access to essential drugs in low-income countries and the obligations under the TRIPS Agreement related to pharmaceuticals, particularly in the dire circumstances of the HIV/AIDS epidemic in sub-Saharan Africa.

Patents are widely acknowledged as providing the incentive for investment in research and development (R&D) to bring new and more effective pharmaceutical products to market; although there is no cure for HIV/AIDS at present, there is hope that research efforts currently under way will yield results. However, critics have expressed concern that by requiring developing countries to provide pharmaceutical patent protection, TRIPS enables pharmaceutical companies to charge high prices for essential drugs thereby limiting their availability in low-income markets.

These concerns have been expressed despite the fact that TRIPS does not require least-developed Members to provide patent protection until 2006 and developing countries, including Egypt and India, enjoy a transition from the deadline of January 1, 2000 to January 1, 2005. Such concerns also failed to take into account the extent to which essential drugs are patent-protected in markets hardest hit by pandemics such as HIV/AIDS. For example, during the course of the 2001, researchers at Harvard University published a study specifically aimed at uncovering the extent to which antiretroviral drugs used to treat HIV/AIDS were patented in Africa, the continent hardest hit by the pandemic. The report concluded, inter alia, that "anti-retroviral drugs are patented in few African countries.... We conclude that a variety of de facto barriers are more responsible for

impeding access to antiretroviral treatment, including but not limited to the poverty of African countries, the high cost of antiretroviral treatment, national regulatory requirements for medicines, tariffs and sales taxes, and, above all, a lack of sufficient international financial aid to fund anti-retroviral treatment."

This issue has emerged in the wider context of a campaign to provide better access to essential drugs for the treatment of health and related problems in needy populations. The Accelerating Access Initiative was launched by UNICEF, UNFPA, WHO, the World Bank, and the UNAIDS Secretariat in May 2000, on the basis of offers by five pharmaceutical manufacturers to supply anti-retroviral drugs at reduced prices for use in developing countries; other manufacturers have since responded to the Access initiative.

In June 2001, a Special Session of the General Assembly on HIV/AIDS endorsed the Global Fund to fight HIV/AIDS, malaria, and tuberculosis in developing countries. The Global Fund had been announced earlier in the year by the Secretary-General of the UN. The United States was the founding donor to this unique and distinctive approach to combating the nearly six million deaths each year attributed to these diseases.

The United States has taken a leadership role in responding to the global challenge of the HIV/AIDS pandemic. The United States is the largest bilateral donor of funds for HIV/AIDS assistance, in support of HIV/AIDS prevention and care and treatment programs in developing countries. In addition, the US invests over $2 billion per year on HIV/AIDS research. The United States was the first contributor, to the new "Global Fund to fight AIDS, Tuberculosis, and Malaria" with an initial contribution of $200 million.

However, because of the concerns expressed about the WTO TRIPS Agreement, the United States has also taken a leadership role in trying to address these concerns, through discussions in the TRIPS Council and other fora.

Following a request from Zimbabwe on behalf of the African Group, the United States was the first WTO Member to agree that the Council should take up the issue of "Intellectual Property and Access to Medicines." The objective of these discussions was to enable Members to discern more clearly the relationship between the TRIPS Agreement and the public policy objective of affordable access to patent-protected essential drugs, and to identify an agenda of points requiring further discussion; this included clarification of the Agreement's flexibility provisions so as to minimize the potential for disputes.

The United States supported this discussion in the hope that through this dialogue, Members would come to appreciate the important role the TRIPS Agreement plays in stimulating development and commercialization of new life-saving drugs. The United States also hoped that this dialogue would result in a clearer understanding of existing flexibility in the Agreement which enables Members to ensure that such drugs are available to their citizens, particularly those that are unable to afford basic medical care. The United States consistently expressed the view that TRIPS strikes the proper balance between these two objectives. We expressed concern that some have quite incorrectly blamed the Agreement for health crises or claimed that it stands in the way of resolving such crises. Quite the contrary, Members have the ability under the Agreement to implement their obligations in a way that fully supports their national health care objectives. On the other hand, without the economic incentives provided by patent systems, there would be far fewer drugs available for the treatment and cure of life-threatening diseases and conditions and distribution of those that did exist would be far more limited.

The United States expressed its commitment to strong intellectual property protection but also

to ensuring Members are able to use the flexibility in the TRIPS Agreement where necessary to meet their health care objectives. In February 2001, the Bush Administration reaffirmed the commitment of the United States to a flexible approach on health and intellectual property. Under this policy, we have informed WTO Members that, as they take steps to address major health crises, such as the HIV/AIDS crisis in sub-Saharan Africa and elsewhere, the United States would raise no objection if Members availed themselves of the flexibility afforded by the WTO TRIPS Agreement.

While supportive of the use of the flexibility in the TRIPS Agreement, the United States recognizes that a comprehensive approach is needed to serious health problems. The TRIPS Agreement – its obligations and flexibility – is at most one element of the equation. To deal with serious health problems, countries need to stress education and prevention as well as care and treatment if health crises are to be eliminated. Health experts inform us that the cost of drugs is only one of many important issues that must be addressed in any health crisis. Effective drug treatment necessitates urgent action to strengthen health management systems particularly directed to drug distribution and patient monitoring. Appropriate drug selection policies and standard treatment guidelines; training of care providers at all levels; adequate laboratory support to diagnose and monitor complex therapies; and systems for ensuring that the right drugs are used for the right purpose and in the right amount are all required to address the HIV/AIDS crisis.

We must recognize that even if enough drugs to treat every single HIV positive person were provided, free of charge, an adequate infrastructure to deliver them and monitor their use does not appear to exist in many areas most in need. To ensure that healthcare is available, particularly to those unable to afford basic medical care, according to health experts, each country must also develop its medical and public health infrastructure, increase the resources allocated to health care, and take other appropriate steps. The Director General of the World Health Organization, Dr. Brundtland, has made the following statements about the key factors to improve access to medicines: "We have heard quite clearly that the price of drugs matters, it matters to poor people, and it matters to poor countries. But little progress will be possible without a significant investment in building effective health systems... just making drugs available - even at no cost - does not guarantee that they will be utilized. All other pieces of the picture have to be in place as well: the distribution systems, the partnerships between public and private providers; the agreements between governments and development agencies; and clear and explicit goals and objectives."

Ultimately, the special discussions in the TRIPS Council, and further work on the issue of intellectual property and public health in Doha, Qatar, resulted in WTO Ministers adopting the Declaration on the TRIPS Agreement and Public Health.

The declaration sends a strong message of support for the TRIPS Agreement, confirming that it is an essential part of the wider national and international response to the public health crises that afflict many developing and least-developed Members of the WTO, in particular those resulting from HIV/AIDS, tuberculosis and malaria. Ministers worked in a cooperative and constructive fashion to produce a political statement that answers the questions identified by certain Members regarding the flexibility inherent in the TRIPS Agreement. This strong political statement demonstrates that TRIPS is part of the solution to these crises. The statement does so, without altering the rights and obligations of WTO Members under the TRIPS Agreement, by reaffirming that Members are maintaining their commitments under the Agreement while at the same time highlighting the flexibilities in the Agreement.

The United States is pleased that this Declaration reflects and confirms our profound

conviction that the exclusive rights provided by Members as required under the TRIPS Agreement are a powerful force supporting public health objectives. As a consequence of Ministers' efforts, we believe those Members suffering under the effects of the pandemics of HIV/AIDS, tuberculosis and malaria, particularly those in sub-Saharan Africa, should have greater confidence in meeting their responsibilities to address these crises.

The United States is committed to working with the international community to ensure that additional funding and resources are made available to the least-developed and developing-country Members to assist them in addressing their public health care problems.

Several important points need to be emphasized about the Doha Decision:

- The Declaration recognizes and confirms the important link that exists between the protection of intellectual property rights and the continued development and availability of medicines, in particular those used to treat HIV/AIDS and other pandemics, such as tuberculosis and malaria.

- Pursuant to the TRIPS Agreement, measures may be taken to protect public health. The Declaration does not alter the requirement in Article 8 that such measures must be consistent with the provisions of the Agreement.

- The TRIPS Agreement is governed by the customary rules of interpretation of international agreements as reflected in public international law.

- Pursuant to Article 6 of the TRIPS Agreement, Members' exhaustion (parallel import) regimes may not be subject to challenge under WTO dispute settlement procedures. Ministers have not altered Members' rights and obligations under the TRIPS Agreement with respect to exhaustion of intellectual property rights. Measures that are inconsistent with TRIPS requirements concerning the exclusive right to authorize importation can be challenged under national or other international legal procedures.

- Members may define grounds for granting a compulsory license. Members remain obligated by the terms of the TRIPS Agreement with respect to their use of compulsory licensing, including the provisions that prohibit discrimination based on whether the patented product is imported or domestically produced.

- Ministers have recognized the complex issues associated with the ability of least-developed Members that lack domestic manufacturing capacity to make use of the flexibilities in the TRIPS Agreement. Ministers have directed the TRIPS Council to undertake work in this area and report to the General Council. We note that one issue to be evaluated in this process is that developers of new pharmaceutical products frequently do not seek intellectual property protection in countries that lack domestic manufacturing capacity.

Finally, in recognition of the special challenges facing the least-developed Members, Ministers adopted a U.S. proposal to direct the TRIPS Council to take the necessary action pursuant to Article 66.1 of the TRIPS Agreement to extend until 1 January 2016 the transition period under Sections 5 and 7 of Part II of the TRIPS Agreement and enforcement of those sections with respect to pharmaceutical products for least-developed country Members.

TRIPS-related WTO Dispute Settlement Cases: During the year, the United States continued to pursue consultations on enforcement issues with a number of developed countries, including

Denmark regarding its failure to provide provisional relief in civil enforcement proceedings, the European Communities, for its failure to provide TRIPS-consistent protection of geographical indications, Greece regarding its failure to take appropriate action to stop television broadcast piracy in that country, and Ireland for its failure to implement a TRIPS-consistent copyright law. As a result of Ireland's enactment of needed amendments to its copyright law, the United States and Ireland announced resolution of the WTO case brought by the United States over Ireland's failure to amend its copyright law to comply with the TRIPS Agreement on November 6, 2000, and the new law became effective on January 1, 2001. On March 20, 2001, the Danish Parliament approved legislation making civil *ex parte* searches available. The legislation was signed into law on March 28, 2001. The WTO Appellate Body decided in favor of the United States in a dispute with Canada regarding the term of protection for patents applied for prior to October 1, 1989, and recommended that Canada implement the recommendations of the dispute settlement panel within a reasonable time. As no agreement was reached regarding what was reasonable, the United States asked an arbitrator to determine the reasonable period of time for Canada to comply, and on February 28, 2001, the arbitrator determined that the deadline for compliance would be August 12, 2001. Effective July 12, 2001, Canada announced that it had enacted an amendment to its Patent Act to bring it into conformity with its obligations under the TRIPS Agreement. On March 22, 2001, the United States and Greece formally notified the WTO of the resolution of the dispute settlement case regarding television piracy. This was possible due to the sharp decline in the level of television piracy in Greece, passage of new legislation providing for the immediate closure of infringing stations, closure of several stations that had pirated U.S. films, and the issuance of the first criminal convictions for television piracy in Greece.

Also during the year, the United States continued consultations with Argentina regarding patent and data protection issues. Consultations continued with Brazil regarding a provision in its patent law providing for patent owners to manufacture their products in Brazil in order to maintain full patent rights. On June 25, 2001, the USTR announced that the United States and Brazil had agreed to transfer their disagreement over this provision from formal WTO litigation to a newly created bilateral consultative mechanism. Under the terms of the Agreement, Brazil would consult with the United States before granting any compulsory licenses and the complaint was withdrawn.

There are a number of other WTO Members that likewise appear not to be in compliance with their TRIPS obligations. The United States, for this reason, is still considering possible dispute settlement cases against India, Australia, the Dominican Republic, Egypt, Hungary, Israel, the Philippines and Uruguay. We will continue to consult with all these countries in an effort to encourage them to resolve outstanding TRIPS compliance concerns as soon as possible. We will also gather data on these and other countries' enforcement of their TRIPS obligations and assess the best cases for further action if consultations prove unsuccessful.

Geographical Indications: During 2000 and 2001, the Council has continued negotiations under Article 23.4 on a multilateral system for notification and registration of geographical indications for wines and spirits intended to facilitate protection of such indications. In 1999, the European Union submitted a proposal for such a system under which Members would notify the WTO of their geographical indications and other Members would have one year in which to oppose any such notified geographical indications. If not opposed, the notified geographical indications would be registered and all WTO Members would be required to provide protection as required under Article 23. The United States, Canada, Chile and Japan introduced an alternative proposal under which Members would notify their geographical indications for wines and spirits for incorporation in a register available to all

Members on the WTO website. Under this proposal, Members choosing to participate in the system would agree to consult the notifications made on the website when making decisions regarding registration of related trademarks or otherwise providing protection for geographical indications for wines and spirits. Implementation of this proposal would not place obligations on Members beyond those already provided under the TRIPS Agreement or place undue burdens on the WTO Secretariat. In 2000, the European Communities introduced a revision of its original proposal and Hungary introduced a proposal for a formal opposition system. Discussion on the proposals continued during the 2001 meetings. The United States continues to support the "collective" proposal that it sponsored along with Canada, Chile and Japan. Other delegations including Argentina, Australia, Brazil, Korea, Mexico, and New Zealand, have also expressed support for the U.S. approach. The United States will aggressively pursue additional support for its approach to the multilateral register in 2002 in light of the direction from Ministers in the Doha Ministerial Declaration to complete negotiations by the Fifth Ministerial Conference.

A review of the implementation of the application of the TRIPS provisions on geographical indications pursuant to Article 24.2 of the Agreement continues on the agenda. At each of the 2001 TRIPS Council meetings, the United States urged those Members that have not yet provided information on their regimes for the protection of geographical indications to do so. The United States also supported a proposal by New Zealand in 2000 that the Council conduct the review by addressing each article of the TRIPS Agreement covering geographical indications in light of the experience of Members. Some Members have sought to use the review to initiate negotiations to expand "enhanced" geographical indication protection under Article 23 for products other than wines and spirits. The United States, supported by several other Members, opposed efforts to initiate further negotiations in this area, noting that the Agreement provides no mandate for such negotiations.

The Doha Ministerial Declaration did not provide a mandate for such negotiations. However, the Declaration does direct the TRIPS Council to discuss issues related to extension of Article 23-level protection to geographical indications for products other than wines and spirits and report to the Trade Negotiations Committee by the end of 2002 for appropriate action.

Review of Current Exceptions to Patentability for Plants and Animals: TRIPS Article 27.3(b) authorizes Members to except plants and animals and biological processes from patenability, but not micro-organisms and non-biological and microbiological processes. In 1999, the TRIPS Council initiated a review of this Article as called for under the Agreement and, because of the interest expressed by some Members, discussion of this Article continued through 2000 and 2001. In 1999, the Secretariat prepared a synoptic table of information provided by those Members that were already obligated to implement the provisions. The synoptic table facilitated the review by permitting Members' practices to be compared easily. This portion of the review revealed that there was considerable uniformity in the practices of the Members that have implemented their obligations. During the discussion, the United States noted that the ability to patent micro-organisms and non-biological and microbiological processes, as well as plants and animals, has given rise to a whole new industry that has brought inestimable benefits in health care, agriculture, and protection of the environment in those countries providing patent protection in this area. In 2001, the United States again called for developing-country Members to provide this same information so that the Council will have a more complete picture if the discussion of this article is to continue. Regrettably, some Members have chosen not to provide such information and have raised topics that fall outside the scope of Article 27.3(b), such as the relationship between

the TRIPS Agreement and the Convention on Biological Diversity (CBD), and traditional knowledge.

While maintaining the view that these issues are beyond the scope of the review of Article 27.3(b), and that the discussion should focus on relevant information regarding Members' implementation of the provision, the United States has responded by providing two papers expressing views on these topics in 2000 and an additional paper in 2001 outlining a contract method by which those Members that are also Parties to the CBD might implement their obligations under the latter agreement. An additional paper is being prepared for the first meeting of the TRIPS Council in 2002, describing the contracts used by the National Cancer Institute when it collects plants outside the United States.

The Doha Ministerial Declaration directs the Council for TRIPS, in pursuing its work program under the review of Article 27.3(b) to examine, *inter alia*, the relationship between the TRIPS Agreement and the CBD, the protection of traditional knowledge and folklore.

Non-violation: Throughout the year, some WTO Members continued to raise questions regarding the operation of non-violation nullification and impairment complaints in the context of the TRIPS Agreement and called for the Council to define the appropriate "scope and modalities" for addressing such complaints. They argued that the possibility of such complaints, now that the moratorium on such cases has expired, created uncertainty. As in past years, the United States continued to argue that no more uncertainty was created than was the case with other WTO agreements.

The Doha Ministerial Declaration on Implementation directs the TRIPS Council to continue its examination of the scope and modalities for non-violation nullification and impairment complaints related to the TRIPS Agreement, to make recommendations to the Fifth Ministerial Conference, and, during the intervening period, not to make use of such complaints.

Electronic Commerce: The TRIPS Council continued discussing the provisions of the TRIPS Agreement most relevant to electronic commerce and explored how these provisions apply in the digital world. The United States specifically suggested that the Secretariat might usefully undertake a study of how Members are implementing TRIPS with respect to the on-line environment. The United States will continue to support discussion of the application of the TRIPS Agreement in the digital environment.

Further Reviews of the TRIPS Agreement: Article 71.1 calls for a review of the implementation of the Agreement, beginning in 2000. The Council currently is considering how the review should best be conducted in light of the Council's other work. The Doha Ministerial Declaration states that, in its work under this Article, the Council is also to consider the relationship between intellectual property and the CBD, traditional knowledge, folklore, and other relevant new developments raised by Members pursuant to Article 71.1.

Prospects for 2002

In 2002, the TRIPS Council will continue to focus on its built-in agenda as well as the additional mandates established in Doha. The TRIPS Council will issue a report to the Trade Negotiations Committee by the end of 2002 on a number of issues, including compulsory licensing, geographical indications, the relationship with the CBD, traditional knowledge and folklore as well as other relevant new developments.

While the review of developing-country Members' implementation was to have been completed in 2001, follow up of some countries was not completed and was rescheduled for 2002. Reviews yet to be completed are for: Albania, Antigua and Barbuda, Barbados, Botswana, Brazil, Brunei Darussalam, Cameroon, Congo, Côte d'Ivoire, Cuba, Egypt,

Fiji, Gabon, Ghana, Grenada, Guyana, India, Kenya, Lithuania, Malaysia, Mauritius, Namibia, Oman, Pakistan, the Philippines, Saint Kitts and Nevis, Sri Lanka, Suriname, Thailand, Tunisia, the United Arab Emirates, Uruguay, and Zimbabwe.

U.S. objectives for 2002 continue to be:

- to resolve differences through dispute settlement consultations and panels where appropriate;
- to continue its efforts to ensure full TRIPS implementation by developing-country Members;
- to participate actively in the review of formal notifications of intellectual property laws and regulations to ensure their consistency with TRIPS obligations by Members;
- to ensure that no weakening of the Agreement occurs; and
- to develop further Members' views on the relationship between the TRIPS Agreement and electronic commerce.

E. Other General Council Bodies/Activities

1. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB), a subsidiary body of the General Council, was created by the Marrakesh Agreement establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM has served as a valuable resource for improving transparency in WTO Members' trade and investment regimes and in ensuring their adherence to WTO rules. The TPRM examines national trade policies of WTO Members on a schedule designed to cover all WTO Members on a frequency determined by trade volume. The process starts with an independent report on a Member's trade policies and practices that is written by the WTO Secretariat on the basis of information provided by the subject Member. This report is accompanied by the report of the country under review. Together the reports are subsequently discussed by WTO Members in the TPRB at a session at which representatives of the country under review discuss the reports on its trade policies and practices and answer questions. The purpose of the process is to strengthen Member observance of WTO provisions and contribute to the smoother functioning of the multilateral trading system. A number of smaller countries have found the preparations for the review helpful in improving their own trade policy formulation and coordination.

The current process reflects improvements to streamline the instrument and gives it more coverage and flexibility. Reports now cover services, intellectual property rights and other issues addressed by WTO Agreements. The reports issued for the reviews are available on the WTO's web site at www.wto.org

Major Issues in 2001

During 2001, the TPRB conducted 15 policy reviews: Brunei, Cameroon, Costa Rica, Czech Republic, Gabon, Ghana, Macau, Madagascar, Malaysia, Mauritius, Mozambique, Slovak Republic, Uganda, the United States and the WTO Members of the Organization of East Caribbean States.

Five countries were reviewed for the first time, including two least-developed countries, Madagascar and Mozambique. As of December 2001, 150 reviews have been conducted since the formation of the TPR. These reviews covered 84 of the 128 Members, counting the European Union as one, and represent 83 percent of world merchandise trade. The increased importance of least-developed country reviews has led to 11 such reviews since 1998.

Despite the importance of the TPRM, questions continue to be raised about the ever-increasing

amount of resources needed to conduct the reviews. For many developing and least-developed countries, the reports represent the first comprehensive analysis of their commercial policies, laws and regulations and have implications and uses beyond the meeting of the TPRB. Some Members have used the Secretariat's Report as a national trade and investment promotion document, while others have indicated that the report has served as a basis for internal analysis of inefficiencies and overlaps in domestic laws and government agencies. For other trading partners and U.S. businesses, the reports are a dependable resource for assessing the commercial environment of WTO Members countries. In the coming year the United States will give some additional attention to the question of resources for the TPRM and potential improvements.

Reviews have emphasized the macroeconomic and structural context for trade policies, including the effects of economic and trade reforms, transparency with respect to the formulation and implementation of policy, and the current economic performance of Members under review. Another important issue has been the balance between multilateral, bilateral, regional and unilateral trade policy initiatives; in particular, the priorities given to multilateral and regional arrangements have been important systemic concerns. Closer attention has been given to the link between Members' trade policies and the implementation of WTO Agreements, focusing on Members' participation in particular Agreements, the fulfillment of notification requirements, the implementation of TRIPS, the use of antidumping measures, government procurement, state-trading, the introduction by developing-countries of customs valuation methods, the adaptation of national legislation to WTO requirements and technical assistance.

Prospects for 2002

The TPRM is an important tool for monitoring and surveillance, in addition to encouraging WTO Members to meet their WTO obligations and to maintain or expand trade liberalization measures. The program for 2002 contains provisions to conduct reviews of 17 Members: Australia, Barbados, the Dominican Republic, the European Union, Guatemala, Haiti, Hong Kong-China, India, Japan, Malawi, Mauritania, Mexico, Pakistan, Slovenia, South Africa, Venezuela, and Zambia.

2. Committee on Trade and Environment

Status

The Committee on Trade and Environment (CTE) was created by the WTO General Council on January 31, 1995 pursuant to the Marrakesh Ministerial Decision on Trade and Environment. The mandate of the CTE is to make appropriate recommendations to the Ministerial Conference as to whether, and if so what, changes are needed in the rules of the multilateral trading system to foster positive interaction between trade and environment measures and to avoid protectionist measures. At the Fourth WTO ministerial meeting in Doha, Qatar, Members agreed to an enhanced role for the CTE including serving as a forum for identifying and debating environmental issues in connection with the negotiations and increasing the focus on certain items of its agenda (see below).

Major Issues in 2001

The CTE met three times in 2001. The United States contributed to the Committee's deliberations by, *inter alia*, working to build a consensus that important trade and environmental benefits can be achieved by addressing fisheries subsidies that contribute to overfishing, and through the liberalization of trade in environmental goods and services.

Multilateral Environmental Agreements (MEAs): The CTE continued to help enhance WTO Members' understanding of the trade provisions of MEAs by holding information

exchanges with representatives from a number of MEA Secretariats, who briefed Committee Members on recent developments in their respective agreements. In June 2001, the CTE held an information session that focused on the compliance and dispute settlement provisions in MEAs and the WTO. The Secretariats of the WTO and the UN Environmental Programme (UNEP), in close cooperation with MEA Secretariats, jointly prepared a background paper for the meeting. These discussions helped inform the decision of WTO Members at Doha to begin negotiations on ways to enhance cooperation between the WTO and MEA Secretariats, and to explore further the relationship between existing WTO rules and specific MEA trade obligations, as applied among parties to the MEA in question.

Market Access: The CTE continued its work on the environmental implications of reducing or eliminating trade-distorting measures. This work reflected a broad degree of consensus that trade liberalization, in conjunction with appropriate environmental policies, can yield environmental benefits. As mentioned above, the CTE continued to discuss in depth the potential environmental benefits of reducing or eliminating fisheries subsidies. The CTE also continued discussions of the benefits of improving market access for environmental services and goods and the environmental implications of agricultural and services trade liberalization and liberalization in other sectors such as energy.

TRIPS: The CTE continued its discussions of the relationship between the TRIPS Agreement and the environment. A few Members argued for consideration of changes to the TRIPS Agreement to address perceived contradictions between the WTO and the CBD. The United States has made clear its view that there is no incompatibility between WTO Agreements and the CBD.

Relations with NGOs/Transparency/ Environmental Reviews: In 2001, the United States, joined by several other Members, continued to emphasize the need for further work to develop adequate mechanisms for involving NGOs in the work of the WTO and to improve transparency, including through providing adequate public access to documents. The United States also continued to stress the usefulness of environmental assessments in helping to assure that trade and environmental policies are mutually supportive. The United States conducts reviews of major trade agreements to which it is a party pursuant to Executive Order 13141 (1999) and encourages Members to perform reviews of their own agreements.

Prospects for 2002

As a result of new negotiations launched at Doha, the CTE is expected to play a key role on such items as enhancing cooperation between the WTO and MEA Secretariats. The Committee is also instructed to pay particular attention to the effect of environmental measures on market access, the relevant provisions of the TRIPS Agreement, and labeling requirements for environmental purposes. The Committee will prepare a report to the Fifth Ministerial Conference in 2003 with recommendations, including on potential negotiations. More generally, the CTE will serve as a forum for identifying and discussing environmental implications of the new negotiations launched at Doha, to help assure that the negotiations appropriately reflect the objective of sustainable development.

3. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT's role in the economic development of less-developed GATT Contracting Parties. In the WTO, the Committee on Trade and

Development is a subsidiary body of the General Council. The Committee provides developing countries, who comprise two-thirds of the WTO's Membership, an opportunity to focus on trade issues from a development perspective, in contrast to the other committees in the WTO structure which are responsible for the operation and implementation of particular Agreements. Among subjects the Committee has discussed are the benefits of trade liberalization to development prospects, the role of technical assistance and capacity building in this effort and electronic commerce, pursuant to the 1998 Ministerial decision on electronic commerce.

Major Issues in 2001

The Committee held five formal meetings and two seminars in 2001. The Committee's work focused on the following areas: review of the special provisions in the Multilateral Trading Agreements and related Ministerial Decisions in favor of developing-country Members (in particular least-developed countries); participation of developing countries in world trade, implementation of WTO agreements, technical cooperation and training, concerns and problems of small economies, development dimensions of electronic commerce, market access for least-developed countries, and the generalized system of preferences. The Committee seminars focused on technology, trade and development, and government facilitation of electronic commerce for development.

The Committee also discussed the nature of the WTO's role in technical assistance and how to collaborate effectively with other international and national agencies in providing and monitoring such assistance. At the Committee meeting in November, the United States submitted a report on U.S. Government initiatives to build trade-related capacity in developing and transition countries. The report provides details on the $1.3 billion worth of trade-related capacity building the United States has provided during the last three years. The report can be viewed at http://www.usaid.gov/economic_growth/trade report. (The U.S. Government also has developed a trade-related capacity building database available online at http://qesdb.cdie.org/tcb/index.html.)

Sub-Committee on Least-Developed Countries: The Committee on Trade and Development has a sub-committee that focuses on the least-developed countries. At the 1996 Singapore Ministerial Meeting, Members agreed to a Plan of Action to foster an integrated approach to trade-related technical assistance activities for the least-developed countries and to improve their overall capacity to respond to the challenges and opportunities offered by the trading system. The result was the Integrated Framework for Trade-related Technical Assistance ("Integrated Framework") that seeks to coordinate the trade assistance programs of six core international organizations (the International Monetary Fund, the International Trade Center, the United Nations Conference on Trade and Development, the United Nations Development Program, the World Bank and the WTO). In addition, least-developed countries can invite other multilateral and bilateral development partners to participate in the Integrated Framework process. In 2001, the Sub-Committee on Least-Developed Countries of the Committee on Trade and Development continued to focus its work on the Integrated Framework, communicating with and providing views to the Inter-Agency Working Group which includes representatives from the six core international organizations on the arrangements for the Integrated Framework. In January 2001, the Sub-Committee held a seminar on the Policy Relevance of Mainstreaming Trade into Country Development Strategies. In February, the Sub-Committee adopted a proposal for an Integrated Framework pilot scheme and in May the Sub-Committee was informed of the selection of the first three Integrated Framework pilot project countries: Madagascar, Mauritania, and Cambodia.

Prospects for 2002

The Committee on Trade and Development, which is scheduled to meet four times in 2002, will continue its function as the forum for discussion of development issues within the WTO. Particular emphasis is likely to be placed on special and differential treatment, the participation of developing countries in the multilateral trading system, electronic commerce, technical cooperation, and the UN Conference on Financing for Development. The Committee will host a seminar on electronic commerce in April.

The Sub-Committee on Least-Developed Countries will meet three times in 2002. It will continue to focus on the special needs of and opportunities available to the least-developed countries and the Integrated Framework. This year, the Sub-Committee will hold two different seminars on the Integrated Framework and WTO Trade Policy Reviews.

4. Committee on Balance of Payments Restrictions

Status

WTO rules require any Member imposing restrictions for balance of payments purposes to consult regularly with the Balance of Payments (BOP) Committee to determine whether the use of restrictive measures is necessary or desirable to address its balance of payments difficulties. Full consultations involve a complete examination of a country's trade restrictions and balance of payments situation, while simplified consultations provide more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in the balance of payments. The Uruguay Round results strengthened substantially the provisions on balance of payments. The BOP Committee works closely with the International Monetary Fund in conducting its BOP consultations.

Major Issues in 2001

Since entry-into-force of the WTO on January 1, 1995, the WTO BOP Committee has demonstrated that the new WTO rules provide Members additional, effective tools to enforce obligations under the BOP provisions. At its December 2000 meeting, the Committee approved a phase-out plan submitted by Bangladesh to eliminate all of its balance-of-payments restraints on certain textiles in four tranches by January 2005. In July 2001, the Committee held additional consultations with Bangladesh. In consultations in December 2001, Bangladesh informed the Committee that it would be willing to eliminate its restrictions on the import of sugar by July 1, 2005, and would try to justify its ban on non-iodized salt under Article XX. For the remaining three products subject to import restrictions, Bangladesh indicated that it would be submitting a notification in the near future on how it intends to deal with these products. In January and February 2001 Pakistan, notified the BOP Committee that it had removed the restrictions on netting fabrics, special woven fabrics, knitted clothing and non-knitted clothing in accordance with the second tranche of its phase-out plan. In late December 2001, BOP Committee announced that Pakistan had informed it that it had removed the remaining import restrictions on woven fabrics and bed linens, fully implementing its balance of payments restrictions phase-out plan.

Prospects for 2002

The Committee will consult with Bangladesh in January 2002 and as necessary with other countries maintaining BOP-related restrictions during the year. Additionally, should other Members resort to new BOP measures, the WTO provides for a program of rigorous consultation with the Committee. The United States expects the Committee to continue to see that WTO BOP provisions are used as intended, to address legitimate, serious BOP problems through the imposition of temporary, price-based measures. The Committee will also

continue to rely upon its close cooperation with the IMF.

5. Committee on Budget, Finance, and Administration

Status

WTO Members are responsible for establishing and approving the budget for the WTO Secretariat via the Budget Committee. Although the Committee meets throughout the year to address the financial requirements of the organization, the formal process to approve the budget for the upcoming year begins in the fall when the Secretariat provides to Members the financial data from the previous year and forecasts the financial needs for the upcoming year. The United States is an active participant in the Budget Committee.

The WTO annual budget is reviewed by the Committee and approved by the WTO General Council. It is the practice in the WTO to take decisions on budgetary issues by consensus. For the 2002 budget, the U.S. assessment rate is 15.723 percent of the total assessment, or Swiss Francs (CHF) 22,342,383 (about $14 million). Details on the WTO's budget required by Section 124 of the URAA are provided in Annex II.

Major Issues in 2001

In 2001, the launch of the new round of negotiations in Doha and the capacity building needs of developing countries were the major issues facing the Budget Committee. Other issues of significance in 2001 included implementing a new performance-based pay system, reviewing a Swiss proposal to provide additional facilities for the WTO, and the first contribution received under the WTO's new guidelines governing the acceptance of contributions from non-governmental organizations.

Agreed Budget for 2002: After considerable discussion to ensure that the organization would be able to meet the technical assistance and capacity building needs of developing countries agreed during the launch of the new round at Doha, the Committee proposed, and the General Council approved, a 2002 budget for the WTO Secretariat and Appellate Body of CHF 143,129,850 (approximately $88 million).

The discussions within the Budget Committee focused primarily on meeting the call in the Doha Ministerial declaration for stable and predictable funding for trade capacity-related technical assistance and cooperative programs for developing countries. Previously, there had been significant debate within the Committee over whether the resources needed to meet the technical assistance needs of developing-country Members should be brought onto the regular budget, funded by Members' contributions. In 2001, the United States and a number of other Members opposed funding all of the technical assistance and capacity building expenses from the regular budget for both systemic and budgetary reasons. (Historically, a portion of the staffing for technical assistance programs was provided by the WTO Secretariat out of the budget. The variable expenses of these programs–mostly for facilities, interpretation and non-Secretariat travel–are funded primarily by donations of individual developed countries, including contributions by the United States of $600,000 in November 2000 and $1.0 million in May 2001).

The agreed 2002 budget package provides for increased technical assistance and additional financing for the International Trade Center. The budget resolution also creates the Doha Development Agenda Trust Fund, which will be financed by voluntary contributions. WTO Members agreed to double the number of highly acclaimed WTO training courses, which educate developing countries' officials on how to participate in the work of the WTO, including how to meet their trade obligations. The training program is funded out of the regular WTO budget. Another element of the budget package will provide technical assistance for developing countries that do not have offices in

Geneva to represent them at the World Trade Organization. These efforts will assist countries that have the greatest difficulty in participating in WTO activities.

The Doha Development Agenda Trust Fund, with a target endowment level of CHF 15,000,000 (about $9 million), will allow the WTO to meet the trade capacity development commitments in the Doha Declaration and will absorb previous trust funds, including the Technical Assistance Global Trust Fund. A pledging conference in the first quarter of 2002 will kick off efforts to reach the target endowment for the Doha Fund, which will have a CHF 1,000,000 buffer account to ensure that programs will not be disrupted due to temporary shortfalls in the receipt of pledged contributions. The Doha Fund will operate with specific targets tied to identified benchmarks and will be jointly supervised by the Committee on Trade and Development and the Budget Committee. For the year 2002, it was agreed that up to CHF 480,000 from the new trust fund can be used to fund a symposium with non-governmental organizations (NGOs).

WTO Members agreed to increase the staffing of the organization by eight people to address higher workloads, including in several areas related to the launch of the new round. The positions are to be allocated in the following divisions: three in the Training Institute, one in Economic Research and Analysis, one in Statistics, one in the Human Resources, one in Trade Policy Review, and one to be determined. The WTO Secretariat will also be redeploying five positions within the organization.

As a result of the budget agreement, the United States assessment for 2002 is CHF 22,342,383 (about $14 million). The U.S. contribution accounts for 15.723 percent of the total assessments of WTO Members, which are based on the share of WTO Members' trade in goods, services, and intellectual property. In 2001, the Committee adopted a new methodology based on the average trade of each Member over a five-year period. To assure uniformity, the fifth year corresponds to the year that is two years before the particular budget year. Therefore, assessments for 2002 are based on average trade in the years 1996-2000, inclusive. At the end of 2001, the accumulated arrears of the United States to the WTO amounted to CHF 3,205,232 (nearly two million dollars).

Performance Award Program: In 2001, the WTO developed performance benchmarks and trained supervisors in performance assessment to implement the performance-based pay system introduced in 2000 at the insistence of the United States and a number of other countries. The performance-based system replaced the practice of staff receiving salary increases based solely on the length of time that they have served. Salary increases are now granted only if an employee's performance had been evaluated as satisfactory and bonuses reward outstanding performance.

Building Facilities: The Budget Committee considered a building proposal from the Swiss Government intended to accommodate the current needs of the WTO Secretariat, which exceeds the space available in the WTO's main building, and to take into account the future needs of the WTO and its Appellate Body. The proposal allows for the WTO to finance design studies and construction of the building with a loan of CHF 50,000,000 (close to $31 million) payable over 50 years. The Government of Switzerland would pay the interest on the loan and the Canton of Geneva would pay for the rental of the ground the building would occupy until 2059, at which time the WTO could either purchase the land, negotiate an extension of the agreement, or sell the building. Construction could begin in 2005 and be completed in 2007-2008. A final decision will need to be made by the General Council at some time in the future. However, the Budget Committee recommended, and the General Council agreed, to accept Switzerland's proposal in principle so that the Swiss authorities can hold the necessary land and work with the WTO to develop the additional plans and analysis that will be necessary to take a final decision.

Prospects for 2002

In 2002, the Budget Committee will work closely with the Committee on Trade and Development to develop a program of technical cooperation for 2003 and recommend to the General Council a target level of financing from the Doha Development Agenda Trust Fund that will be necessary to fund these efforts. Additional consideration will also need to be given to the Swiss proposal on additional facilities for the WTO. The Budget Committee has also agreed to look closely at an independent consultant's report on staffing levels and potential reorganization of the WTO Secretariat, which was completed at the very end of 2001 and therefore not able to be fully reviewed by the Committee. Further work will be accomplished in the area of performance-based budgeting.

6. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all regional agreements to which Members are party. The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established by the Uruguay Round agreements, and considering the systemic implications of such agreements and regional initiatives on the multilateral trading system. Prior to 1996, these reviews were typically conducted by a "working party" formed to review a specific agreement.

The WTO addresses regional trade agreements in more than one agreement. In the GATT 1947, Article XXIV was the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim agreements leading to an FTA or CU. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the "Enabling Clause," provides a basis for less comprehensive agreements between or among developing countries. The Uruguay Round added two more provisions: Article V of the General Agreement on Trade in Services (GATS), which governs the services-related aspects of FTAs and CUs; and the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of GATT Article XXIV.

FTAs and CUs, both exceptions to the principle of MFN treatment, are allowed in the WTO if certain requirements are met. First, substantially all of the trade between the parties to the agreement must be covered by the agreement, *i.e.*, tariffs and other restrictions on trade must be eliminated on substantially all trade. Second, the incidence of duties and other restrictions of commerce applied to third countries upon the formation of the FTA or CU must not, on the whole, be higher or more restrictive than was the case before the agreement. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs can exceed ten years only in exceptional cases. With respect to the formation of a CU, the parties must notify WTO Members and begin negotiations to compensate other Members for exceeding their WTO bindings with market access concessions. A similar compensation agreement exists for services.

Major Issues in 2001

Examination of Reports: The Committee held three formal meetings during 2001. The Committee examined 107 agreements, referring 94 of them to the Council on Trade in Goods and 13 agreements to the Council for Trade in Services.[16] The Committee has a backlog of

[16] A list of all regional trade agreements notified to the GATT/WTO and in force is included in the appendix to this chapter.

draft reports, for which Members do not agree on the nature of appropriate conclusions. Throughout 2001, the Committee held extensive consultations in attempt to resolve Members' differences. At the same time, the Committee considered 20 biennial reports on regional agreements notified under the Article XXIV of GATT 1947.

Systemic Issues: At the direction of the CRTA, the Secretariat undertook two horizontal surveys of crosscutting measures to assist the Committee in its understanding of the impact of regional trade agreements on the multilateral trading system. The two studies, on product coverage and rules of origin, will be discussed by the Committee in 2002.

Prospects for 2002

The Doha Declaration calls for clarifying and improving rules for regional trade agreements. The Committee may play a role in these new negotiations, the exact structure of which will be decided in early 2002. In the meantime, the Committee will continue to address all aspects of its mandate, in particular reviewing the new regional trade agreements being notified to the WTO and attempting to clear the backlog of reports. Further discussions on improving the review process and the systemic effects of regional agreements will likely be major issues in the coming year, particularly in the context of the horizontal studies already undertaken by the Secretariat. The Committee also plans to hold a seminar engaging the academic community in a discussion of regionalism in early spring in order to increase its understanding of the impact of regional trade agreements on the multilateral trading system.

7. Accessions to the World Trade Organization

Status

The year 2001 saw the completion of over fifteen years of negotiations for the WTO Membership of the People's Republic of China. Three other long-term accession applicants, Lithuania, Moldova, and Taiwan (officially known in the WTO as the Separate Customs Territory of Taiwan, Pengu, Kinmen, and Matsu, or Chinese Taipei) also completed the accession process in 2001, bringing total WTO Membership to 144 as of January 1, 2002. In addition, there are twenty-eight other accession applicants with established Working Parties, and Ethiopia and Sao Tome and Principe participate as observers.

Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members, as provided for in Article XII of the WTO Agreement. After accepting an application, the WTO General Council establishes a Working Party to review information on the applicant's trade regime and conduct the negotiations. Accession negotiations are time consuming and technically complex. They involve a detailed review of an applicant's entire trade regime by the Working Party. Applicants must be prepared to make legislative changes to implement WTO institutional and regulatory requirements, to eliminate existing WTO-inconsistent measures, and to make specific commitments on market access for goods and services. It is widely recognized that the accession process, with its emphasis on implementation of WTO provisions and the establishment of stable and predictable market access for goods and services, provides a proven framework for adoption of policies and practices that encourage growth, development, and investment. The accession process strengthens the international trading system by ensuring that new Members understand and can implement WTO rules from the outset, and it offers current Members the opportunity to secure expanded market access opportunities and to address outstanding trade issues in a multilateral context.

The terms of accession developed with Working Party Members in these bilateral and multilateral negotiations are recorded in an accession "protocol package" consisting of a

Working Party report and Protocol of Accession, consolidated schedules of specific commitments on market access for imported goods and foreign service suppliers, and agriculture schedules that contain commitments on export subsidies and domestic supports. The Working Party adopts the completed protocol package containing the negotiated terms of accession and transmits it with its recommendation to the General Council or Ministerial Conference for approval. After General Council approval, accession applicants normally submit the package to their domestic authorities for ratification. Thirty days after the instrument of ratification is received in Geneva, accession to the WTO occurs.

At the end of 2001, thirty-one applications for WTO Membership were pending, up from 29 at the beginning of the year, and Membership in the WTO remains an economic, and political, priority for a number of governments. In addition to the four new Members whose parliaments ratified the results of their negotiations, Vanuatu's Working Party adopted the terms of its accession in October, the first time since the WTO was established that a least-developed country (LDC) had reached this stage. The package awaits acceptance by Vanuatu and the General Council to complete the process.

The General Council accepted new accession applications from The Bahamas, Tajikistan, and Yugoslavia during 2001. Applications from Syria and Libya were tabled late in the year. Of the twenty-eight applicants with Working Parties established, all but seven have submitted initial descriptions of their trade regimes, in effect activating the accession process. Azerbaijan, Cambodia, Samoa, Tonga, Sudan and Uzbekistan all provided comprehensive information on their trade regimes, and Cambodia and Tonga initiated negotiations with their first Working Party meetings. Working Party meetings and/or bilateral market access negotiations were also held with Armenia, Belarus, China, Kazakhstan, Macedonia, Moldova, Russia, Tonga, Ukraine, Taiwan, and Vanuatu. The chart included in the Annex to this section reports the current status of each accession negotiation.

Major Issues in 2001

Intensive work to complete the accessions of China, Chinese Taipei, and Vanuatu and to make progress on those of Russia and Macedonia, took up most of the attention given by WTO Members to individual accessions in 2001.[17] The accession negotiations of Ukraine, Kazakhstan, and Armenia also intensified during 2001, either in terms of market access negotiations on goods and services or in terms of legislative implementation.

Members also attempted to respond to criticism leveled by the informal group of developing countries during 1999 and 2000 that the accession process was too burdensome for some applicants. During 2001, they sought ways to simplify and streamline the accession process, especially for the nine least-developed country (LDC) applicants with extremely low levels of income and economic development, and others, such as WTO observers Ethiopia and Sao Tome and Principe, that might apply for Membership in the future. Members generally recognized the unique problems facing LDCs applying for WTO accession, *i.e.*, lack of human resources to conduct the negotiations, infrastructure deficiencies, and a general lack of capacity to implement WTO provisions without technical assistance from the WTO and its Members.

At the time the accession package of Moldova was approved, the United States invoked the non-application provisions of the WTO Agreement contained in Article XIII with respect to that country, bringing to five the number of times since the establishment of the WTO in 1995 that this step has been

[17] For further information on the results of the WTO accession negotiations with China and Taiwan to the WTO, please consult Chapter IV.

necessary.[18] Invoking Article XIII was necessary because the United States must retain the right to withdraw "normal trade relations (NTR)" (called "most-favored-nation" treatment in the WTO) for WTO Members that receive NTR with the United States subject to the provisions of the "Jackson-Vanik" clause and the other requirements of Title IV of the Trade Act of 1974.[19] In such cases, the United States and the other country do not have "WTO relations" which, among other limitations, prevents the United States from bringing a WTO dispute based on a violation of the WTO or the country's commitments in its accession package.

Prospects for 2002

As the new round of multilateral negotiations gets underway, work in the WTO will increasingly be focused in that direction, and day-to-day work in the organization and dispute settlement cases will also require WTO Members' attention. As a consequence, in addition to continuing efforts to promote progress in the accessions of LDCs, emphasis will center on accession applicants that demonstrate a willingness to implement WTO provisions and reach agreement with WTO Members on market access issues. U.S. representatives will remain key players in all accession meetings, as the negotiations provide opportunities to expand market access for U.S. exports, to encourage trade liberalization in developing and transforming economies, and to support a high standard of implementation of WTO provisions by both new and current Members. The United States has also pledged to increase its efforts to promote trade capacity building among least-developed countries, including those seeking accession to the WTO.

Armenia, Macedonia, Russia, and Vanuatu are the most advanced in the accession process. In addition, Algeria and Kazakstan have resumed active negotiations after a lengthy hiatus, declaring WTO accession a priority for their countries, and will press to intensify negotiations during 2002. Six additional applicants at the very beginning of the accession process, including three additional least-developed countries, have circulated initial documentation and will expect to launch Working Party reviews of their trade regimes this year. Finally, the expectation remains that additional countries currently outside the WTO system will seek to initiate accession negotiations.

8. Working Group on Trade and Competition Policy

Status

In 2002, the WTO Working Group on the Interaction between Trade and Competition Policy (Working Group) enters its sixth year of work under the oversight of the WTO General Council. The Working Group was set up by WTO Trade Ministers at their first Ministerial Conference in Singapore in December 1996. Its mandate was to "study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework." In December 1998, the General Council authorized the Working Group

[18] The United States invoked nonapplication of the WTO when Romania became an original Member in 1995, and when the accession packages of Mongolia, the Kyrgyz Republic, and Georgia were approved by the WTO General Council in 1996, 1998, and 1999, respectively. Congress subsequently authorized the President to grant them permanent NTR, and the United States withdrew its invocation of non-application in the WTO for these countries.

[19] In addition to Moldova, eight of the remaining 28 WTO accession applicants with active Working Parties are covered by Title IV. They are: Armenia, Azerbaijan, Belarus, Kazakhstan, Russia, Ukraine, Uzbekistan, and Vietnam. The Administration recently proposed that Armenia, Azerbaijan, Kazakhstan, Moldova, Russia, Ukraine, and Uzbekistan be granted permanent NTR. For further information on this issue, please consult Chapter IV. For further information on granting permanent NTR to China, please consult Chapter IV.

to continue its work on the basis of a more focused framework of issues. This framework continued to serve as the basis of the Working Group's work in 2001.

In Paragraph 23 of the November 2001 Doha Ministerial Declaration, the Ministers agreed that "negotiations regarding competition policy would take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations." The Ministerial Declaration provides that further work in the Working Group up to the Fifth Session will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. The Ministerial Declaration also recognized the needs of developing and least-developed countries for technical assistance and capacity building in this area, and pledged to work in cooperation with other intergovernmental organizations, including UNCTAD, to provide assistance in response to these needs.

Major Issues in 2001

The Working Group held three meetings in 2001, in March, July and September. The Working Group continued to organize its work on the basis of written contributions from Members, supplemented by discussion and commentary offered by delegations at the meetings and, where requested, factual information and analysis from the WTO Secretariat and observer organizations such as the OECD, the World Bank and UNCTAD. As noted, in December 1998, the General Council set a focused framework for study by the Working Group, which continued to set the parameters of the Working Group's work in 2001. These parameters were: (i) the relevance of fundamental WTO principles of national treatment, transparency and most-favored-nation treatment to competition policy, and vice-versa; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade.

Beyond these three broad areas of focus, the Working Group also took account of some suggestions developed by the Working Group Chairman, Professor Frédéric Jenny of France, in the course of informal consultations with Members. These suggestions were that the Working Group:

- continue placing emphasis on addressing the concerns that had been expressed by some developing-country Members regarding both the general impact of implementing competition policy on their national economies and the particular implications that a multilateral framework on competition policy might have for development-related policies and programs;

- continue exploring the implications, modalities and potential benefits of enhanced international cooperation, including in the WTO, in regard to the subject-matter of trade and competition policy; and

- continue focusing on the issue of capacity building in the area of competition law and policy.

Twenty written submissions were contributed by a total of 16 Members (counting the EU and its 15 Member States as one contributor). These submissions ranged across the three areas of focus set by the General Council, but the majority of them addressed issues arising under the rubric of "approaches to promoting cooperation and communication among Members, including in the field of technical cooperation." The United States made two submissions to the Working Group in 2001: the

first (which had previously circulated as an advance copy for the Working Group's meeting in October 2000) addressed "The Role of Competition Advocacy," while the second addressed "Administering a Competition Law and Policy: The Mechanics of Setting and Pursuing Policy Goals with Finite Resources."

Prospects for 2002

The work of the Working Group in 2002 will focus on the clarification of the topics specified in the Ministerial Declaration (*i.e.*, core principles, hardcore cartels, voluntary cooperation, and capacity building). Meetings of the Working Group are already scheduled for March and July, and a further meeting in September also has been discussed.

9. Working Group on Transparency in Government Procurement

Status

Building on the progress to date in the Working Group on Government Procurement, the Doha Ministerial Declaration calls for decisions to be taken at the Fifth WTO Ministerial Conference on the modalities for negotiations on a potential Agreement on Transparency in Government Procurement, and for negotiations to begin on that basis.

Continued progress toward a multilateral Agreement on Transparency in Government Procurement is an important element of the United States' longstanding efforts to bring all WTO Members' procurement markets within the scope of the international rules-based trading system. This work also contributes to broader U.S. initiatives aimed at promoting the international rule of law, combating international bribery and corruption, and supporting the good governance practices that many WTO Members have adopted as part of their overall structural reform programs.

Major Issues in 2001

The Working Group has made significant progress in identifying many of the key substantive elements of a potential Agreement on Transparency in Government Procurement, including:

- Publication of information regarding the regulatory framework for procurement, including relevant laws, regulations and administrative guidelines;
- Publication of information regarding opportunities for participation in government procurement, including notices of future procurements;
- Clear specification in tender documents of evaluation criteria for award of contracts;
- Availability to suppliers of information on contracts that have been awarded; and
- Availability of mechanisms to challenge contract awards and other procurement decisions.

The Working Group's discussions have confirmed that a wide range of WTO Members consider these elements to be fundamental to an efficient and accountable procurement system and, accordingly, already incorporate these elements, as appropriate, in their existing procurement laws, regulations and practices.

In 2001, discussions in the Working Group focused on the important benefits to all WTO Members of concluding a multilateral Agreement in this area. Many delegations stressed that incorporating predictable standards of transparency in government procurement into the rules-based international trading system would not only facilitate commercial development and the integration of all Member economies into the global trading system, but could also contribute to Members' efforts to ensure the most efficient possible use of scarce public resources. Some developing-country delegations noted that computer-based information and communications technologies

can provide a cost-effective way for all governments to achieve their transparency objectives.

Prospects for 2002

Pursuant to the Doha Ministerial Declaration, the United States will work with other WTO Members to push for progress on a number of key issues relating to modalities for negotiations on an Agreement on Transparency in Government Procurement, including: 1) potential capacity building needs related to the substance of the negotiations; 2) the appropriate scope and coverage of an Agreement; and 3) the appropriate application of WTO dispute settlement procedures to such an Agreement.

10. Working Group on Trade and Investment

Status

The Working Group on Trade and Investment (WGTI), which was originally established by the Singapore Ministerial Declaration in 1996, provides a multilateral forum for the consideration of investment liberalization and international investment agreements and their relationship to trade and economic development. The WTO General Council oversees the work of the WGTI and has approved an extension of its initial two-year mandate until the next Ministerial in 2003. During this time, the WGTI has been tasked to focus on several investment issues including scope and definition, transparency, non-discrimination, development provisions, exceptions and dispute settlement. Following this period, negotiations will occur "on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations."

The WGTI provides an opportunity for the United States and other countries to present the benefits they derive from open investment policies and programs and to advance international understanding of these benefits. It is also a valuable forum in which to dispel misconceptions about investment liberalization, such as the concern in some developing countries that foreign investment marginalizes domestic firms. To date, the group has analyzed the full range of investment agreement models currently in use, and considered the implications of the differences. The group assessed the advantages and disadvantages of the variety of approaches, including as they affected economic development. The United States believes that the WGTI's work significantly raises other countries' understanding of investment rules.

Major Issues in 2001

The WGTI met three times in 2001. Drawing from the checklist of issues developed during the initial two years of its work, and relying on written submissions from Members, the WTO Secretariat and multilateral bodies such as the OECD and UNCTAD, the WGTI reviewed three broad subject areas. The first was the implications of trade and investment for facilitating economic development and growth, including the following subtopics: the relationship between balance of payments and FDI with a focus on mergers and acquisitions, portfolio investment, and the advantages of multilateral investment rules. The second topic was the economic relationship between trade and investment, where investment incentives and FDI flows and technology transfer were addressed. Finally, the Working Group took stock of and analyzed existing international instruments and activities regarding trade and investment, focusing on investment seminars outside of the WTO.

Prospects for 2002

With a renewed mandate for the WGTI, and the prospects of negotiations to begin following the next Ministerial, it is expected that the work in this body will take on renewed importance. Members looking to include specific topics on the negotiating agenda will need to begin developing a consensus, given that the content of negotiations remains a decision to be made by Ministers in 2003.

11. Trade Facilitation

Status

The 1996 Singapore Ministerial Declaration requested the Council for Trade in Goods "to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area." The Council continued its work under this mandate in 2001, leading up to the Doha Ministerial, where an ambitious and focused program was established for new work to be undertaken, leading up to the Fifth Ministerial in 2003. At Doha, it was agreed that negotiations on Trade Facilitation will take place after the Fifth Ministerial, based upon a decision to be taken at that Ministerial on modalities of negotiations.

Major Issues in 2001

In 2001, the Council for Trade in Goods met several times in informal session, continuing its analysis of various 'national experience' submissions, and exploring potential current "gaps" within the parameters of relevant WTO rules. Emerging in 2001 was a significant level of interest by many Members to add to the Trade Facilitation agenda those issues pertaining to the transit of goods through territories– a matter of particular importance to several 'land-locked' countries. In addition, a key event in 2001 was a comprehensive two-day "WTO Workshop on Technical Assistance and Capacity Building in Trade Facilitation," featuring speakers from both donor and recipient countries, international organizations actively involved in trade capacity building, and the private sector.

As the year progressed, there continued to be some resistance exhibited on the part of certain developing-country Members toward commencing negotiations on Trade Facilitation. However, many developing countries joined the United States and other Members in supporting a view that the development of a rules-based environment for conducting trade transactions would be an important element for securing continued growth in the economic output of all WTO Members. There was no disagreement among Members that systemic reforms related to increased transparency and efficiency in the conduct of border transactions would diminish corruption, while providing an additional benefit of enhancing administrative capabilities that ensure effective compliance with customs-related requirements or laws concerning health, safety, and the environment. For the United States and many of its key trading partners, small and medium size enterprises (SMEs) have become important stakeholders in advancing WTO work in the area of Trade Facilitation. SMEs are especially poised to take advantage of opportunities provided by today's instant communications and ever-improving efficiencies in the movement of physical goods, while at the same time are particularly disadvantaged when border procedures are opaque and overly burdensome.

Prospects for 2002

As reflected in the Doha Declaration, the United States and all other Members are challenged in the area of Trade Facilitation to move beyond the previous Singapore Ministerial analytical mandate and undertake an ambitious work agenda leading up to the Fifth Ministerial. The Council on Trade in Goods will not only review, but also undertake as appropriate to "clarify and improve" relevant aspects of GATT Article V ("Freedom of Transit"), GATT Article VIII ("Fees and Formalities Connected with Importation and Exportation"), and GATT Article X ("Publication and Administration of Trade Regulations"). At the same time, Members will identify trade facilitation needs and priorities of Members, while concurrently taking up the challenge of ensuring adequate technical assistance and support for capacity building in this area. The United States and other leading Members will move aggressively toward advancing the Doha Trade Facilitation agenda, in order to ensure that the work is effectively positioned at the Fifth Ministerial for

completing negotiations in the three-year time frame of the overall Doha negotiating work program.

The United States views work in this area as ultimately leading to one of the most important systemic negotiations to be undertaken by the WTO. The future WTO negotiations in the area of Trade Facilitation are a "win-win" opportunity, given the important linkages between a rules-based trade transaction environment and a stable economic infrastructure. The United States will continue to advance ongoing complementary initiatives involving existing Agreements, such as with regard to implementation of the WTO Agreement on Customs Valuation. The United States will also be working with key Members to ensure the technical assistance is demand-driven and is effective in bringing about concrete measurable results that will translate into increased trade and investment opportunities for all Members.

F. Plurilateral Agreements

1. Committee on the Expansion of Trade in Information Technology Products

Status

The landmark agreement to eliminate tariffs by January 1, 2000 on a wide range of information technology products, generally known as the Information Technology Agreement, or ITA, was concluded at the WTO's first Ministerial Conference at Singapore in December 1996. The ITA has 57 participants representing over 95 percent of trade in the $600 billion-plus global market for information technology products. [20] The agreement covers computers and computer equipment, semiconductors and integrated circuits, computer software products, set-top boxes, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments.

Major Issues in 2001

The WTO Committee of ITA Participants held four formal meetings in 2001, during which the Committee reviewed implementation status. Although developed country participants implemented duty-free treatment for these products on January 1, 2000, some limited staging of tariff reductions for individual products up to 2005 for developing countries was granted on a country-by-country basis.

Pursuant to the provisions of the Singapore Ministerial declaration establishing the ITA, the Committee continued its work to address divergent classification of information technology products. Building on the work done in 1999 and 2000, substantial progress was made in 2001 on reaching agreed classifications for many products. A list of products where agreement was not possible was forwarded to the World Customs Organization for their consideration.

As a result of the approval of the Non-Tariff Measures (NTM) Work Program in late 2000, the Committee began work in 2001 by identifying NTMs which impede trade in ITA products. On this issue there have been nine submissions from participants to date. The Committee is in the process of examining the economic and development impact of such measures on trade in ITA products and the benefits which would accrue to participants

[20] ITA participants are: Albania, Australia, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Czech Republic, El Salvador, Estonia, European Communities (on behalf of 15 Member States), Georgia, Hong Kong China, Iceland, India, Indonesia, Israel, Japan, Jordan, Republic of Korea, Krygyz Republic, Latvia, Lithuania, Macau, Malaysia, Mauritius, Moldova, New Zealand, Norway, Oman, Panama, Philippines, Poland, Romania, Singapore, Slovak Republic, Slovenia, Switzerland and Liechtenstein, Taiwan, Thailand, Turkey, and the United States. China and Armenia have indicated their intention to join the ITA.

from addressing their undue trade-distorting effects.

Prospects for 2002

The Committee's decision to establish a work program on non-tariff measures effectively demonstrates how the WTO provides a dynamic mechanism that is responsive to the ever-changing nature of the information technology sector. ITA participants have already identified a number of non-tariff measures that act as unnecessary impediments to trade. The Committee intends to bring together industry representatives and government regulators in 2002 to consider how these impediments can be removed.

Throughout 2002 the Committee will continue to undertake its mandated work, including reviewing possibilities for product expansion along with addressing further technical classification issues. In addition, the Committee will continue to monitor implementation of the Agreement, including undertaking any necessary clarifications.

2. Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA) is a "plurilateral" agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO Members that specifically signed it in Marrakesh or that have subsequently acceded to it. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement. The current membership is: the United States, the member states of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, United Kingdom), the Netherlands with respect to Aruba, Canada, Hong Kong China, Iceland, Israel, Japan, Liechtenstein, Norway, the Republic of Korea, Singapore and Switzerland. Iceland acceded to the GPA in April 2001. Albania, Bulgaria, Chinese Taipei, Estonia, Jordan, the Kyrgyz Republic, Latvia, Oman, Panama, and Slovenia are in the process of negotiating GPA accession.

Major Issues in 2001

In Article XXIV:7 of the GPA, the Parties agreed to conduct further negotiations with a view to improving both the text of the Agreement and its market access coverage. The Parties have since agreed that, as part of the review, the Committee should take into account the objective of promoting expanded membership of the GPA by making it more accessible to non-members.

With these objectives in mind, the United States has taken the lead in advocating significant streamlining of some of the GPA's procedural requirements, while continuing to ensure full transparency and predictable market access. Much of the existing text of the GPA was developed in the late 1970s, during the negotiations on the original GATT Government Procurement Code. As the current review of the Agreement has proceeded, the Committee has become aware that the GPA text should be carefully analyzed in view of the ongoing modernization of the Parties' procurement systems and technologies.

As provided for in the GPA, the Committee continued the process of monitoring members' implementing legislation. In 2001, it completed its review of the implementing legislation of Canada, Hong Kong China, Israel, Japan, Liechtenstein, Norway, Singapore and the United States.

Prospects for 2002

In 2002, the Committee will continue its review and analysis of the text of the GPA, focusing on proposals by the United States and other Parties aimed at "streamlining" the Agreement's

procedural requirements. It will also consider proposals that have been made with respect to potential negotiations to further expand the Agreement's market access coverage. The Committee will review the implementing legislation of Iceland and the Netherlands with respect to Aruba, which will complete the review for all the current GPA Parties.

3. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement), was concluded in 1979 as part of the Tokyo Round of multilateral trade negotiations. Although the Aircraft Agreement was not renegotiated during the Uruguay Round, it remains fully in force and is included in Annex 4 to the WTO Agreement as a plurilateral trade agreement.

The Aircraft Agreement requires Signatories to eliminate duties on civil aircraft, their engines, subassemblies and parts, ground flight simulators and their components, and to provide these benefits on a PNTR basis to all WTO Members. On non-tariff issues, the Aircraft Agreement establishes international obligations concerning government intervention in aircraft and aircraft component development, manufacture and marketing, including:

Government-directed procurement actions and mandatory subcontracts: The Agreement provides that purchasers of civil aircraft (including parts, subassemblies, and engines) will be free to select suppliers on the basis of commercial considerations and governments will not require purchases from a particular source.

Sales-related inducements: The Agreement states that governments are to avoid attaching political or economic inducements (positive or negative linkages to government actions) as an incentive to the sale or lease of civil aircraft.

Certification requirements: The Agreement provides that civil aircraft certification requirements and specifications on operating and maintenance procedures will be governed, as between Signatories, by the provisions of the Agreement on Technical Barriers to Trade.

Under Article II.3 of the Marrakesh Agreement, the Aircraft Agreement is part of the WTO Agreement, however only for those Members who have accepted it and not for all WTO Members. As of December 31, 2001, there were 29 Signatories to the Aircraft Agreement: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Estonia, Georgia, Japan, Latvia, Lithuania, Macau, Malta, Norway, Romania, Switzerland and the United States. Although Albania and Croatia have committed to become parties upon accession to the WTO, which occurred in 2001, neither has accepted the Agreement. Chinese Taipei, which became a WTO Member on January 1, 2002, also became a Signatory to the Aircraft Agreement on that date. Oman agreed to become a party within three years of accession. Those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Chinese Taipei, Colombia, the Czech Republic, Finland, Gabon, Ghana, Hungary, India, Indonesia, Israel, Korea, Mauritius, Nigeria, Oman, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. In addition two WTO accession candidates, the Russian Federation and Saudi Arabia, have observer status in the Committee. The IMF and UNCTAD are also observers.

Major Issues in 2001

The Aircraft Committee, permanently established under the Aircraft Agreement, affords the Signatories an opportunity to consult on the operation of the Agreement, to propose amendments to the Agreement and to resolve any disputes. During 2001, the full Committee

formally convened twice and also met once informally in conjunction with a meeting of the Technical Sub-Committee reviewing the Agreement's Annex. The Committee agreed to open a new Protocol (2001) for acceptance by the Signatories that revises the Agreement's Annex of aircraft items to be accorded duty-free treatment to bring them into accord with changes to the international Harmonized Commodity Description and Coding System. The Committee also agreed to recommend interim application of duty-free treatment for ground maintenance simulators, a product not currently within the defined coverage of the Agreement.

In addition, the Committee discussed various aircraft-related trade matters including: conforming the language in the Agreement to the WTO; end-use customs administration including a proposal to define "civil" aircraft by initial certification rather than by registration; and, statistical reporting of trade data. The United States also raised certain activities by other Signatories that might result in trade barriers or market distortions, such as the failure by France to promptly certify large civil aircraft at full seating capacity, European Union support for large civil aircraft development and marketing, Belgian government exchange rate guarantees for aircraft component manufacturers, and European Union regulations restricting the operation of aircraft, otherwise compliant with International Civil Aviation Organization Stage III noise standards.

Prospects for 2002

The United States will continue to seek to conform the Aircraft Agreement with the new WTO framework while maintaining the existing balance of rights and obligations. The United States will also continue to make it a high priority for countries with aircraft industries that are seeking membership in the WTO to become a Signatory to the existing Aircraft Agreement. In addition, other countries that might procure civil aircraft products, but are not currently significant aircraft product manufacturers, are being encouraged to become members of the Agreement in order to foster non-discriminatory and efficient selection processes for aircraft products based solely upon product quality, price, and delivery.