

WORLD TRADE ORGANIZATION

The World Trade Organization (WTO) is the international organization responsible for global rules governing trade among nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. Like its predecessor, the General Agreement on Tariffs and Trade (GATT), the WTO serves as the forum for on-going multilateral trade negotiations aimed at liberalizing world trade and administration of the resulting trade agreements. WTO trade agreements are reached based upon a consensus of participating members and are ratified domestically by each Member. WTO members are responsible for monitoring compliance with these far reaching trade agreements and setting the organization's course. The WTO also has a dispute settlement system designed to reduce trade friction through interpretation of the agreements and commitments. The Director General of the WTO is Dr. Supachai Panitchpakdi, of Thailand, and there are four Deputy Directors General.

The WTO was created on January 1, 1995, as the result of the Uruguay Round trade negotiations and is one of the world's leading international economic institutions. The establishment of the WTO completed the three pillar system envisaged at Bretton Woods, alongside the World Bank and International Monetary Fund. The WTO has a cooperative relationship with the United Nations, but it is not a UN specialized agency.



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WTO STRUCTURE

The WTO's top level decision-making body is the Ministerial Conference which meets at least once every two years. Ministerial Conferences have been held in Singapore (1996), Geneva (1998), Seattle (1999), Doha (2001) and Cancun (2003). WTO members have accepted Hong Kong China's invitation for the Sixth WTO Ministerial Conference to be held there, but as this book when to press, a date had not been set. The day-to-day work of the WTO falls principally to the General Council, which conducts work on behalf of the Ministerial Conference and reports to the conference. The General Council delegates and approves technical work done by its subsidiary bodies: the Councils for Trade in Goods, Trade in Services, and Trade-Related Aspects of Intellectual Property Rights – which oversee the implementation of their respective WTO agreements. It also convenes as the Dispute Settlement Body and as the Trade Policy Review Body. The General Council oversees the Trade Negotiations Committee (TNC).

PARTICIPATION

With the accession over the past several years of China, Chinese Taipei and Former Yugoslav Republic of Macedonia, WTO membership has grown to 146 states and customs territories. WTO members account for over 90 percent of global trade, but the expansion of WTO membership continues to be an important element of WTO work. As this book went to press Cambodia and Nepal were in the final stages of accession, and over 20 other countries, including a number of large economies such as the Russian Federation and Saudi Arabia, were at various stages of the accession process. Countries in the process of accession are WTO observers and are entitled to participate in the on-going Doha round of international trade negotiations, although they may not take decisions on outcomes. Several international organizations are also observers at the WTO, including the World Bank, International Monetary Fund and UNCTAD.

TARIFF REDUCTIONS AND RULES TO LIBERALIZE TRADE IN GOODS

The WTO is the culmination of over fifty years of experience with the multilateral trading system, originally set up in 1947 under the GATT. The system was developed through a series of GATT negotiating “rounds,” which dealt primarily with liberalization of trade in goods through agreements to lower customs tariffs and through the development of rules to address other trade barriers.

The most fundamental WTO rules of goods trade involve non-discrimination, both in the form of national treatment (prohibiting discrimination on the basis of nationality) and most-favored nation treatment (the principle of providing to all trading partners the same customs and tariff treatment given to the so-called “most favored nation.”). There are also many other technical rules designed to ensure market predictability. Through the years, and particularly as a result of the Uruguay Round, the rules applicable to goods trade have been expanded to improve the coverage of specific sectors such as textiles and agriculture. There are also agreements addressing such specific technical issues as customs valuation, trade remedies, product standards, sanitary and phyto-sanitary standards, subsidy disciplines, trade-related investment measures, import licensing procedures, rules of origin, preshipment inspection, and activities by state trading enterprises.

REFORM OF TRADE IN AGRICULTURAL PRODUCTS

Under the GATT, agricultural negotiators developed an initial framework for the reform of agriculture with the Uruguay Round Agreement on Agriculture. The Agriculture Agreement established the current rules for agricultural trade, provided the framework for “tariffication” of all trade barriers, and quantification of domestic support and export subsidies. It also provided reduction commitments and implementation periods for all three of these “pillars” of interest. The Uruguay Round also mandates continued negotiations aimed at further reform of agricultural trade.

TRADE IN SERVICES: THE GATS FRAMEWORK

The Uruguay Round expanded the scope of the multilateral trading system to cover trade in services through the General Agreement on Trade in Services (GATS), which accounts for more than 70 percent of U.S. gross domestic product and 22 percent of

COMPLETED NEGOTIATING ROUNDS

1947 (Geneva)
Tariff Reductions

1949 (Annecy, France)
Tariff Reductions

1950-51 (Torquay, England)
Tariff Reductions

1956 (Geneva)
Tariff Reductions

1960-61 (Geneva: "The Dillon Round")
Tariff Reductions

1964-67 (Geneva: "The Kennedy Round")
World industrial tariffs reduced by around 1/3, anti-dumping measures.

1973-1979 (Geneva: "The Tokyo Round")
Tariffs, non-tariff measures, and framework agreements.

1986-1993 (Geneva: "The Uruguay Round")
Largest ever package of market access concessions, trade in services and intellectual property included, agreement to replace GATT with WTO system.

world trade. The GATS covers trade in such important sectors as financial services, tourism and telecommunications among others. GATS established a multilateral framework and a legal basis for future negotiations aimed at eliminating barriers that discriminate against foreign services providers and deny them market access. The GATS framework includes most-favored nation treatment and national treatment principles, as well as disciplines on domestic regulations, with special rules addressing the specific situations of particular services sectors, such as financial services, telecommunications, air transport, and movement of labor. The framework is supplemented by national schedules that contain specific binding commitments to market access and national treatment in individual service sectors. As with agriculture, the Uruguay Round mandates continued negotiations aimed at further reform of services trade.

In 1997, 70 WTO members built upon their GATS sectoral commitments by agreeing to market access and national treatment commitments covering 93 percent of world

telecommunications revenue. The commitments encompass the broad range of basic telecommunications services, including local and long distance, and international services using both wireline and wireless technologies. Also in 1997, 70 members reached an agreement to open up their financial services sectors. The agreement covers more than 95 percent of trade in banking, insurance, securities and financial information.

THE TRIPS AGREEMENT

Another important achievement of the Uruguay Round was the development of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), which is designed to ensure effective protection for copyrights, sound recordings, trademarks, geographical indications, including appellations of origin, patents, industrial designs, integrated circuit layout designs (semiconductor chips), and undisclosed information, such as trade secrets and data submitted to obtain market approval of pharmaceutical or agricultural chemical products. TRIPs established

improved standards for the protection of intellectual property and set out for the first time in international law the procedures and remedies that governments must provide under their domestic law so that these rights can be effectively enforced.

INTEGRATION OF DEVELOPING COUNTRIES

Developing and least-developed countries comprise a large majority of WTO membership. WTO rules have been adapted to provide “special and differential treatment” in addressing particular needs of these members in a pragmatic manner. Special and differential treatment takes many forms, but generally is directed to providing increased trading opportunities and longer time periods to implement agreements. The WTO provides technical assistance to developing countries through training courses, missions to individual countries, and through regional seminars.

TRADE POLICY REVIEWS

Members also use the WTO to obtain a better understanding of each others’ trade practices through trade policy reviews. The Trade Policy Review Mechanism holds detailed periodic reviews of each member’s trade regime, in order to enhance transparency and to assess its impact. The reviews are based on a policy report submitted by the country under review and a report prepared by a group of WTO Secretariat economists. Increasingly, trade policy reviews have served as a useful forum to better identify technical assistance needs.

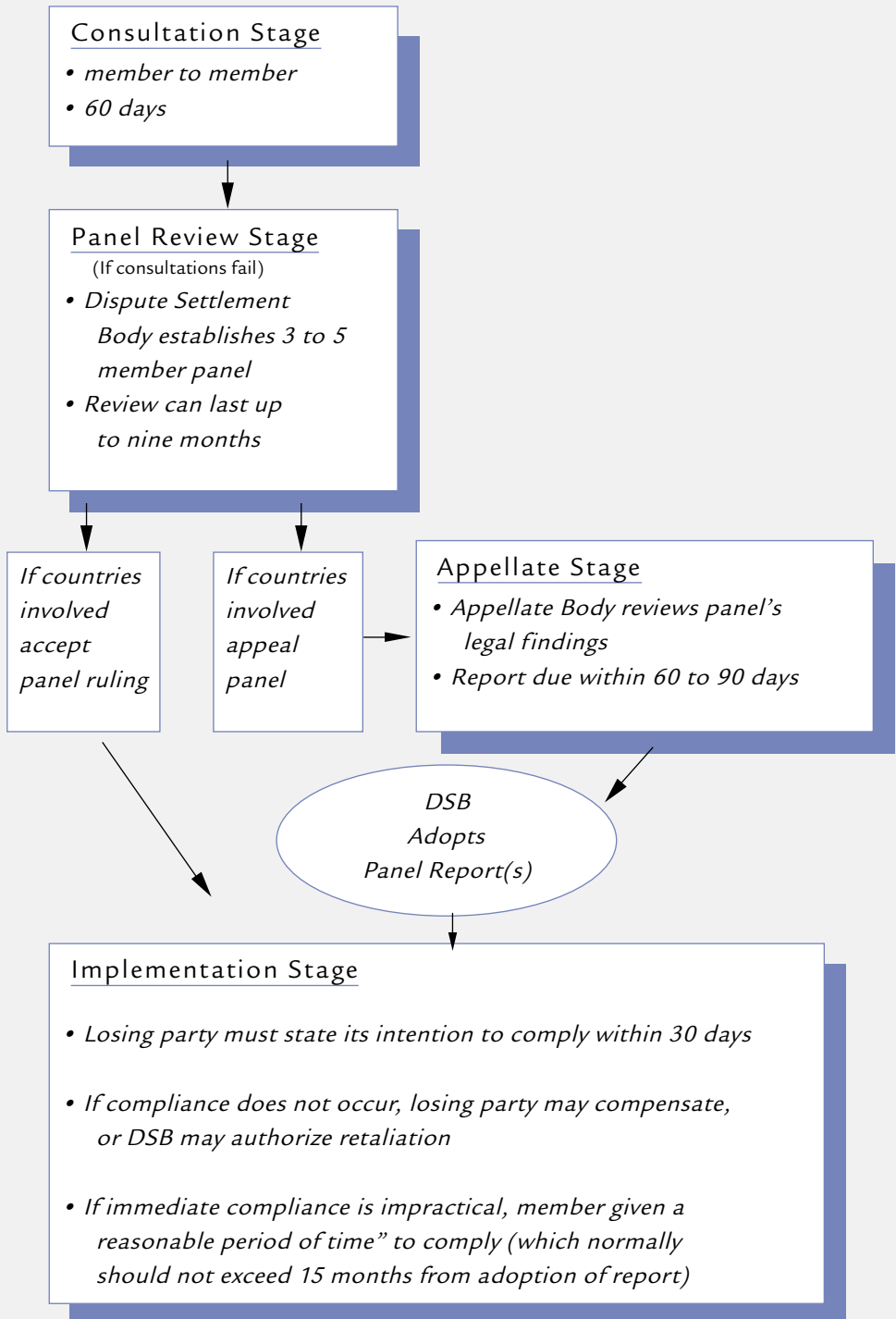
The most recent trade policy review of the United States was held in September 2001 and the next review is scheduled for January 2004. During the 2001 review, members recognized that the United States has among the world’s most open and transparent trade and investment regimes and that it plays a crucial role in the global economy.

RESOLUTION OF TRADE DISPUTES

The WTO serves as a forum for the resolution of trade disputes arising among its members. The Dispute Settlement Understanding (DSU), a product of the Uruguay Round, created a stronger and more efficient system for resolving trade disputes through the establishment of procedures for consultations, legal arguments before panels of experts, and the opportunity to obtain appellate review. The settlement of disputes is the responsibility of the Dispute Settlement Body (DSB), which has the sole authority to establish such panels to adjudicate disputes between members and to accept or reject the findings of panels and the Appellate Body, a standing appeals body of seven independent experts. The DSB also monitors the implementation of panel and Appellate Body findings and has the power to authorize retaliation when a member does not comply with DSB recommendations and rulings.

The DSU procedures provide for the settlement of trade disputes in approximately one year, or one and a half years if the decision is appealed. The adoption of panel and Appellate Body reports is automatic, unless there is a consensus not to adopt. Once a panel report in a given dispute is circulated to all members, members have the right to request the Appellate Body to examine the report and correct it if necessary, with three members serving on any one dispute. If a member does not comply with its obligations at the end of the dispute settlement process, trade actions by

THE WTO DISPUTE SETTLEMENT PROCESS



the injured party will be authorized without risk of counter-retaliation. The Doha Declaration called for negotiations on improvements and clarifications of the DSU, with delegations aiming to conclude such negotiations by May 2003. This was subsequently extended by the WTO General Council for a period of one year, with the aim of concluding by May 2004.

From the advent of the WTO, in January 1995, until October 1, 2003, the United States has been a party in 56 out of 93 WTO dispute settlement panel reports and 36 out of 56 Appellate Body reports. The United States has also been involved in 11 arbitrations to determine the reasonable period of time for implementation of DSB recommendations and rulings, 3 arbitrations to determine the level of suspension of concessions, and one arbitration conducted pursuant to Article 25 of the DSU.

THE DOHA AGENDA

At its Fourth Ministerial Conference, held in Doha, Qatar, in November 2001, the WTO embarked on an ambitious new round of trade negotiations – the Doha Development Agenda. The Ministerial Declaration calls for the completion of the negotiations by January 2005. The Doha mandate placed the interests of developing countries, which now comprise more than two-thirds of the WTO's membership, at the center of the new negotiations. Recognizing the constraints faced by these countries, WTO members have also significantly expanded technical assistance and trade capacity building efforts.

The Doha Declaration created the Trade Negotiations Committee, under the authority of the General Council, to supervise the overall conduct of the negotiations. Early in 2002, WTO members established the various negotiating bodies and designated chairs to lead the various groups and manage the agenda, with the WTO Director General serving as TNC chairman. In October 2003, members were engaged in the substantive issues in the negotiations, aided by the preparatory work of the WTO's built-in agenda on agriculture and services. With the exception of work in the areas of review of the Dispute Settlement Understanding and negotiations on the registration system for geographical indications, all negotiating areas are to be concluded at the same time, as a single undertaking.

THE U.S. POSITION AT CANCUN

The Fifth Ministerial Conference was held in September 2003, in Cancun, Mexico, to take stock of the progress made in the negotiations and to plan further work. Well over a year prior to the meeting, the United States submitted proposals to cut world domestic support payments for agriculture by \$100 billion, to slash global agricultural tariffs and to eliminate export subsidies (see box on following page). Similarly ambitious proposals were tabled for non-agricultural market access and services. Just before the Cancun meeting, responding to requests from other WTO members, the United States and European Communities negotiated a joint paper as a framework for agricultural trade reform negotiations. Two weeks before the meeting, the United States joined other WTO members in forging a consensus on the issue of patents and access to medicines.

U.S. PROPOSAL FOR A TARIFF FREE WORLD

The U.S. proposal would eliminate tariffs on a full-range of consumer and industrial goods. The proposal calls for a two-step approach to tariff elimination.

Step 1

Members must cut and harmonize their tariffs in the five year period from 2005 to 2010. WTO Members would eliminate all tariffs at or below 5 percent by 2010, cut all other tariffs through a "tariff equalizer" formula to less than 8 percent by 2010, and eliminate tariffs in certain highly-traded industry sectors as soon as possible, but not later than 2010.

Step 2

Members would make equal annual cuts in remaining tariffs between 2010 and 2015. These cuts would result in zero tariffs.

The United States also proposed a separate program to identify and eliminate non-tariff barriers, which would run on a parallel track with the negotiations on industrial tariffs.

The Cancun meeting ended with the Doha negotiations at an impasse. The meeting advanced, but did not complete work on the two key issues of completing frameworks for the negotiation of modalities in the areas of agriculture and non-agriculture market access. The negotiations stalled over the issue of how to proceed in addressing the four so-called "Singapore Issues," (so-named because work began on them at the 1996 Singapore WTO Ministerial Conference), which cover trade facilitation, transparency in government procurement, competition and investment.

TRADE PROMOTION AUTHORITY

Congressional approval of Trade Promotion Authority (TPA) in August 2002 strengthened the ability of USTR to play its traditional leadership role in the Doha trade negotiations, by giving it the necessary credibility and ability to push its agenda. The United States has been an active participant in the WTO negotiations, pressing other members to provide better market access opportunities for exporters of both goods and services and in developing rules to reform highly protected agricultural markets. TPA applies to trade agreements reached before June 1, 2005, with the possibility of a two-year extension by Congress.

KEY AREAS OF WORK IN THE DOHA NEGOTIATIONS

AGRICULTURE — The Uruguay Round Agriculture Agreement mandated the current round of negotiations, which aim to establish a fair and market oriented trading system through a program of fundamental reform.. These mandated negotiations, which were initiated early in 2000, were folded into the Doha negotiations and are part of the single undertaking scheduled to end by January 1, 2005. The Doha Declaration established a series of interim deadlines for several of the areas of the negotiations, including March 31, 2003 as a deadline for agriculture negotiators to agree on specific reform modalities. In June 2002, the United States tabled a proposal (see box on following page) to address all three pillars of the agriculture negotiations — market access, export subsidies and domestic supports. Other WTO members also of-

U.S. PROPOSALS FOR AGRICULTURAL REFORM

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Tariffs and TRQs

Comprehensive reductions in tariffs and tariff disparities through the Swiss 25 formula and a 20 percent increase in tariff-rate quota quantities, without exception.

Export Subsidies

Elimination of export subsidies.

Domestic Support

Simplifies the current structure by creating two categories of support: 1) non-trade distorting measures that are not subject to limits; and, 2) trade distorting measures that would be subject to reductions. Establishes a limit of trade distorting support equal to 5 percent of the value of national agriculture production.

State Trading Enterprises

Disciplines the activities of import and export state trading enterprises, including ending their monopoly privileges.

Export Restrictions

Strengthens disciplines on export restrictions to increase the reliability of global food supply.

Export Credits

Establishes a rules-based approach to guard against circumvention of export subsidy disciplines on elements such as repayment period, premia, and fees. Identifies the need for developing countries to have access to export credit facilities to enhance food security. Consideration to the concerns of the poorer WTO members to ensure the agreement is appropriate for their circumstances.

ferred proposals. However, it did not prove possible for members to bridge differences and agree on modalities by the agreed deadline. In July 2003, the United States and the European Communities presented a joint paper setting out a framework for ambitious agricultural trade reform negotiations in advance of the Cancun Ministerial meeting. Other members also put forward proposals. Despite additional subsequent proposals by the Chairman of the General Council and the Chairman of the Cancun Ministerial Conference it became apparent at Cancun that additional work will be needed to develop negotiating modalities in the area of agriculture.

SERVICES — As with agriculture, the services negotiations began in January 2000, as part of the Uruguay Round built-in agenda. The Doha Declaration noted the large number of proposals that had been submitted on a wide range of sectors and on several horizontal issues, as well as on movement of natural persons. The negotiating agenda required the submission of requests for specific commitments by end June 2002, with the submission of initial offers by end March 2003. By October 2003, the United States had made liberalization requests to all of its trading partners and had

received requests from 45 members. As of that date, the United States and 37 other WTO members had tabled initial offers. Services account for 80 percent of U.S. employment and the U.S agenda for market access embraces several services sectors, including audio visual services, financial services (including insurance), express delivery services, energy services and telecommunication.

NON-AGRICULTURAL MARKET ACCESS — Ministers at Doha agreed to launch negotiations to cut tariffs and reduce non-tariff barriers on all non-agricultural products. The aim is to build upon the accomplishments of prior negotiating rounds and develop greater market access opportunities for industrial products. In December 2002, the United States tabled a proposal to eliminate, in two steps, all duties on industrial and consumer goods by 2015, utilizing a formula-based approach (see box). The United States also submitted a proposal addressing non-tariff barriers that impede trade. At Cancun, all members were striving to agree on how tariffs and non-tariff barriers would be reduced or eliminated. As this book went to press, a number of proposals for achieving these goals were under consideration.

DISPUTE SETTLEMENT — WTO members are currently engaged in a review of the Dispute Settlement Understanding (DSU), which governs the process of WTO dispute settlement, with the aim of concluding such review by May 2004. The United States is seeking to strengthen the rules governing the settlement of disputes and advocates increased transparency, enhanced flexibility and member control in the WTO dispute settlement system.

WTO RULES — The Doha mandate calls for negotiations to clarify and improve disciplines under the Antidumping and Subsidies and Countervailing Measures Agreements, “while preserving the basic concepts, principles and effectiveness of these agreements and their instruments and objectives.” Work thus far has focused on identifying items for possible negotiation, including disciplines on trade distorting practices. The U.S. seeks a result that will strengthen the system of trade rules and preserve the effectiveness of its domestic legislation in combating unfair trade practices, while also addressing the underlying trade distorting practices.. The Doha mandate also calls for the negotiations to clarify and improve disciplines on fisheries subsidies. The United States has a strong interest in addressing the harmful fisheries subsidies that have contributed to overcapacity, overfishing and trade distortions. Lastly, the rules negotiations also cover the WTO disciplines and procedures applicable to regional trade agreements.

TRADE FACILITATION (CUSTOMS PROCEDURES) — The Doha Declaration states that “negotiations on trade facilitation will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on the modalities of negotiations.” More and more WTO members are convinced that the key to developing their economies and combating corruption lies in strengthening the trade rules governing customs procedures to ensure the free flow of goods and services. Because negotiating modalities were not decided upon at the Cancun Ministerial, it was not yet clear, as this book went to press, in what context further work would proceed.

TRANSPARENCY IN GOVERNMENT PROCUREMENT — Discussions have been devoted to developing the elements of an agreement to govern government purchasing. The work in the WTO will be aimed at complementing initiatives underway in other fora, including the G8, to combat corruption and unfair trade practices. Because negotiating modalities were not decided upon at the Cancun Ministerial, was not yet clear, as this book went to press, in what context further work would proceed.

COMPETITION AND INVESTMENT — The Doha Declaration recognized the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross border investment. It similarly recognized the case for a multilateral framework to enhance the contribution of competition policy to international trade and development. For both of these areas, ministers agreed in Doha to launch negotiations “on the basis of a decision to be, by explicit consensus taken [at the Cancun Ministerial Conference] on modalities for negotiations.” However, consensus was not reached in Cancun and it appears unlikely that these two items will attract sufficient support to achieve a consensus for the development of negotiating modalities in the foreseeable future.

ENVIRONMENT — The mandate of these negotiations is to consider the relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs), such as CITES, the Montreal Protocol or the Basel Convention. One important element is improving the process of communication and cooperation between the Secretariats of Multilateral Environmental Agreements (MEAs) and the WTO. The negotiations also aim to reduce or eliminate tariff and non-tariff barriers to environmental goods and services.

TRADE AND DEVELOPMENT — An essential ingredient in the Doha negotiations has been a more intensive program of technical assistance and capacity building to integrate developing countries into the trading system. The United States has pressed the WTO and other international institutions to intensify their cooperation. In 2002, the WTO received pledges of financial support to its trust fund of more than 30 million Swiss francs. The United States contribution to WTO assistance was \$2.2 million for 2003.

IMPLEMENTATION — The ministers in Doha agreed on an extensive package of actions to address issues and concerns, that had been identified by many developing country members, regarding the implementation of some WTO agreements and decisions. The centerpiece of the implementation package was a decision by the ministers on procedures for the extension of transition periods for the elimination of certain export subsidies by developing country members with a relatively small share of global trade. The ministers agreed that remaining implementation issues should continue to be addressed by standing WTO bodies or in the context of the Doha negotiating round. The most contentious remaining items involve rules issues, particularly trade-related investment measures and possible expansion of the TRIPS agreement to protect geographical indications beyond wines and spirits. In some cases, differences on implementation issues may only be bridged through further negotiation, and in still others, a consensus for action may not emerge.

TRIPS AND PUBLIC HEALTH — The ministers at Doha recognized that the WTO TRIPS Agreement should be flexibly interpreted in order to address public health crises, such as HIV/AIDS, tuberculosis, malaria and other epidemics, which can represent a national emergency or other circumstances of extreme urgency. Remaining for resolution is the question of how members with insufficient or no manufacturing capabilities can make use of the TRIPS provisions on compulsory licensing in order to address extraordinary needs, while preserving the protection provided by patents that is important for the development of new medicines. While there is yet no consensus on the best approach to address this question, the United States has put in place an interim solution in the form of a moratorium on dispute settlement for certain developing countries.

ELECTRONIC COMMERCE — At the 1998 Geneva Ministerial Conference, WTO Members decided to examine trade issues arising from global electronic commerce, also known as “e-commerce” and agreed to a U.S. proposal to maintain the practice of not imposing customs duties on electronic transmissions. At Doha, the ministers recognized the importance of creating and maintaining an environment which is favorable to the development of electronic commerce and instructed the WTO to develop a program of work on the subject.



INTERNET

www.wto.org

Description of WTO, state of play of WTO disputes, explanation of the Dispute Settlement Process, Uruguay Round results, press releases, summary of WTO's annual World Trade Report, recent trade policy reviews.

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