

# CHAPTER 3: Selected Trade Developments in the WTO, OECD, and APEC

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## World Trade Organization

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### *Doha Trade Negotiations and Cancun Ministerial Conference*

In 2003, members of the World Trade Organization (WTO) continued multilateral trade negotiations, launched in part under provisions of the 1986-1992 Uruguay Round and in part under the 2001 Doha Development Agenda (DDA).<sup>1</sup> However, at the WTO Fifth Ministerial Conference held in Cancun, Mexico, in September 2003, participants were unable to agree on how to move forward with negotiations, spending the remaining months of 2003 in consultations on how to renew these trade talks.

At Cancun, ministers were to review progress made to date, and to set specific terms and structure (negotiating “modalities”) for individual negotiating groups that would allow for these groups to conduct negotiations during 2004 so that the Doha trade talks could conclude by January 1, 2005. Instead, negotiators found themselves unable to complete modalities for the negotiating area of agriculture, as well as nonagricultural market access. Negotiators subsequently found themselves at a further impasse over a group of issues referred to collectively as the “Singapore issues”—four new topics covering trade-related investment, competition policy, transparency in government procurement, and trade facilitation.<sup>2</sup> As a result, the conference ended without reaching a consensus.

The ministerial statement concluding the Cancun conference directed officials of the participating governments to continue work on outstanding issues, in coordination with the WTO Director-General and the chairman of the WTO General Council. The statement called for a WTO General Council meeting at the senior official level by

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<sup>1</sup> Negotiations launched under a number of mandates from the Uruguay Round Agreements can be found in WTO, Trade Negotiations Committee, Final Act Embodying the results of the Uruguay Round of Multilateral Trade Negotiations, Marrakesh, Apr. 15, 1994. Negotiations launched under the Doha Development Agenda can be found in WTO, Ministerial Conference, Fourth Session, Ministerial Declaration—Adopted on November 14, 2004, WT/MIN(01)/DEC/1, Nov. 20, 2001.

<sup>2</sup> So-called because these issues were raised initially at the WTO First Ministerial Conference held in Singapore in 1996.

December 15, 2003, so that ministers could move toward a “successful and timely conclusion of the negotiations.”<sup>3</sup> During the remainder of 2003, the WTO General Council chairman held consultations with WTO members, reporting at the December meeting that although members affirmed their commitment to enter into substantive negotiations there appeared as yet no concrete sign of this commitment, such as more flexible negotiating positions.<sup>4</sup> Thus, at the beginning of 2004, unresolved issues from the Cancun conference appeared to remain as efforts to resume negotiations under the Doha Development Agenda continued.

### **Negotiating Developments before Cancun**

During 2002 and 2003, negotiators worked toward developing negotiating modalities for their respective groups,<sup>5</sup> although largely without success. Agriculture negotiators were slated to reach agreement on a first draft by March 31, 2003, but the chairman confirmed at that deadline that the group had failed to reach a set of common modalities. He stated, moreover, that there was no basis to attempt another draft without guidance from participants on possible areas of convergence.<sup>6</sup>

Due to a number of factors, the Negotiating Group on Market Access did not meet the target date of May 31, 2003 for agreement on negotiating modalities that would structure their negotiations on reductions in tariff and nontariff barriers, although it continued to focus on this issue in the lead up to Cancun.<sup>7</sup> The group chairman noted clear divergences among participants over several issues regarding the tariff cutting formula under discussion, and also noted that the views of participants were clearly far apart at the moment on the question of possible sectoral initiatives, but would nonetheless continue to revise the group’s draft element of modalities for further consideration as discussions advanced.<sup>8</sup>

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<sup>3</sup> WTO, “Ministerial Statement,” taken from WTO, “Day 5: Conference ends without consensus,” WTO Summary of September 14, 2003, found at Internet address <http://www.wto.org/>, retrieved Sept. 17, 2003.

<sup>4</sup> WTO, “Statement by the Chairperson of the General Council December 15-18, 2003,” found at Internet address <http://www.wto.org/>, retrieved on Mar. 26, 2004.

<sup>5</sup> The negotiating groups in the Doha Round were set up as either newly created negotiating groups or as special session meetings of existing WTO committees, as follows: (1) Committee on Agriculture, Special Session; (2) Council for Trade in Services (CTS), Special Session; (3) Council for Trade-Related Aspects of Intellectual Property Rights (TRIPs), Special Session; (4) Dispute Settlement Body (DSB), Special Session; (5) Committee on Trade and Environment (CTE), Special Session; (6) Committee on Trade and Development (CTD), Special Session; (7) Negotiating Group on Non-Agricultural Market Access, and (8) Negotiating Group on Rules.

<sup>6</sup> World Trade Organization, Committee on Agriculture – Special Session, Eighteenth Special Session of the Committee on Agriculture – Report by the Chairman, Stuart Harbinson, to the Trade Negotiations Committee, TN/AG/9, Apr. 8, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

<sup>7</sup> World Trade Organization, Trade Negotiations Committee, Report by the Chairman of the Trade Negotiations Committee to the General Council, TN/C/3, July 23, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on May 13, 2004.

<sup>8</sup> World Trade Organization, Trade Negotiations Committee, Minutes of Meeting – Held in the Centre William Rappard on 14-15 July 2003, TN/C/M/11, Feb. 2, 2004, found at Internet address <http://docsonline.wto.org/>, retrieved on May 13, 2004.

Progress appeared more forthcoming in the services negotiations, as initial requests for market access in services made during 2002 were joined by initial offers tabled in early 2003.<sup>9</sup> The services negotiating group also adopted a draft text of Modalities for the Treatment of Autonomous Liberalization in March 2003, a portion of its negotiating agenda.<sup>10</sup>

The chairman overseeing intellectual property negotiations noted in February 2003 that delegations' positions remained quite divided at the end of 2002,<sup>11</sup> even though these negotiations, mandated under the 1994 Uruguay Round Agreements, are circumscribed largely to developing a multilateral system of notification and registration of geographical indications for wines and spirits. Under a separate mandate from the 2001 Doha ministerial conference, negotiators concluded and adopted the Decision of the TRIPS Agreement and Public Health,<sup>12</sup> described below.

Of major concern to developing country WTO members, the deadline to reach recommendations regarding special and differential treatment also reached an impasse in February 2003 despite several extensions during 2002.<sup>13</sup>

#### *TRIPS decision on pharmaceutical imports*

WTO members adopted the Decision of the TRIPS Agreement and Public Health on August 30, 2003, a decision that allows developing countries—in particular least developed countries—greater access to needed categories of vital medicines when their governments are faced with widespread outbreaks that threaten public health.<sup>14</sup> Negotiators were tasked by the 2001 Doha Declaration on the TRIPS Agreement and Public Health<sup>15</sup> to find an expeditious solution to the difficulties faced by WTO members possessing insufficient or no manufacturing capacity in the pharmaceutical sector when confronted with public health crises that constitute a national emergency—specifically involving human immunovirus/acquired immune deficiency

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<sup>9</sup> Ibid.

<sup>10</sup> World Trade Organization, Council for Trade in Services – Special Session, Modalities for the Treatment of Autonomous Liberalization – Adopted by the Special Session of the Council for Trade in Services on 6 March 2003, TN/S/6, Mar. 10, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

<sup>11</sup> World Trade Organization, Council for Trade-Related Aspects of Intellectual Property Rights – Special Session, Fifth Special Session of the Council for TRIPS – Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee, TN/IP/5, Feb. 28, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

<sup>12</sup> World Trade Organization, “Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health — Decision of 30 August 2003,” WT/L/540, Sept. 1, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

<sup>13</sup> World Trade Organization, Committee on Trade and Development, Special Session, Special Session of the Committee on Trade and Development – Report by the Chairman, Ambassador Ransford Smith (Jamaica), to the Trade Negotiations Committee, TN/CTD/8, Mar. 4, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on May 13, 2004.

<sup>14</sup> WTO, “TRIPS Agreement and Public Health — Decision of 30 August 2003,” WT/L/540.

<sup>15</sup> WTO Ministerial Conference — Fourth Session, Declaration of the TRIPS Agreement and Public Health — Adopted on 14 November 2001, WT/MIN(01)/DEC/2, Nov. 20, 2001, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

syndrome (HIV/AIDS), tuberculosis, malaria, or similar epidemics of extreme urgency.

The 2003 decision sets up a system that allows an eligible WTO member to obtain from an eligible exporting WTO member the needed pharmaceutical supplies to address public health problems that constitute an urgent national situation.<sup>16</sup> Least developed country WTO members may automatically avail themselves of this pharmaceutical import system, whereas other developing country WTO members must notify the TRIPS Council of a national emergency or circumstances of extreme urgency that require a patented medicine for public, noncommercial use. The importing member must (1) notify the TRIPS Council requiring the specific product names and expected quantities needed, (2) confirm that it has insufficient manufacturing capacity in its pharmaceutical sector to produce this product, and (3) grant a compulsory license under TRIPS Art. 31<sup>17</sup> for a patented pharmaceutical product within its territory.

The exporting member must also issue a compulsory license that confirms that only the amount necessary to meet the import's member need will be manufactured under that license, and that the entirety of the production will be exported to eligible importing members who have notified their needs to the TRIPS Council. The exporting member must confirm that the products manufactured under compulsory license will be marked or labeled specifically through special packaging, coloring, or shape. The exporting member must also establish an Internet website that posts the quantities supplied to each importer and the distinguishing product features. The exporting member must notify the TRIPS Council of the award of the compulsory license, giving the name and address of the licensed firm, products and quantities covered by the license, duration of the license, and the countries to be supplied with the product. The exporting member must pay adequate remuneration, although the importing member's obligation to pay remuneration will be waived under the decision. However, the importing member is expected to take reasonable measures within its means to prevent the reexport of these pharmaceutical products manufactured under compulsory license.

The decision includes provisions for developing country WTO members to take advantage of possible economies of scale and consequent enhanced purchasing power if they belong to a regional trade agreement. WTO members agree not to challenge through WTO dispute-settlement procedures any measures taken in line with this decision. The TRIPS Council is to prepare an amendment to the TRIPS Agreement that would incorporate this decision into the agreement.

### **Cancun Ministerial Conference**

The WTO Fifth Ministerial Conference took place in Cancun, Mexico, September 10-14, 2003. The conference chairman, Luis Ernesto Derbez, Minister of Foreign

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<sup>16</sup> WTO, "TRIPS Agreement and Public Health — Decision of 30 August 2003," WT/L/540.

<sup>17</sup> TRIPS Art. 31 is entitled "Other Use Without Authorization of the Right Holder."

Relations for Mexico, named five facilitators on the opening day to oversee discussions on the major subjects of (1) agriculture, (2) nonagricultural market access, (3) development issues, (4) the "Singapore" issues, and (5) other issues, which included the question of a geographical indications registry for wines and spirits being negotiated under the TRIPS Agreement.<sup>18</sup>

An early debate arose at the conference when Benin, Burkina Faso, Chad, and Mali tabled a proposal on the subject of cotton.<sup>19</sup> A WTO summary of the conference indicates that the cotton proposal or initiative "describes the damage that the four believe has been caused to them by cotton subsidies in richer countries, calls for the subsidies to be eliminated, and for compensation to be paid to the four while the subsidies are being paid out to cover economic losses caused by the subsidies."<sup>20</sup> A number of conference delegations supported the initiative in large part because the proposal sought a competitive solution within the framework of the multilateral trading system rather than by means of preferences or special and differential treatment. The United States proposed discussions that addressed distortions throughout the cotton production chain, including subsidies, but also tariff and nontariff barriers to trade in cotton, government policies that support synthetic fiber production, and the like.

An important impediment to progress at the conference proved to be negotiations over agriculture, with the facilitators reporting in the first days that progress in their other groups appeared linked to progress in the agriculture group. In the agriculture group, exchanges centered on discussions held between three main countries or groups of countries (1) the United States, (2) the European Union (EU), and (3) the Group of 20 (G-20), a recent grouping of approximately 20 developing countries.<sup>21</sup> Discussions in

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<sup>18</sup> Reporting based largely on WTO daily summaries of the Cancun ministerial conference — "Summary of 10 September 2003 — Conference kicks off with facilitators' named and cotton debated;" "Summary of 11 September 2003 — Cambodia and Nepal membership sealed as ministers start negotiations;" "Summary of 12 September 2003 — Day 3: Facilitators' start work on new draft declaration;" "Summary of 13 September 2003 — Day 4: As ministers comment on new draft, chairperson warns of dangers of failure;" and "Summary of 14 September 2003 — Day 5: Conference ends without consensus," found at <http://www.wto.org>, retrieved Sept. 15, 2003.

<sup>19</sup> World Trade Organization, Ministerial Conference, Fifth Session, Poverty Reduction: Sectoral Initiative in Favour of Cotton – Joint Proposal by Benin, Burkina Faso, Chad and Mali, WT/MIN(03)/W/2\*, Aug. 15, 2003; and Addendum, WT/MIN(03)/W/2/Add.1, Sept. 3, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

<sup>20</sup> WTO, "Cotton proposal," from WTO, "Summary of 10 September 2003."

<sup>21</sup> G-20 membership has varied. In September 2003, membership counted approximately 22 countries: Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, El Salvador, Guatemala, India, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, and Venezuela. At the G-20 ministerial meeting in December 2003, membership counted approximately 18 countries: Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Philippines, South Africa, Tanzania, Venezuela, and Zimbabwe. Members of the U.S. delegation indicate that the G-20 was formed at the Cancun ministerial in response to the US/EU agricultural framework that was put forward to help break the impasse reached in agricultural negotiations. U.S. negotiators further noted that the G-20 membership does not appear to be composed of countries uniformly in favor of agricultural liberalization, although the group initially came together over the issue of agricultural reform. U.S. Department of State telegram, "WTO Doha Negotiations: Post-Cancun Q's and A's," prepared by U.S. Department of State, Washington DC, message reference No. 280925, Oct. 1, 2003.

the agriculture group advanced but, with participants unable to agree over subsidy reductions, the group could not complete its work to establish negotiating modalities. Similarly, work in the nonagriculture market access group also advanced but, unable to agree over the tariff cutting formula to be used, the group was ultimately unsuccessful in reaching agreement on negotiating modalities for its group either. Finally, the conference stalled over the issue of how to proceed in addressing the four Singapore issues.<sup>22</sup>

The conference chairman closed the meeting when it became clear that there was no consensus on the final day.<sup>23</sup> A six-paragraph ministerial statement was approved and issued that instructed members' officials to "continue working on outstanding issues ... taking ... into account the views expressed at the conference." The ministerial statement asked the WTO Director-General and the WTO General Council chairman to coordinate this work, and to convene a WTO General Council meeting at senior officials level no later than December 15, 2003, intended to permit WTO members "to take the action ... necessary ... to enable us to move towards a successful and timely conclusion of the negotiations."<sup>24</sup>

### **Negotiating Developments after Cancun**

Following Cancun, the WTO Director-General and General Council chairman held initial consultations with member governments, followed by two rounds of intensive consultations on the four critical issues emerging from the Fifth Ministerial Conference: (1) agriculture, (2) the cotton initiative, (3) nonagricultural market access, and (4) the Singapore issues. General Council chairman Castillo reported informally to the heads of delegations in Geneva, giving his overall assessment of his consultations and his view of the way forward on December 15, 2003, as called for in the ministerial statement at the end of the Cancun conference. The chairman found overall during his consultations that members were constructive, affirming their commitment to enter into substantive negotiations, but that nonetheless no concrete manifestations of this commitment were apparent as yet in more flexible negotiating positions.<sup>25</sup> The

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<sup>22</sup> U.S. Department of State telegram, "Results of Fifth WTO Ministerial in Cancun Mexico," prepared by U.S. Department of State, Washington DC, message reference No. 263630, Sept. 15, 2003.

<sup>23</sup> WTO, "The Ministerial Statement," from WTO, "Day 5: Conference ends without consensus."

<sup>24</sup> Ibid. The WTO General Council chairman for 2003, Carlos Perez del Castillo, developed the initial draft of the Cancun ministerial declaration in July 2003, containing substantial bracketed text where ministerial decision would be required at Cancun. See Preparations for the Fifth Session of the Ministerial Conference – Draft Cancun Ministerial Text, JOB(03)/150, July 18, 2003. A slightly revised version was forwarded to ministers on Aug. 31, 2003 in preparation for the conference. See JOB(03)/150/Rev.1 (the "Castillo draft"). In light of discussions at Cancun, the Castillo draft text was revised by conference chairman Derbez. See JOB(03)/150/Rev.2, of Sept. 13, 2003 (the "Derbez draft"). As the conference concluded without consensus, none are officially agreed documents.

<sup>25</sup> WTO, "Statement by the Chairperson of the General Council December 15-18, 2003," found at Internet address <http://www.wto.org/>, retrieved on Mar. 26, 2004. The initial consultations were reported October 14 referencing WTO paper JOB(03)/199, with the reports on the major rounds of consultations held on November 18 under JOB(03)/212, and finally on December 9, 2003, under JOB(03)/221.

following reports the chairman's summary of where the Doha Development Agenda trade negotiations stood at year-end 2003 after his consultations subsequent to the Cancun conference.

### *Agriculture*

On agriculture, the chairman concluded that members would like to see domestic support, market access, and export competition—the “three pillars” of the agriculture talks—addressed in parallel.<sup>26</sup> His suggestion on the way forward was to substantially reduce or phaseout total support (using the agricultural measurement of support (AMS) index) over an agreed timeframe. He suggested that the so-called “blue box”—permitted domestic support payments to farmers for programs that limit agricultural production—should be first capped, and later reduced in subsequent negotiations. The so-called “green box”—permitted domestic support payments to farmers for programs that do not distort trade—might remain as set out in the text emerging from Cancun. On agricultural market access, he noted that the main difficulty remaining was the “blended formula” for reducing agricultural tariff rates and liberalizing nontariff barriers, although most members agreed to a common approach to market access for both developed and developing countries, provided that clear special and differential provisions were in place to account for different levels of economic development, food security, and similar needs found in developing countries. On export competition, members largely agreed that all unfair export subsidies should be subject to reduction or elimination, with the key disagreement being the end date for the phaseout of agricultural export subsidies. His consultations showed that preferential treatment for special products and special safeguards for agricultural products have become important elements of special and differential treatment discussions in the agriculture talks.

### *Cotton initiative*

The chairman noted that his focus in consultations was on the substance of the trade and development aspects of the cotton proposal, leaving aside the issue of procedure, that is, whether to discuss the issue under the agriculture negotiations or as a singular issue.<sup>27</sup> For trade matters, his discussions concluded that domestic support policies were the principal trade policy instrument affecting the cotton sector, followed by the role of market-access policies. The role of direct export subsidies appeared to present minimal impact on the world market for cotton. Discussing development issues, three broad elements emerged when developing countries emphasized the development aspect of the cotton initiative during consultations: (1) the extent of WTO competence in the area of financial and technical assistance, (2) other providers of financial and technical assistance, and (3) cotton-specific development projects and programs.

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<sup>26</sup> Ibid., par. 12-21.

<sup>27</sup> Ibid., par. 22-27.

### *Market access*

Members largely agreed that the Derbez text on nonagricultural market access was carefully drafted and could be used as a starting point.<sup>28</sup> They also agreed that a formula approach was key to these negotiations, but there was no agreement yet on the specific formula to be used. Members did not agree on the sectoral component for tariff liberalization, whether this component was voluntary or mandatory, or whether it was a core or a supplementary modality of the negotiations. Many members saw the Derbez text as balancing the two elements, thereby linking the outcome of one with the other.

### *Singapore issues*

The chairman found no consensus in his consultations concerning the Singapore issues, other than possibly to allow each subject to advance individually rather than as a group.<sup>29</sup> His suggestion to members was to continue to explore possible negotiating modalities for trade facilitation and for transparency in government procurement, and leave investment and competition policy for further reflection.

### *Procedures*

The chairman suggested that arrangements to resume negotiations under the Doha Development Agenda should reactivate the Trade Negotiating Committee (TNC) and the negotiating groups early in 2004, following the February 2004 WTO General Council meeting held to elect new officers for the year.<sup>30</sup>

## ***Selected Activities in the WTO***

In 2003, the WTO General Council held regular formal sessions in February, July, August, October, and December, in addition to work carried out for the fifth session of the WTO ministerial conference. A synopsis follows of selected activities in the WTO during 2003 concerning regular matters<sup>31</sup> not related to the multilateral trade negotiations taking place under the Doha Development Agenda.

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<sup>28</sup> Ibid., par. 28-33.

<sup>29</sup> Ibid., par. 34.

<sup>30</sup> Ibid., par. 35-40. The first WTO General Council meeting in 2004 was held February 11-12, where WTO members elected new chairpersons for 2004 for both WTO committees as well as negotiating bodies under the Doha Development Agenda. The Doha Round chairpersons are to serve until the Sixth WTO Ministerial Conference, which is to be held in Hong Kong, China. In January 2004, the United States Trade Representative (USTR) Robert Zoellick sent an open letter to trade ministers participating in the Doha Round in an effort to focus members' negotiating efforts on several core areas during 2004, to be galvanized by advancing the Sixth Ministerial Conference in Hong Kong to December 2004. At the February 2004 General Council meeting, participants in the Doha Round did not adopt this suggestion to hold the Hong Kong ministerial in December 2004, instead agreeing to work toward progress in 2004 before accelerating the schedule for the next ministerial conference. U.S. Department of State telegram, "11 February 2004 Meeting of WTO General Council Meeting," prepared by the U.S. Mission, Geneva, message reference No. 430, Feb. 13, 2004.

<sup>31</sup> World Trade Organization, General Council, Annual Report (2003), WT/GC/76, Jan. 6, 2004, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

## **Regular Ministerial Matters**

Concerning regular ministerial matters, the Council heard reports regarding the Doha work program on small economies that aims to help integrate small, vulnerable economies more fully into the multilateral trading system, as well as reports on progress made by the WTO Committee for Trade and Development on similar work. The Council also heard its regular briefings from the chairman of the Trade Negotiating Committee overseeing multilateral trade negotiations under the Doha Development Agenda (DDA). As described in the preceding section, the Council heard reports from General Council chairman Castillo regarding his consultations with members following the Cancun ministerial conference, as well as reports from the Director-General on his contacts to help restart negotiations. The Council made arrangements to select new officers for standing WTO bodies, as well as those under the TNC, which was completed at the General Council meeting in February 2004.

## **General Council Reviews**

At its December 2003 meeting, the General Council conducted its second review of China's implementation of the WTO Agreement and its Protocol of Accession.<sup>32</sup> China provided information required under its accession protocol, which the Council considered, along with reports from WTO subsidiary bodies, before concluding the review.

The Council also reviewed at this meeting the United States' exemption under GATT 1994 (paragraph 3) for legislation known as the Jones Act, which provides the legal basis for a U.S. prohibition of foreign-built and foreign-repaired ships from conducting coastal trade within the United States (known as "cabotage").<sup>33</sup> The United States provided requested information relating to the operation of the exemption, clarified certain data on U.S. shipyard orders and deliveries, and supplied information on U.S. appropriations legislation that involves the construction of several cruise ships affected by Jones Act legislation. The General Council noted that the next biennial review is to be held in 2005.

## **Waivers of WTO Obligations**

At its December meeting, the General Council considered, and WTO members agreed, to grant requests for waivers from WTO obligations related to the introduction of the Harmonized System into WTO schedules of tariff concessions (requesters included Israel, Thailand, and Sri Lanka).<sup>34</sup> WTO members also granted extensions of waivers to a number of requesting countries (Canada, Colombia, Cuba, the EU, El Salvador, the least developed countries as a group, Switzerland, Turkey,

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<sup>32</sup> Ibid., p. 3.

<sup>33</sup> Ibid., p. 3.

<sup>34</sup> Ibid., p. 6.

and the United States) regarding a variety of individual issues centered largely around preferential tariff programs. Among these, the U.S. waiver for the CBERA was extended through December 2005, Canada's waiver for a similar preference program—Caribbean—was extended through 2006, the EU's waiver for the ACP-EU Partnership Agreement<sup>35</sup> was extended through 2007, and the EU's waiver for its transitional regime to tariff-rate quotas on imports of bananas was extended through 2005. A waiver from obligations for WTO members to permit preferential tariff treatment for the least developed countries was granted through June 2009, as well as a waiver for the least developed countries from their WTO obligations concerning pharmaceutical products under the TRIPs Agreement (Article 70.9), which was granted through 2015.

### **Trade in Textiles and Clothing**

The chairman reported to the Council on his consultations with developing country members that are textile and clothing exporters about their concerns over the likely decrease in quota access in 2004 stemming from the elimination of the “carry forward” quota provision in that year.<sup>36</sup> On a separate issue, the Council heard a representative of the International Textiles and Clothing Bureau express concern regarding a September 2003 announcement by the EU to adjust its textile agreements made with third countries following the accession of new EU member states. Bureau members were concerned that the likely effect of the action will be to widen EU quota restrictions on textiles.

### **Technical Assistance, Policy Coordination, and Developing Countries**

On May 13, 2003, the WTO held consultations with the IMF and the World Bank concerning coherence in global economic policymaking and cooperation between their respective institutions.<sup>37</sup> The WTO General Council chairman summarized his discussions with finance, foreign affairs, and trade ministers from a number of WTO members on this subject of coherence, finding that members seek policy coherence in two important areas: (1) assistance with policy analysis and adjustment, and (2) technical assistance and capacity building. The first area addresses the need of developing country members for analytical assistance to better evaluate the implications of trade liberalization and reform for their governments' development objectives and policies. The second area, although related, appears to address the need of developing country members to benefit in more practical economic and

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<sup>35</sup> ACP is an acronym representing the African, Caribbean, and Pacific countries that were once former colonies of EU member states and now, as a group, receive preferential treatment as developing countries.

<sup>36</sup> World Trade Organization, General Council, Annual Report (2003), WT/GC/76, p. 8.

<sup>37</sup> World Trade Organization, General Council, Coherence in Global Economic Policy-Making and Cooperation between the WTO, IMF and World Bank — Minutes of Meeting — Held in the Centre William Rappard on 13 May 2003, WT/GC/M/79, June 25, 2003, found at Internet address <http://docsonline.wto.org/>, retrieved on Mar. 26, 2004.

financial terms from the trade liberalization that results from these negotiations. Suggestions were solicited from WTO members as to how these multilateral institutions could better provide these two types of assistance.

### **Sixth Session of the WTO Ministerial Conference**

At the General Council meeting in October 2003, WTO members accepted the offer from Hong Kong, China, to host the Sixth WTO Ministerial Conference, at a time to be determined later.<sup>38</sup>

### **Membership**

In 2003, Armenia and Macedonia (former Yugoslav Republic of Macedonia) acceded to the WTO, on February 5 and April 4, 2003, respectively. WTO membership stands at 146 with these two accessions. At the Fifth Ministerial Conference in Cancun, Cambodia and Nepal were invited to join the WTO.<sup>39</sup> See table 3-1 and table 3-2 for a list of WTO Members and Observers in 2003, respectively.

### **Dispute Settlement**

By October 2003, the WTO marked the 300th dispute to be brought to dispute-settlement proceedings since the World Trade Organization was established in January 1995. Following this milestone, the WTO Secretariat compiled a review<sup>40</sup> of how the WTO dispute-settlement system functioned over this period from January 1, 1995 through October 31, 2003.

In the nearly nine years under consideration, 302 requests for consultations<sup>41</sup> had been received. A total of 154 disputes were settled through consultations, and 148 disputes continued to the Appellate Body (AB). Consolidating similar disputes, the WTO established during this time period 119 dispute panels covering distinct matters.<sup>42</sup> Of the 148 disputes covered under 119 dispute panels, the AB adopted 89 reports<sup>43</sup> covering 73 distinct matters.

### *Participation*

Since 1995, 92 WTO members have taken part in the dispute-settlement process, either as complainant, respondent, or as a third party during consultations or in panel

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<sup>38</sup> World Trade Organization, General Council, Annual Report (2003), WT/GC/76, p. 9.

<sup>39</sup> Nepal became the 147<sup>th</sup> WTO member of Apr. 24, 2004.

<sup>40</sup> WTO, Special Session of the Dispute Settlement Body, Statistical Information on Recourse to WTO Dispute Settlement Procedures (1 January 1995–31 October 2003) – Background Note by the Secretariat, JOB(03)/225, Dec. 11, 2003.

<sup>41</sup> In this period, 302 respondents were requested to consult; 327 complainants were requesting consultations.

<sup>42</sup> The 119 dispute panels established regarding distinct matters covers 148 disputes, for which dispute panels were initially established, but which the WTO Dispute Settlement Body subsequently consolidated where multiple governments requested multiple dispute panels against a common member and trade measure. Thus, the number of disputes for which a panel was initially established exceeds the reported number of panels established.

<sup>43</sup> Including related panel reports.

**Table 3-1**  
**WTO membership in 2003 (146)**

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Albania	France	New Zealand
Angola	Gabon	Nicaragua
Antigua and Barbuda	Gambia	Niger
Argentina	Georgia	Nigeria
Armenia	Germany	Norway
Australia	Ghana	Oman
Austria	Greece	Pakistan
Bahrain	Grenada	Panama
Bangladesh	Guatemala	Papua New Guinea
Barbados	Guinea	Paraguay
Belgium	Guinea Bissau	Peru
Belize	Guyana	Philippines
Benin	Haiti	Poland
Bolivia	Honduras	Portugal
Botswana	Hungary	Qatar
Brazil	Iceland	Romania
Brunei Darussalam	India	Rwanda
Bulgaria	Indonesia	Saint Kitts and Nevis
Burkina Faso	Ireland	Saint Lucia
Burma	Israel	Saint Vincent and the Grenadines
Burundi	Italy	Senegal
Cameroon	Jamaica	Sierra Leone
Canada	Japan	Singapore
Central African Rep.	Jordan	Slovak Rep.
Chad	Kenya	Slovenia
Chile	Korea	Solomon Islands
China	Kuwait	South Africa
China, Hong Kong	Kyrgyz Rep.	Spain
China, Macao	Latvia	Sri Lanka
Chinese Taipei <sup>1</sup>	Lesotho	Suriname
Colombia	Liechtenstein	Swaziland
Congo, Dem. Rep. of	Lithuania	Sweden
Congo, Rep. of	Luxembourg	Switzerland
Costa Rica	Macedonia	Tanzania
C <sup>ote</sup> d'Ivoire	Madagascar	Thailand
Croatia	Malawi	Togo
Cuba	Malaysia	Trinidad and Tobago
Cyprus	Maldives	Tunisia
Czech Rep.	Mali	Turkey
Denmark	Malta	Uganda
Djibouti	Mauritania	United Arab Emirates
Dominica	Mauritius	United Kingdom
Dominican Rep.	Mexico	United States of America
Ecuador	Moldova	Uruguay
Egypt	Mongolia	Venezuela
El Salvador	Morocco	Zambia
Estonia	Mozambique	Zimbabwe
European Communities	Namibia	
Fiji	Netherlands and the Netherlands Antilles	
Finland		

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<sup>1</sup> Formally the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu. Also referred to in this report as Taiwan.

Note.—Cambodia and Nepal were invited to accede to the WTO in September 2003 and will become WTO members 30 days following the deposit of their instruments of accession with the WTO. Nepal became the 147th WTO member on April 27, 2004.

Source: WTO, found at <http://www.wto.org/>.

**Table 3-2**  
**WTO observers in 2003 (30)**

Algeria	Ethiopia	Seychelles
Andorra	Kazakhstan	Sudan
Azerbaijan	Laos	Tajikistan
Bahamas	Lebanon	Tonga
Belarus	Nepal	Ukraine
Bhutan	Russia	Uzbekistan
Bosnia and Herzegovina	Samoa	Vanuatu
Cambodia	São Tomé and Príncipe	Vatican (Holy See) <sup>1</sup>
Cape Verde	Saudi Arabia	Vietnam
Equatorial Guinea	Serbia and Montenegro	Yemen

<sup>1</sup> WTO observers are to begin accession proceedings within 5 years of becoming an observer, with the exception of the Holy See.

Source: WTO, found at <http://www.wto.org/>.

proceedings.<sup>44</sup> Of these, 39 members have participated as complainants initiating a dispute-settlement case, and 43 have participated as respondents in a case.

**Respondents.** Of the 302 respondents called to consult in this period, the United States and the EU were involved the most often: the United States in 81 cases (27 percent) and the EU in 47 cases (16 percent). Other WTO members called frequently for consultations as respondents in this period were Argentina (15 cases), India (14), Japan (13), Brazil (12), Canada (12), Korea (12), Chile (10), Mexico (10), and Australia (9). Less frequently were Turkey (7), Indonesia (4), Peru (4), the Philippines (4), Belgium (3), Ireland (3), and the Slovak Republic (3). See table 3-3 for a list of WTO Members involved in more than one dispute-settlement consultation in this time period.

**Complainants.** According to the report, of the 327 complainants calling for consultations, the United States and the EU were again the most active in using the WTO dispute-settlement mechanism. The United States called for consultations in 75 cases (23 percent) and the EU for 62 cases (19 percent). Others calling for consultations as complainants were Canada (24 cases), Brazil (22), India (15), Mexico (13), Japan (11), Korea (10), Thailand (10), Argentina (9), Chile (8), Australia (7), and New Zealand (6). Somewhat less frequent in initiating dispute-settlement consultations were Guatemala (5), Honduras (5), Hungary (5), Colombia (4), Philippines (4), Switzerland (4), Costa Rica (3), and Poland (3). (See table 3-3; note that the table totals all cases, not only those shown.)

#### *Subject matter under covered agreements*

According to the report, disputes have been initiated under 17 of the 22 Uruguay Round Agreements (so-called covered agreements).<sup>45</sup> See table 3-4 for a tabulation

<sup>44</sup> Ibid., p. 3, and table 2, pp. 12-14.

<sup>45</sup> Ibid., p. 3, and table 3, p. 15.

Table 3-3

WTO Members involved in more than one dispute-settlement consultation, January 1, 1995, to October 31, 2003

Consultations requested, as complainant				Consultations requested, as respondent			
		Cases*	Percent			Cases*	Percent
	Total	329				302	
1	United States	75	22.8	1	United States	81	26.8
2	European Communities	62	18.8	2	European Communities	47	15.6
3	Canada	24	7.3	3	Argentina	15	5.0
4	Brazil	22	6.7	4	India	14	4.6
5	India	15	4.6	5	Japan	13	4.3
6	Mexico	13	4.0	6	Brazil	12	4.0
7	Japan	11	3.3	7	Canada	12	4.0
8	Korea	10	3.0	8	Korea	12	4.0
9	Thailand	10	3.0	9	Chile	10	3.3
10	Argentina	9	2.7	10	Mexico	10	3.3
11	Chile	8	2.4	11	Australia	9	3.0
12	Australia	7	2.1	12	Turkey	7	2.3
13	New Zealand	6	1.8	13	Indonesia	4	1.3
14	Guatemala	5	1.5	14	Peru	4	1.3
15	Honduras	5	1.5	15	Philippines	4	1.3
16	Hungary	5	1.5	16	Belgium	3	1.0
17	Colombia	4	1.2	17	Ireland	3	1.0
18	Philippines	4	1.2	18	Slovak Rep.	3	1.0
19	Switzerland	4	1.2	19	Czech Rep.	2	0.7
20	Costa Rica	3	0.9	20	Dominican Rep.	2	0.7
21	Poland	3	0.9	21	Ecuador	2	0.7
22	Ecuador	2	0.6	22	Egypt	2	0.7
23	Indonesia	2	0.6	23	France	2	0.7
24	Pakistan	2	0.6	24	Greece	2	0.7
25	Panama	2	0.6	25	Guatemala	2	0.7
26	Peru	2	0.6	26	Hungary	2	0.7
27	Turkey	2	0.6	27	Nicaragua	2	0.7
				28	Pakistan	2	0.7
				29	Romania	2	0.7
				30	South Africa	2	0.7
				31	Trinidad and Tobago	2	0.7
				32	Venezuela	2	0.7

\*Note.—Total cases include all cases, including WTO members involved in only one case. Table will therefore not sum to total shown.

Source: WTO, *Special Session of the Dispute Settlement Body - Statistical Information on Recourse to WTO Dispute Settlement Procedures (1 January 1995-31 October 2003) - Background Note by the Secretariat*, JOB(03)/225, Dec. 11, 2003.

**Table 3-4**  
**WTO dispute settlement, by covered agreements,<sup>1</sup> from January 1995 through October 2003**

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Total Cases	25	39	50	41	30	34	23	37	23	302
General Agreement on Tariffs and Trade 1994 (GATT 1994)	24	28	33	25	17	22	18	34	17	218
Agreement on Subsidies and Countervailing Measures (SCM)	0	8	10	11	3	6	4	7	4	53
Agreement on Agriculture (AG)	2	5	14	5	6	4	2	7	6	51
Agreement on Antidumping Practices (ADP)	1	3	3	6	8	10	6	7	5	49
Agreement on Technical Barriers to Trade (TBT)	8	4	3	5	0	2	3	2	4	31
Agreement on Import Licensing Procedures (LIC)	1	1	13	5	4	1	2	3	1	31
Agreement on Sanitary and Phytosanitary Measures (SPS)	5	3	3	5	0	2	1	5	6	30
Agreement on Safeguards (SG)	0	0	2	2	4	3	7	11	0	29
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)	0	6	5	4	5	3	1	0	1	25
Agreement Establishing the World Trade Organization (WTO Agreement)	0	0	0	1	2	6	5	5	4	23
Agreement on Trade-Related Investment Measures (TRIMS)	0	7	5	3	1	1	1	2	0	20
Agreement on Textiles and Apparel (TMB)	1	6	2	1	1	4	0	0	0	15
General Agreement on Trade in Services (GATS)	1	3	2	3	1	3	1	0	1	15
Agreement on Customs Valuation (VAL)	3	1	0	1	1	3	0	0	1	10
Dispute Settlement Understanding (DSU)	1	1	0	1	1	1	1	0	0	6
Agreement on Government Procurement (GPA)	0	0	3	0	1	0	0	0	0	4
Agreement on Rules of Origin (RO)	0	0	2	1	0	0	0	1	0	4

Source: WTO, *Special Session of the Dispute Settlement Body - Statistical Information on Recourse to WTO Dispute Settlement Procedures (1 January 1995-31 October 2003)* - Background Note by the Secretariat, JOB(03)/225, Dec. 11, 2003.

<sup>1</sup> Dispute cases maybe initiated referencing multiple agreements.

of WTO disputes brought under various covered agreements between January 1, 1995 and October 31, 2003. The greatest number of disputes were initiated under the GATT 1994, 218 of the 302 requested consultations. Cases under this agreement reached peak activity by 1997, and again in 2002, at 33 to 34 cases per year, although cases brought under GATT 1994 subsided nearer to 17 to 22 cases during 1999 to 2001, and again in 2003.

The report indicates that after GATT 1994, the covered agreements showing the most active dispute-settlement activity were the Subsidies Agreement (53 cases initiated), Antidumping Agreement (49), and Agriculture Agreement (51). Comparing agreements covering related disciplines—such as the Subsidies, Antidumping, and Safeguards Agreements—WTO members appear to have initiated cases, first under the Subsidies Agreement, followed by the Antidumping Agreement, and most recently under the Safeguards Agreement. In 1996 to 1998, some 8 to 11 cases per year were initiated under the Subsidies Agreement before falling in 1999 to only 3 cases.<sup>46</sup> But

<sup>46</sup> Since 1999, the initiation of subsidy cases has fluctuated upward to reach seven in 2002 before falling off to four cases in 2003.

as cases brought under the Subsidies Agreement peaked and then declined, the initiation of cases under the Antidumping Agreement appeared to increase until peaking in 2000 with 10 cases, before subsiding thereafter to half that number by 2003. Lastly, once initiation of dispute cases involving antidumping issues subsided, the initiation of safeguard cases rose sharply from 3-4 cases per year 1996 to 7 cases in 2001 and 11 cases in 2002 before falling by 2003 to zero cases.

### *Dispute-settlement panels*

According to WTO data, nearly half of all cases (49 percent) initiated have led to establishment of a panel over the time period examined.<sup>47</sup> A total of 148 panels have been established initially, consolidated later to 119 panels covering distinct matters. On average, requests to establish a panel have come 150 days after the initial request for consultations,<sup>48</sup> with establishment of a panel coming 49 days on average following a request. On average, panels have been composed roughly 62 days after their establishment.<sup>49</sup> In 49 of the 119 panels, participants have requested the Director-General to become involved in composing a panel, a procedure permitted if parties to a dispute cannot agree on panelists within 20 days of establishment of a panel.

Panel proceedings from establishment of a panel to circulation of the final panel report to all WTO members have taken on average 12 months and 6 days.<sup>50</sup> Measured from the composition of a panel to circulation of the initial panel report to just the parties involved, panel proceedings have lasted on average 8 months and 24 days.<sup>51</sup> On average, the final panel report has been circulated to WTO members 5 weeks and 3 days after being issued to the parties involved.<sup>52</sup>

### *Appeals*

The appeals procedure to the WTO Appellate Body (AB) came into being with establishment of the WTO.<sup>53</sup> The WTO appellate procedure considers (1) appeals of panel judgments ("original" panel reports) under DSU Art. 6, and (2) appeals regarding implementation of already issued judgments under DSU Art. 21. The report indicates that, of "original" panel reports, 54 have been appealed since 1995,<sup>54</sup> which the WTO reported as 74 percent. Of implementation appeals, 8 of 12 panel

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<sup>47</sup> WTO, Statistical Information on Recourse to WTO Dispute Settlement Procedures, JOB(03)/225, pp. 4-6.

<sup>48</sup> Requests to establish a panel following consultations have ranged from 38 days to 737 days.

<sup>49</sup> Composition time has ranged from 12 to 189 days.

<sup>50</sup> Panel proceedings have ranged from 7 months, 12 days to 17 months, 15 days.

<sup>51</sup> This measure of panel proceedings has ranged from 4 months, 21 days to 15 months, 26 days.

<sup>52</sup> Initial to final report periods have ranged from 1 week to just over 14 weeks.

<sup>53</sup> WTO, Statistical Information on Recourse to WTO Dispute Settlement Procedures, JOB(03)/225, pp. 6-7.

<sup>54</sup> Although not all panel findings were appealed in each case.

reports circulated have been appealed. Overall, the AB has heard 62 appeals regarding 52 distinct matters. AB reports have been circulated on average 90 days following notification of an appeal.<sup>55</sup>

*Implementation: Reasonable period of time*

Of 59 reports adopted from January 1995 through October 2003 where a measure was found inconsistent under a WTO agreement, a reasonable period of time for implementation was determined in 51 instances.<sup>56</sup> During the period, there were 16 arbitration cases to determine a reasonable period of time for implementation under DSU Art. 21.3(c), relating to 26 disputes. The arbiters' awards were circulated 135 days on average after adoption of the relevant DSB recommendations, and 54 days after appointment of an arbiter.

A reasonable period of time in which to implement adopted recommendations determined by the AB through arbitration was on average a range between 8 months and just over 15 months from the adoption of the report, although shorter periods of time have been mutually agreed under this appeals procedure.<sup>57</sup>

*Implementation: Compliance determination*

The report states that compliance proceedings took place in 13 cases, covering 11 distinct matters, which the WTO reported as 18 percent of cases where a violation was found under covered agreements.<sup>58</sup> Eight of these compliance reports were appealed. Twelve compliance reports were adopted by regular panels, plus eight AB compliance reports. Compliance proceedings last between 90 and 205 days on average for a panel—from referral of the matter to general circulation of the compliance panel report—whereas AB compliance proceedings last between 60 and 91 days on average. In 9 of 12 instances where a compliance panel was established, the parties agreed to a bilateral solution.

*Retaliation (Suspension of concessions)*

From 1995 through October 2003, authorization to suspend concessions was granted seven times, involving six distinct disputes that concerned five distinct matters.<sup>59</sup> The WTO reports this authorization to suspend concessions or other obligations (so-called

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<sup>55</sup> Ranging from 47 to 114 days.

<sup>56</sup> WTO, Statistical Information on Recourse to WTO Dispute Settlement Procedures, JOB(03)/225, pp. 7-8. In the remaining eight cases, the measure found to be inconsistent terminated or ceased to apply in some manner.

<sup>57</sup> When the inconsistent measures were found to be prohibited export subsidies the panel recommended a 90-day period as set under Art. 4.7 of the WTO Agreement on Subsidies and Countervailing Measures.

<sup>58</sup> WTO, Statistical Information on Recourse to WTO Dispute Settlement Procedures, JOB(03)/225, p. 8.

<sup>59</sup> Ibid., p. 9.

retaliation) as 2 percent of all disputes initiated and 8 percent of dispute cases where measures have been found in violation of a covered WTO agreement. All these cases involved arbitration to determine the level of concessions to be suspended, with the annual amounts authorized for retaliation ranging from \$7.6 million to US\$4.043 billion.

### *Mutually agreed solutions*

The report states that mutually agreed settlements were notified to the DSB in 47 cases, of which 29 settlements were announced before establishment of a panel, 10 during panel proceedings, and eight during the compliance phase.<sup>60</sup> The report indicates that in 12 other cases, the measures in dispute were modified or terminated such that dispute-settlement proceedings were no longer required. Also, the authority for four panels lapsed after a suspension in dispute proceedings exceeding 12 months.

## **Organization for Economic Cooperation and Development**

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In 2003, the OECD Trade Committee devoted major attention to preparations for and subsequent assessment of the WTO Fifth Ministerial Conference in Cancun, Mexico, taking advantage of a forum in which to address differing viewpoints among OECD members in a nonnegotiating setting. The committee also considered of work in progress done within the Trade Directorate and in conjunction with other directorates; prepared for the OECD ministerial council meeting, held April 29-30, 2003; dealt with internal matters such as electing new officers for 2004; and surveyed members about core work and medium-term work priorities. The committee held consultations with the Business and Industry Advisory Committee as well as civil society organizations (also known as nongovernmental organizations or "NGOs").

### *Doha Multilateral Trade Negotiations*

At the 136th session of the OECD Trade Committee, held March 10-11, 2003, delegates exchanged contrasting views concerning the state of the WTO Doha multilateral trade negotiations.<sup>61</sup> Whereas some considered negotiations more advanced than at an equivalent stage in the Uruguay Round, others pointed out missed deadlines in a number of areas. An area of particular interest discussed by delegates was the Singapore issues of investment, competition policy, transparency in government procurement, and trade facilitation. Delegates considered negotiations

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<sup>60</sup> Ibid., pp. 9-10.

<sup>61</sup> OECD, Summary Record of the 136th Session of the Trade Committee – Paris, 10-11 March 2003, TD/TC/M(2003)2/PROV, Apr. 15, 2003, par. 5-7.

on these subjects to be already authorized by the Doha declaration, awaiting only for modalities to be decided at the Cancun ministerial meeting. Delegates also indicated that the group of issues should be unbundled, so that progress in any one area would not be hindered by lesser progress in another.

At the 137th session of the Trade Committee, held October 21-22, 2003, delegates assessed the failure of the Cancun WTO ministerial conference to move forward with the Doha Development Agenda and its multilateral trade negotiations.<sup>62</sup> The summary report of their meeting indicates that the delegates found it unclear whether negotiations could move forward based on the elements under discussion at Cancun or whether the Doha declaration needed to be reinterpreted or the level of ambition for the negotiations needed to be revised. The timeframe for the negotiations was also unclear now, given the uncertainties surrounding what new basis for continued negotiations might be reached.<sup>63</sup> Delegates were reported to view as a positive development the more active involvement of developing countries in the negotiations, and their beginning to differentiate among themselves and their various needs along lines of their different stages of economic development.<sup>64</sup> Delegates expressed the view that they considered this helpful toward developing distinctions necessary to better target needed adjustment measures and capacity building assistance, as well as being useful in developing measures for more effective special and differential treatment.

### *Work in Progress*

For 2003, the OECD Trade Directorate reported a number of projects in progress, centered largely on issues related to (1) the Doha Development Agenda, and (2) trade in services.<sup>65</sup> Regarding the Doha round, work in progress covered subjects involving trade in agriculture, as well as a number of projects addressing trade in nonagricultural market access. Among the latter, ongoing research addressed possible welfare gains from multilateral tariff liberalization, analysis of nontariff trade barriers, and the likely impact of tariff liberalization on government revenues. Other Doha-directed analysis addressed the Singapore issues of trade and environment, investment, and trade facilitation. In the area of economic development related to the Doha round, OECD Trade Directorate projects considered aspects of special and differential treatment; trade, debt, and finance; and the development dimension of trade-related intellectual property rights.

Regarding trade in services, the directorate has focused on services and trade in services in Southeastern Europe, as well as work concerning public services, and

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<sup>62</sup> OECD, Summary Record of the 137<sup>th</sup> Session of the Trade Committee – Paris, 21-22 October 2003, TD/TC/M(2003)4/PROV, Dec. 12, 2003, par. 1-10.

<sup>63</sup> OECD, Summary Record of the 137<sup>th</sup> Session of the Trade Committee – Paris, 21-22 October 2003, TD/TC/M(2003)4/PROV, Dec. 12, 2003, par. 1.

<sup>64</sup> *Ibid.*, par. 5.

<sup>65</sup> OECD, 137<sup>th</sup> Session of the Trade Committee – Work in Progress – 21-22 October 2003, TD/TC/RD(2003)6, Oct. 15, 2003.

education and health services. Other work in progress includes projects addressing regulatory reform, structural adjustment in the global textiles and clothing sectors, as well as outreach activities to developing countries that included a regional forum on trade held in Nairobi, Kenya, and continued dialogue on trade policy with the transition economies largely from Eastern Europe moving from more centrally planned to market economies.

Work involving export credits continued in 2003, working on subjects related to the environment, bribery, and unproductive expenditures involving export credits for the Heavily Indebted Poor Countries.

### *Other Business*

The Trade Committee addressed other business items related to preparations for the OECD ministerial meeting, as well as for a supporting role in the WTO Fifth Ministerial Conference; consultations with civil society organizations concerning issues important to nongovernmental bodies and with the Business and Industry Advisory Committee concerning labor practices; and elections of new representatives to the Trade Committee bureau for 2004.<sup>66</sup>

## **APEC**

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The Asia-Pacific Economic Cooperation (APEC) was established in 1989. The major purpose of APEC is to facilitate economic growth, cooperation, trade and investment in the Asia-Pacific region. Unlike the WTO, APEC has no treaty obligations required of its participants. In APEC, decisions are made on the basis of consensus and commitments are undertaken on a voluntary basis. During 2003, 21 member economies were in APEC.<sup>67</sup> The member economies are Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong, China, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Republic of the Philippines, the Russian Federation, Singapore, Chinese Taipei, Thailand, the United States of America, and Viet Nam.<sup>68</sup> Each year one of the APEC economies hosts the APEC meetings and serves as the APEC chair. The APEC host economy chairs the annual economic leaders' meeting, selected ministerial meetings, senior officials meetings, the APEC Business Advisory Council, and the APEC Study Centres

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<sup>66</sup> OECD, Summary Record of the 136<sup>th</sup> Session of the Trade Committee, par. 3-8, 11-15; Summary Record of the 137<sup>th</sup> Session of the Trade Committee, par. 31-35.

<sup>67</sup> For background information on APEC, see USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 35-39. APEC refers to its members as economics in order to encompass the wide diversity of its membership.

<sup>68</sup> APEC, "About APEC," found at [http://www.apecsec.org.sg/apec/about\\_apec.html](http://www.apecsec.org.sg/apec/about_apec.html).

Consortium.<sup>69</sup> Future APEC ministerial meetings will be held in Chile in 2004, Korea in 2005, Viet Nam in 2006, Australia in 2007, and Peru in 2008.<sup>70</sup>

At the 2003 APEC ministerial held in Bangkok, Thailand, in November, APEC ministers discussed how to reinvigorate the WTO Doha negotiations, how to address regional security challenges, and infectious diseases.<sup>71</sup> With regard to the WTO, in their joint statement, ministers expressed regret concerning the missed opportunity in Cancun, Mexico, in September 2003, but noted that progress had been made in some areas including TRIPs and access to certain essential medicines. They noted that a successful outcome is necessary for strengthening the global trading system. They recognized APEC's capacity-building contributions and reaffirmed the importance of WTO capacity-building activities in the future. Ministers recognized that intra-APEC regional trade agreements/free trading arrangements could contribute to APEC's goals of free and open trade and investment, provided that they are consistent with WTO rules and disciplines.<sup>72</sup>

In other major areas, APEC ministers took the following actions:

- Structural Reform: Ministers adopted the APEC Structural Reform Action Plan as a unified framework for helping build economies' capacity to undertake structural reform.
- Trade and Investment Liberalization and Facilitation: Ministers endorsed the 2003 Committee on Trade and Investment (CTI) annual report.
- Individual and Collective Action Plans (IAPs and CAPs): Ministers reaffirmed their commitment to achieve the Bogor goals through actions in their IAPs. They endorsed measures taken by economies on trade facilitation and welcomed the new chapter on the APEC food system, which combines development of rural infrastructure, dissemination of technological advances in food production and processing, and liberalization and promotion of trade in food products. Ministers also welcomed the Strengthening Economic Legal Infrastructure mechanism that was agreed on last year.<sup>73</sup>

Australia, Canada, Hong Kong, China, Japan, Korea, Mexico, New Zealand, and Thailand participated in peer reviews on their IAPs in 2003. Ministers reaffirmed their commitment to complete all 21 IAP peer reviews by 2005.<sup>74</sup>

Ministers instructed Senior Officials to review and progressively improve the CAPs to produce tangible benefits to the business community and to meet Bogor goals, as follows:

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<sup>69</sup> Ibid.

<sup>70</sup> APEC, "Fifteenth APEC Ministerial Meeting, Joint Statement," found at [http://www.apec.sec.org.sg/apec/ministerial\\_statements/annual\\_ministe...](http://www.apec.sec.org.sg/apec/ministerial_statements/annual_ministe...), retrieved Oct. 22, 2003.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid. The Bogor Declaration of 1994 committed APEC to achieving free and open trade and investment no later than 2010 and for developing economies no later than 2020. APEC Secretariat, "APEC" 1995.

- **Pathfinder Initiatives:** Pathfinder initiatives allow economies to initiate and implement cooperative arrangements ahead of others. Ministers urged economies to participate in Pathfinder initiatives. They welcomed progress so far to implement work in e-commerce, services, intellectual property, and tariff areas.
- **APEC Business-Government Dialogues:** Ministers welcomed the business-government understanding that has been achieved as a result of the Automotive and Chemical Dialogues.
- **Economic and Technical Cooperation and Capacity Building:** Ministers endorsed a list of Economic and Technical Cooperation (ECOTECH) priorities to guide APEC's contribution to the economic and social development of the region. APEC will focus on promoting the development of knowledge-based economies in the region.
- **Intellectual Property Rights:** Ministers committed to continuing close cooperation within APEC aimed at improving IPR facilitation, protection, and enforcement and endorsed the establishment of IPR Service Centers.
- **Cybersecurity:** APEC welcome the Cybercrime Legislation and Enforcement Capacity Building Project and called for further work by APEC to develop laws and procedures to facilitate the investigation and prosecution of cross-jurisdictional cybercrime.
- **Electronic Commerce:** Ministers welcomed the work of senior officials in this area. They highlighted the importance of senior officials completing the APEC Data Privacy Principles, which will help APEC economies develop privacy laws and regulations.
- **E-Learning:** Ministers welcomed the development of a five-year strategic plan for e-learning in the region including recommendations for improving students' and teachers' access to the Internet, availability of innovative educational content using the Internet, teachers capacity to use technology, and for addressing policy issues raised in implementing e-Learning efforts across APEC.
- **Severe Acute Respiratory Syndrome (SARS):** Ministers recognized the human and economic impact of SARS on APEC economies, individually and collectively, and the importance of preventing future outbreaks of SARS and other infectious diseases.
- **Social Safety Nets and Workforce Retraining:** Ministers stressed the need for addressing the social dimensions of globalization and commended the initiatives undertaken by APEC.
- **Financial Architecture:** Ministers recognized the benefits of the financial cooperation to pursue the shared vision of establishing a sound and resilient financial system. They welcomed APEC finance ministers' work on the promotion of a regional bond market.

- Economic Research and Analysis: Ministers endorsed several economic reports and welcomed the 2003 Economic Outlook.
- SMEs and Micro-Enterprises: Ministers welcomed the establishment of an APEC Sub-Group on Micro-enterprises and endorsed the Micro-Enterprise Development Action Plan.<sup>75</sup>

Following the APEC ministerial meeting, APEC leaders issued a statement: "A World of Differences: Partnership for the Future." In their statement, the Leaders agreed to strengthen the APEC partnership to liberalize and facilitate regional trade and investment and to protect APEC economies against threats of terrorism.<sup>76</sup> APEC leaders offered support for the Doha agenda and agreed to:

- Press for an ambitious and balanced outcome to the Doha agenda;
- Re-energize the negotiation process;
- Work towards the abolition of agricultural export subsidies and unjustifiable export prohibitions and restrictions;
- Coordinate among multilateral, regional, and bilateral free trade frameworks so that they are complementary and mutually reinforcing;
- Support early accession for the Russian Federation and Vietnam to the WTO;
- Continue to work on WTO capacity and confidence building;
- Instruct APEC ministers to take concrete steps to make APEC's trade agenda more supportive of the WTO and report on progress in 2004;
- Work with the APEC Business Advisory Council (ABAC) and the business community to continue to implement the Shanghai Accord and Los Cabos directives to facilitate business activity in the APEC region; including the reduction transaction costs by the year 2006.
- Advance all pathfinder initiatives; including a digital Economy Statement to, e.g. stop optical disk piracy.
- Fight corruption by working in 2004 to develop specific domestic actions to combat it.<sup>77</sup>

One section of the Leaders' statement included provisions aimed at combating terrorism and eliminating the dangers posed by weapons of mass destruction. Separate APEC initiatives on counterterrorism were announced prior to the APEC meetings.<sup>78</sup>

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<sup>75</sup> Ibid.

<sup>76</sup> APEC, 2003 Leaders' Declaration, "Bangkok Declaration on Partnership for the Future," found at [http://www.apecsec.org.sg/apec/leaders\\_declarations/2003.html](http://www.apecsec.org.sg/apec/leaders_declarations/2003.html), retrieved, Oct. 22, 2003.

<sup>77</sup> Ibid.

<sup>78</sup> For further information, see Fact Sheet, White House, "New APEC Initiatives on Counterterrorism," found at <http://www.state.gov/p/eap/rls/fs/25428.htm>, retrieved Oct. 22, 2003.

APEC leaders welcomed APEC's activities on sustainable economic development including making it more effective, better focusing and strengthening its work on economic and technical cooperation and increasing its interaction with international financial institutions, the private sector and other outside organizations.<sup>79</sup> For the future, APEC leaders agreed to: strengthen efforts to empower people and societies, including women and youth; strengthen small- and medium-sized enterprises; increase efforts to build knowledge-based economies; strengthen regional efforts to promote sound and efficient financial systems and fundamentals; accelerate structural reform in the APEC region, and make APEC more responsive to all stakeholders.<sup>80</sup>

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<sup>79</sup> APEC, 2003 Leaders' Declaration, "Bangkok Declaration on Partnership for the Future," found at [http://www.apecsec.org.sg/apec/leaders\\_declarations/2003.html](http://www.apecsec.org.sg/apec/leaders_declarations/2003.html), retrieved Oct. 22, 2003.

<sup>80</sup> Ibid.