

GAO

## Testimony

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# WORLD TRADE ORGANIZATION

## Status of Issues to Be Considered at Singapore Ministerial Meeting

Statement For The Record by JayEtta Z. Hecker, Associate  
Director, International Relations and Trade Issues,  
National Security and International Affairs Division



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Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to provide this statement for the record for your hearing on September 11, 1996. Based on our past and ongoing work, I have some observations about the implementation of the Uruguay Round agreements and the operations of the World Trade Organization (WTO) in the context of the upcoming Singapore ministerial meeting. WTO is a multilateral organization that, among other things, serves as a forum for international trade negotiations and oversees the administration of the Uruguay Round agreements. After providing a brief overview of some issues expected to be raised at Singapore, my statement will discuss in more detail the status of (1) general implementation issues, (2) issues related to WTO agreement on textiles and clothing, (3) implementation of the agriculture agreements, (4) ongoing negotiations involving trade in services and market access, (5) new issues that may be taken up by the WTO in Singapore, and (6) new member accessions to the WTO.

The first biannual WTO ministerial meeting will take place from December 9 to 13, 1996, in Singapore. The meeting is a forum for reviewing implementation of the Uruguay Round agreements and for discussing new issues. The U.S. Trade Representative (USTR) believes that this meeting will be an important test of the WTO's credibility as a forum for continuous consultation, negotiation, and liberalization. Some foreign government and WTO officials told us that they hope these regularly scheduled, more focused WTO ministerial meetings will replace the series of multiyear, exhaustive negotiating "rounds" of the past. However, other officials expressed doubt that much progress could be made toward future trade liberalization without the opportunities for trade-offs created by having a number of important issues under negotiation at one time.

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## Overview

The Uruguay Round agreements generally went into force on January 1, 1995. Implementation of these agreements is complex, and it will take years before the results can be fully assessed.<sup>1</sup> The ministerial level meeting in Singapore provides WTO member countries the first opportunity to "take stock" of how well they have implemented the Uruguay Round agreements so far. The many committees and working groups that constitute the organization will report to ministers through the WTO General Council about their activities and plans. Members may also debate

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<sup>1</sup>According to the WTO Secretariat, the almost 500 pages of text comprise 19 agreements, 24 decisions, 8 understandings, and 3 declarations. There are also approximately 24,000 pages of specific market access commitments.

how best to further expand trade liberalization. Our work highlights the following issues that are expected to be topics at Singapore:

- In general, assessing the new and complex Uruguay Round agreements will create a challenge for the ministers. Numerous WTO bodies were formed to oversee implementation by the member governments. These committees and working groups, together with a Secretariat that facilitates the work of the members, experienced early difficulties with the information generated by numerous notification requirements, in part because of limitations in members' reporting and in the unevenness of information that was provided. WTO members have already invoked the new process for settling disputes 53 times on a wide range of issues, with the United States filing the most cases. The USTR has stated that it believes the dispute settlement process is an effective tool to open other nations' markets.
- Implementation of the WTO Agreement on Textiles and Clothing has been a major area of contention between the exporting and importing countries, and it is expected to be the subject of further debate at Singapore. Textile exporting countries allege that the United States and other importing countries have delayed lifting quotas and integrating textile trade into normal WTO/General Agreement on Tariffs and Trade 1994 (GATT) rules. The importing countries, in turn, have voiced concern about the lack of access to exporting countries' textile markets and the adequacy of measures they have adopted to prevent quota circumvention.
- Since liberalizing agricultural trade was a key objective for the United States during the Uruguay Round, monitoring the implementation of commitments is essential to securing anticipated U.S. gains. In addition, U.S. officials have indicated that they would like to begin preparations for further agricultural reform negotiations starting in 1999. At Singapore, three separate WTO committees are expected to provide reports on progress in the reduction of agricultural subsidies; improvements in market access; the use of measures to protect human, plant, and animal health; and efforts to make state trading enterprise activities (STE) more transparent (open). The United States has implementation concerns in many of these areas and many reasonably expect a divergence of views among trading partners.
- Whether the ongoing efforts to liberalize trade in the services sector will be successful is not yet clear. Individual negotiations have been conducted to progressively open trade and investment. Thus far, however, members have been unable to reach final agreements covering the financial, telecommunications, and maritime service sectors. Similarly, it is unclear whether WTO members will reach agreement to improve market access in

those sectors where USTR has negotiating authority because of some countries' expected opposition to further tariff reductions.

- At Singapore, proposals are expected for WTO members to begin work on the next generation of trade issues. However, because these issues include areas heretofore outside the scope of detailed trade negotiations—environmental protection, investment rules, competition policy, labor standards, and bribery and corruption—it is unlikely members will reach consensus on the WTO's role. Of these issues, only environment is on the WTO agenda already, but members have not decided how to reconcile environmental concerns with trade objectives. USTR strongly supports discussing labor standards as part of the WTO agenda. USTR may begin to address bribery and corruption issues indirectly as it seeks to expand participation in the Agreement on Government Procurement. However, many other members are just as strongly opposed to including these two issues. On the other hand, the United States is not yet prepared to agree to a negotiating program for competition policy and would prefer discussions on investment policy to take place primarily in the Organization for Economic Cooperation and Development (OECD).

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## General Implementation Issues

In earlier testimony<sup>2</sup> we noted that it will take time and resources to (1) completely build the WTO so that members can address all its new roles and responsibilities; (2) make members' national laws, regulations, and policies consistent with new commitments; (3) fulfill notification requirements and then analyze the new information; and (4) resolve differences about the meaning of the agreements and judge whether members have fulfilled their commitments. It is critical that USTR monitor implementation of the agreements to ensure that other WTO members are honoring their commitments and thus that the agreements' expected benefits are being realized. USTR and the Departments of Commerce and Agriculture have created specific units to try to monitor foreign government compliance with trade agreements, including those of the Uruguay Round.

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## The New Organization

In general, the ministers at Singapore will be reviewing the progress of the WTO in fulfilling its mandate. Some observers have been concerned about the creation of this international organization and its scope and size. The "new" WTO was based on a similar "provisional" GATT organizational structure that had evolved over decades. The Uruguay Round agreements

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<sup>2</sup>See International Trade: Implementation Issues Concerning the World Trade Organization (GAO/T-NSIAD-96-122, Mar. 13, 1996).

created some new bodies; however, these bodies address new areas of coverage, for example, the Councils for Trade in Services and for Trade-Related Aspects of Intellectual Property Rights. Other bodies, such as the WTO Committee on Antidumping Practices, were “reconstituted” from previous GATT committees but were given new responsibilities by the Uruguay Round agreements and now have broader membership. The WTO Secretariat, headed by its Director General, facilitates the work of the members. The work of the bodies organized under the WTO structure is still undertaken by representatives of the approximately 123 member governments, rather than the Secretariat. Early meetings of some WTO committees were focused on establishing new working procedures and work agendas necessary to implement the Uruguay Round agreements.

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## Notifications

The ministers will be judging the progress of members in implementing numerous agreements to date, based on information collected from the many notification requirements placed upon member governments. These notifications are aimed at increasing transparency about members’ actions and laws and therefore encourage accountability. Notifications take many forms. For example, one provision requires members to file copies of their national legislation and regulations pertaining to antidumping measures. WTO committees began reviewing the notifications they received from member governments in 1995. The information provided allows members to identify general problems with implementing the terms of the agreements, as well as monitor each others’ specific activities and, therefore, to enforce the agreements.

Limitations in members’ reporting may make it difficult for the ministers to assess progress in some areas. The WTO Director General noted some difficulties with members’ fulfilling their notification requirements in his report in December 1995. Some foreign government and WTO Secretariat officials told us in 1995 that the notification requirements had placed a burden on them and that they had not foreseen the magnitude of information they would be obligated to provide. The WTO Secretariat estimated that the Uruguay Round agreements specified over 200 notification requirements. It also noted that many members were having problems understanding and fulfilling the requirements within the deadlines. While developing countries reportedly faced particular problems, even the United States missed some deadlines for filing information on subsidies and customs valuation laws.

To address concerns about notifications, WTO formed a working party in February 1995 to simplify, standardize, and consolidate the many notification obligations and procedures. This working party may make recommendations for changes for the ministers to consider.

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## Dispute Settlement

The WTO dispute settlement mechanism is intended to be a central element in providing security and predictability to this multilateral trading system. Through it, members have a system to resolve disputes that result from violations of WTO obligations or impairment of benefits from WTO agreements. The new dispute resolution mechanism incorporates several objectives that were particularly important to the United States—time limits for each step in the dispute settlement process and elimination of a country's ability to block the adoption of resolutions from dispute settlement panel reports. The new Dispute Settlement Understanding established time limits for each of the four stages of a dispute: consultation, panel review, appeal, and implementation. Also, unless there is unanimous opposition in the WTO Dispute Settlement Body, the panel or appellate report is to be adopted. Further, the recommendations and rulings of the Dispute Settlement Body can neither add to or diminish the rights and obligations provided in the Uruguay Round agreements nor directly force members to change their laws or regulations. However, if members choose not to implement the recommendations and rulings, the Dispute Settlement Body may authorize trade retaliation.

From January 1, 1995, to August 30, 1996, formal WTO dispute settlement procedures have been invoked in 53 instances. Most of the cases are still in progress—35 are either in the consultation phase, under panel review, or on appeal. Of the 18 closed cases, 16 have been settled or abandoned, and 2 have been closed after a final appeal.

The United States has availed itself of the dispute settlement mechanism more than any other member. The United States has initiated 17 cases on a variety of issues including patent protection in India, Portugal, and Pakistan; meat import restrictions in South Korea and the European Union (EU); and restrictions on the importation of magazines into Canada. There are currently four pending cases against actions or measures taken by the United States—two involve import restraints concerning textile and apparel products, one relates to an antidumping investigation of tomatoes from Mexico, and the other concerns the Cuban Liberty and Democratic Solidarity Act of 1996.

As of the end of August 1996, dispute settlement panels have reached decisions involving five cases. The two closed cases, which were combined into a single panel, involved a challenge by Venezuela and Brazil to a U.S. Environmental Protection Agency regulation setting forth the methods by which importers of gasoline were to determine characteristics of gasoline imported and sold in the United States in 1990. The panel found that the regulation was inconsistent with a GATT 1994 provision concerning national treatment of imported products. On appeal, the dispute settlement Appellate Body modified the panel's report but upheld the panel's conclusion. The other three cases, also combined into one panel, were brought by the United States, Canada, and the EU against Japan's liquor tax. The panel found the Japanese tax to be inconsistent with GATT 1994, on national treatment grounds.<sup>3</sup> Japan has filed an appeal, which is currently pending.

It is unclear to what extent the ministers at the WTO Singapore meeting will analyze the implementation of the new dispute settlement process and what criteria they would use to do so. USTR officials view this process as a success, in part because complaints can be resolved even before a panel hears the case. In addition, USTR has recently testified that the new mechanism is proving to be a very effective market-opening tool. However, it may be difficult to objectively evaluate the results of a dispute settlement process. We observed in our previous work on 5 years of dispute settlement under the U.S.-Canada Free Trade Agreement (CFTA)<sup>4</sup> that it may take many years before a sufficiently large body of cases accrues to permit statistically significant observations about the process. In that report we focused on the possible effects of panelists' backgrounds, the types of U.S. agency decisions appealed, and the patterns of panel decision-making. We learned that any effort to evaluate the functioning of the dispute settlement process presents significant analytical challenges.

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## Implementation of the Agreement on Textiles and Clothing

Implementation of the Agreement on Textiles and Clothing is likely to be the subject of debate at the Singapore ministerial meeting. In the Uruguay Round negotiations, the United States and other developed countries agreed to liberalize textile trade despite potential economic losses in exchange for commitments from certain developing countries to, for

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<sup>3</sup>National treatment is the act of treating a foreign product or supplier no less favorably than domestic products or suppliers.

<sup>4</sup>See U.S.-Canada Free Trade Agreement: Factors Contributing to Controversy in Appeals of Trade Remedy Cases to Binational Panels (GAO/GGD-95-175BR, June 16, 1995).



example, increase market access in key sectors and improve protection of intellectual property rights.<sup>5</sup>

Under the Uruguay Round Agreement on Textiles and Clothing, textile quotas are to be phased out over a 10-year period beginning in January 1995. Because of the 10-year phase-out, the effects of the textiles agreement will not be fully realized until 2005, after which textile and apparel trade will be fully integrated into WTO and its disciplines (practices). Integration is to be accomplished by (1) completely eliminating quotas on selected products in four stages and (2) increasing quota growth rates on the remaining products at each of the first three stages. By 2005, all bilateral quotas maintained under the agreement on all WTO members are to be removed.

During the first stage of product integration (1995 through 1997), virtually no quotas were removed by the United States and other major importing countries. The United States is the only major importing country to have published a list of products to be removed from quota for all three stages; other countries, such as the EU and Canada, have only published their integration plan for the first phase. Under the U.S. integration schedule, 89 percent of all U.S. apparel products under quota in 1990 and 67 percent of textile and apparel products combined will not be integrated into normal WTO rules until 2005. Importer and retailer representatives have expressed concern about the delay in lifting the majority of textile and apparel quotas until the end of the phase-out period. However, U.S. officials have pointed out that the Statement of Administrative Action accompanying the U.S. bill to implement the Uruguay Round agreements provided that “integration of the most sensitive products will be deferred until the end of the 10-year period.”

During the phase-out period, the safeguards provision of the textiles agreement permits a country to impose a new quota only when it determines that increased imports of a particular textile or apparel product are seriously damaging, or present an actual threat of serious damage to, its domestic industry. The agreement further provides that any quotas imposed during the phase-out period be reviewed by a newly created Textiles Monitoring Body (TMB) within WTO, which is to supervise the textile agreement’s implementation. TMB consists of individuals from 10 countries, including the United States.

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<sup>5</sup>See *The General Agreement on Tariffs and Trade: Uruguay Round Final Act Should Produce Overall U.S. Economic Gains* (GAO/GGD-94-83, July 29, 1994).

The United States and Brazil are the only WTO members thus far to have imposed new quotas on imports they found were harming their domestic industries under the agreement's safeguard procedures.<sup>6</sup> In 1995, the United States issued 28 requests for consultations (or "calls") to impose quotas and has issued 2 calls thus far in 1996 to a total of 19 countries (11 WTO members and 8 nonmembers).<sup>7</sup> Brazil has issued calls to four countries to date.

As of August 1996, TMB had reviewed the imposition of seven quotas (where no agreement was reached with the exporting country). All of these quotas had been imposed by the United States. TMB found that the threat of serious damage to domestic industry had been demonstrated in one case. In three cases, TMB found that the threat of serious damage had not been demonstrated, and the quotas were subsequently rescinded; in three other cases, TMB could not reach consensus. TMB has not published details about the reasons for its decisions. Three of the cases TMB reviewed were subsequently brought before the Dispute Settlement Body by the countries subject to the U.S. safeguard action. The United States rescinded one action, and the other two cases are currently pending.

WTO members will review implementation of the textiles agreement at the Singapore ministerial meeting. In July 1996, major exporting countries, led by Pakistan, asked the WTO's Committee on Trade in Goods to examine 10 items of concern to them regarding the agreement's implementation, including importing countries' delays in lifting quotas, the number of quotas imposed since the agreement took effect (with a clear concern regarding the number of U.S. quotas), and the need to improve transparency in TMB processes. Further, they asked the Committee to identify and assess the elements necessary for "faithful implementation of the agreement." The United States and the EU oppose the exporting countries' request and have asked the Committee to review two different issues—the ease of access to developing countries' textiles markets and the adequacy of measures adopted by these countries to prevent quota circumvention. (The agreement states that all member countries are to improve access to their textiles markets and to take measures to prevent quota circumvention.) The Committee on Trade in Goods is scheduled to

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<sup>6</sup>We recently prepared a report reviewing how the United States is implementing the textiles agreement that should be released shortly. See *Textile Trade: Operations of the Committee for the Implementation of Textile Agreements* (GAO/NSIAD-96-186).

<sup>7</sup>Six of the 28 calls had originally been made in 1994 and were unresolved; they were reissued in 1995 under the new textiles agreement.

report on the textile agreement's implementation to the WTO General Council in early November.

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## Implementation of Agricultural Commitments

Liberalizing agricultural trade was a key U.S. objective during the Uruguay Round. The United States anticipated that better rules and disciplines on government policies in this area would foster a more market-oriented trading system and improve the competitive position of the U.S. agriculture sector. Therefore, monitoring other members' implementation of their Uruguay Round agricultural commitments is essential to securing anticipated U.S. gains.

Several important issues are likely to be discussed at the ministerial meeting, as the reports of two WTO committees and one WTO working party focus on, or relate to, agricultural trade. First, the WTO Committee on Agriculture will report on implementation of the agriculture agreement, including any aspects needing additional attention or review. This Committee's report is expected to address two other issues: (1) a decision to review the impact of the agreement on net food-importing countries and (2) preparations necessary to resume the agreement's required negotiations in 1999. Second, the WTO Committee on Sanitary and Phytosanitary (SPS) Measures will report on implementation of the SPS agreement. Third, the WTO Working Party on State Trading Enterprises will report on its efforts to better document and understand the role of STES in WTO.

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## Committee on Agriculture

The Committee on Agriculture will address implementation of the agriculture agreement, which requires WTO members to reduce levels of support provided through export subsidies and domestic support and to begin opening their markets by converting import quotas to tariffs and reducing average tariff levels. The agreement provides a 6-year implementation period, meaning reductions in support and increase in market access are to be achieved gradually. To ensure members meet their commitments, they are required to provide periodic notifications to the Committee, which reviews progress toward implementation and provides a forum for members to debate their concerns. Discussions of how the agreement is being implemented in certain countries have already occurred within the Committee and will be reported on at the ministerial meeting. These include such issues as delays in starting the implementation process, inappropriate administration of market access commitments, and failure to meet export subsidy commitments. One

implementation issue was discussed outside the Committee under the dispute settlement process, when the United States requested consultations with the EU to resolve its concerns about EU implementation of market access commitments for grain imports.

In addition to implementation issues, the Committee's report is expected to address its responsibility for monitoring WTO members' commitment to review levels of food aid available to net food-importing countries. This commitment recognized that least-developed and net food-importing developing countries might experience negative effects from Uruguay Round agricultural reform if it affected the availability of food supplies from external sources at reasonable terms and conditions.<sup>8</sup> WTO members agreed to establish appropriate mechanisms to ensure that agricultural reform does not have an adverse impact on the provision of sufficient levels of food aid. The recent rise in global commodity prices and the near-record lows in international grain reserves have increased the cost of food imports for some countries. Some least-developed and net food-importing countries have already indicated they are concerned about the impact of agricultural reform on their countries, but U.S. officials do not believe the limited reforms implemented so far are responsible for shortages or price increases. Still, net food-importing countries expect action to be taken within the Committee to review food aid levels and establish a sufficient level of aid to meet legitimate needs. The Committee is considering whether and how such a review should be conducted and hopes to resolve this issue before the ministerial meeting. However, if resolution is not achieved within the Committee, the issue is likely to be discussed at the World Food Summit in November 1996 and again in Singapore.

A third issue the Committee will likely address is the commitment that WTO members have made to begin negotiations for continued agricultural reform one year before the end of the implementation period (or in 1999). The Cairns Group countries seek a specific work program to prepare for the negotiations.<sup>9</sup> The EU, Japan, South Korea, and Switzerland are reluctant to begin discussing the next round of negotiations roughly 2 years after agreeing to their original Uruguay Round commitments. U.S. officials have indicated that, although their primary focus is on

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<sup>8</sup>See the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed Countries and Net Food-Importing Developing Countries.

<sup>9</sup>The Cairns Group consists of 14 countries that are exporters of agricultural products: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay.

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implementation of the agreement, preparing for negotiations to resume is also important.

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## Committee on SPS Measures

The second Committee report that will address agricultural issues is the Committee on SPS Measures. The SPS agreement recognizes that members have a right to adopt measures to protect human, animal, and plant life or health. However, it requires, among other things, that such measures be based on scientific principles and not act as disguised trade restrictions. The United States was a key supporter of this agreement, recognizing that the lack of sufficient disciplines on the use of SPS measures could undermine the intent of the agriculture agreement if members were allowed to replace tariffs and quotas with unscientific animal and plant health or food safety measures. The United States has signalled its intent to use WTO channels to challenge unscientific SPS measures. For example, through WTO consultations in 1995, the United States persuaded South Korea to modify its practice for determining product shelf-life, which was adversely affecting U.S. meat and other exports. Also, in May 1996, the United States requested a dispute settlement panel be convened to review the EU's long-standing ban on hormone-treated meat, which has substantially blocked U.S. beef imports since 1989.

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## Working Party on STEs

Finally, the Working Party on STEs will report on its efforts to better understand STEs, an undertaking which is relevant not only to agricultural trade but also to other sectors. In our work, we define STEs as governmental or nongovernmental enterprises that are authorized to engage in trade and are owned, sanctioned, or otherwise supported by the government.<sup>10</sup> For example, the Australian government has notified the WTO that the Australian Wheat Board meets the criteria for being considered an STE. While STEs are recognized in GATT as legitimate trading entities, their activities are subject to GATT disciplines. In order to provide some transparency over STE activities, members must report regularly about their STEs' structures and functions. However, as we noted in August 1995, compliance with this reporting requirement has been poor, and information about STE activities has been limited.<sup>11</sup> In our June 1996 report, we developed a framework by which one could assess an export STE's

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<sup>10</sup>STEs were defined in the Uruguay Round as "governmental and nongovernmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales, the level or direction of imports or exports."

<sup>11</sup>See State Trading Enterprises: Compliance with the General Agreement on Tariffs and Trade (GAO/GGD-95-208, Aug. 30, 1995).

potential to distort trade.<sup>12</sup> This framework helps clarify that being sanctioned by the government does not necessarily mean that an STE is distorting trade; rather, a key factor is the presence of direct or indirect subsidies that can give an STE a greater potential to distort trade. We reported that another factor in evaluating the trade-distorting effect of STES (or private commercial firms) is share of the world market.

The working party on STES is developing an illustrative list of STE attributes and practices in WTO and continues to study the questionnaire used to collect information about them. The United States is working within the forum to develop a modified questionnaire that would help make STE activities more transparent. U.S. government and agricultural industry officials hope to negotiate additional disciplines on STES when agricultural negotiations resume in 1999.

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## Ongoing Negotiations in Services and Market Access

Negotiations in several service sectors and on market access for certain goods were left unfinished at the end of the Uruguay Round and may be discussed by ministers at Singapore. USTR has pursued trade liberalization and market access in these areas since the Uruguay Round, but in many cases the outcome of these efforts remains uncertain. For example, within the framework of the General Agreement on Trade in Services (GATS), negotiations covering the financial, telecommunications, and maritime service sectors have not yet resulted in final agreements. In addition, USTR hopes to achieve further market access through new tariff reductions for a variety of goods but has testified that considerably more work remains to build “the necessary international consensus” for making such reductions.

The WTO financial services agreement covers the banking, securities, and insurance sectors, which are often subject to significant domestic regulation and therefore engender complex negotiations. In June 1995, the United States made commitments to guarantee foreign financial institutions currently operating in the United States the right to continue to do so. However, the United States took a “most-favored-nation exemption,” that is, held back making guarantees about otherwise discriminating against foreign financial service providers. (Such exemptions are allowed under GATS.) Specifically, the United States did not guarantee nondiscriminatory treatment for new foreign firms to establish businesses or already established foreign firms wishing to expand services in the U.S. market. The U.S. exemption in financial services was taken

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<sup>12</sup>See Canada, Australia, and New Zealand: Potential Ability of Agricultural State Trading Enterprises (GAO/NSIAD-96-94, June 24, 1996).

because U.S. negotiators, in consultation with the private sector, concluded that other members' offers to open their markets to U.S. financial services firms, especially those of certain developing countries, were insufficient to justify broader U.S. commitments (with no most-favored-nation exemption or other limitations).<sup>13</sup> At the end of 1997, members, including the United States, will have an opportunity to modify or withdraw their commitments. Thus, the final outcome and impact of the financial services agreement are still uncertain. USTR has testified that negotiations for a financial services agreement are expected to resume in the first half of 1997, and the ministers may discuss this at Singapore.

WTO members were also not able to reach agreement on a basic telecommunications services agreement by the original deadline of April 30, 1996, and negotiations were subsequently extended to a new deadline of February 15, 1997. The United States has noted that while some members made offers that matched that of the U.S. offer in terms of openness, many others did not, thus the United States would not accept the agreement. In addition, the United States has said that in order for the extended negotiations to succeed, "more and better" offers must be made by members, including both developed and developing nations.

Similarly, negotiations for a multilateral maritime services agreement were unsuccessful and were suspended in June 1996 until the year 2000, when negotiations for all services sectors will be reopened. When suspending the negotiations, participating members agreed to refrain from applying new measures that would affect trade in this area during this time. The United States has said that other participating members to the negotiations did not offer "to remove restrictions so as to approach current U.S. openness in this area." The United States did not submit an offer in maritime services because USTR believed that other countries were not serious about liberalization.

Efforts to improve market access in certain sectors through additional tariff reductions are also unresolved. USTR is seeking an agreement covering a variety of information technology products, such as multimedia personal computers, supercomputers, and semiconductors, that will reduce tariffs in this area to zero by the year 2000. However, USTR has indicated that support from EU member states for such an agreement is still uncertain. In addition, USTR plans to pursue further tariff reductions at Singapore for several products, including wood products, white distilled

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<sup>13</sup>However, the United States was generally satisfied with the offers made by the EU, Japan, and other developed countries and has concluded some bilateral agreements that go beyond the GATS commitments.

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spirits, nonferrous metals, oilseeds and oil products, and certain chemical and pharmaceutical products, but expects opposition in some of these areas from several major trading partners.

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## Emerging Issues

Members are debating what work should be done by WTO on new issues related to international trade at Singapore. As tariff and nontariff barriers to trade are reduced, other areas (traditionally seen as domestic) have drawn attention as potential international trade barriers. These include (1) environmental protection, (2) investment rules, (3) competition policy, (4) labor standards, and (5) bribery and corruption issues. Although these are not traditionally discussed as trade policy topics, they reflect a broader concept of what some WTO members believe are factors affecting market access opportunities in a global economy. For example, some WTO members believe that enforcing certain environmental and labor standards can be a disguise for protectionist policies. Also, activities such as price-fixing, market sharing, and noncompetitive procurement practices can lead to market distortions and reduce access for foreign competitors. The WTO has begun to address some of these issues, but no consensus has been reached on the extent to which they should be dealt with in the WTO. Some of these negotiations in new areas could be quite controversial, based on the previous experience with including areas like agriculture and services in the Uruguay Round negotiating agenda.

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## Trade and Environmental Protection

Of the emerging issues, environment has developed the furthest within the WTO. At Marrakesh in 1994, members decided to establish a Committee on Trade and Environment. Trade and environment issues overlap because some government measures to balance economic growth with environmental concerns are perceived as protectionist and may conflict with WTO obligations. At the same time, some trade policies may impede the development of sound environmental policies. In the past, GATT dispute panels have ruled against measures that conflicted with national treatment principles or that appeared to apply to areas outside a country's sovereign jurisdiction. The United States believes that free trade and environmental protection policies can be mutually supportive and plans to convey this message at the Singapore ministerial meeting, in keeping with the 1992 United Nations Declaration in Rio de Janeiro.<sup>14</sup>

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<sup>14</sup>The United Nations Conference on Environment and Development hosted the "Earth Summit" in 1992 in Rio de Janeiro, Brazil.



The WTO Committee on Trade and Environment is to identify the relationship between trade and environmental measures and make appropriate recommendations within the context of open and equitable trade. The Committee is expected to present a report at Singapore, but it is unclear what the report will include because of the complex issues and divergent views. Members generally agree that promoting free trade and environmental protection is not inherently contradictory; however, they have not agreed on specific ways to address these issues. Several items are under discussion, including ecolabeling programs;<sup>15</sup> the relationship between multilateral environmental agreements and the WTO; and the effect of environmental measures on market access, particularly in relation to developing countries.

Ecolabeling programs have received a great deal of attention by the Committee. Some members believe these programs act as trade barriers, and members have not reached an agreement about whether or not ecolabeling programs need greater transparency. USTR firmly believes that all forms of ecolabeling are subject to the WTO's Technical Barriers to Trade (TBT) Agreement, which requires transparency and public participation when applying product standards. Other members, however, have expressed doubts about whether all ecolabeling programs are covered by the TBT agreement. USTR anticipates the WTO Committee will need to discuss this and other issues after Singapore.

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## Trade and Investment Rules

Investment rules are another topic that could be discussed at Singapore. International investment has grown with the globalization of the world economy. Various multilateral and bilateral investment agreements exist to help promote an open international investment environment, for example the (North American Free Trade Agreement). Still, restrictions on foreign investment impede international trade in goods and services because investment and trade are interrelated. Therefore the Uruguay Round agreements also addressed investment issues. For example, the WTO's Agreement on Trade-Related Investment Measures (TRIMS) and GATS both have rules to facilitate market access. However, the United States achieved only some of its Uruguay Round objectives for investment issues. The TRIMS agreement is limited to a few selected measures that apply only to trade in goods. GATS covers investment practices only in a limited sense, through broad provisions concerning the ability to provide a service in a foreign market through a commercial presence. Further, GATS covers only

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<sup>15</sup>Ecolabeling programs, most of which are voluntary, allow businesses to obtain a label indicating a product is environmentally friendly or safe (e.g., U.S. tuna cans with a "dolphin safe" label).

specific service sectors, including business services and construction and engineering services.

Countries are debating in which forums to pursue further liberalization in investment. Therefore, any Singapore proposals to establish a work program for WTO on investment issues will have to take into account negotiations in other forums. Most notable is the OECD, whose members are working to establish a Multilateral Agreement on Investment in 1997 that would be open to both OECD and non-OECD members. Nevertheless, the EU and Canada favor discussing investment rules in the WTO because its membership is larger than the OECD. There is a wide divergence of views among other members; some lesser-developed members oppose negotiations in the WTO, according to USTR. On the other hand, the United States and other nations would like to continue focusing on the OECD negotiations rather than negotiating in the WTO, believing that (1) the OECD has the potential to achieve a higher standard of liberalization (that is, on a par with NAFTA and U.S. bilateral investment treaties) than the WTO could and (2) some WTO members are not ready for such an agreement. Still, the United States supports creating a modest work program to educate WTO members on these issues.

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## Trade and Competition Policy

National competition or antitrust policies of other countries can affect opportunities and benefits for U.S. exporters and consumers. For example, price-fixing, market sharing, and other monopolistic business practices have been recognized as potential trade barriers. By distorting market competition, these practices can diminish market access opportunities, consumer choices, and other intended benefits of liberalized trade. Anticompetitive practices can also lead to trade disputes. For example, the United States has initiated two WTO dispute settlement proceedings against Japan in cases involving photographic films and paper and distribution services.

The United States and its major trading partners have not reached a consensus on how competition policy and the enforcement of antitrust law should be handled within the WTO. One issue is whether any possible work program should focus on the practices of private firms or on government actions (or the lack thereof) that restrict competition, and/or on both. The EU and Japan have recently proposed that competition be added to the WTO program for future work at the Singapore ministerial meeting. USTR believes more work and study must occur within the U.S. government, including consultation with Congress and the private sector,

before determining whether any sort of negotiating program in the WTO is appropriate. USTR has emphasized that the United States will not accept any initiative in the WTO that would threaten U.S. antitrust or antidumping laws. The United States has participated in creating guidelines and in undertaking studies of competition policy issues at the OECD, along with Japan and EU member states.

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## Trade and Labor Standards

WTO members are currently considering the role of labor standards in the international trade regime. The desire to link international trade and labor issues is not new, but labor issues have been the province of the International Labor Organization (ILO), a specialized agency of the United Nations created in 1919. ILO, whose purpose is to improve working conditions and living standards for workers throughout the world, provides a forum for consideration of various labor issues including the establishment of core labor standards, which currently vary from country to country.

At the conclusion of the Uruguay Round negotiations, several members, most notably the United States and some members of the EU, proposed that labor issues be formally brought into the world trading system. However, other WTO member countries in both the developed and the developing world have been concerned that mandated international labor standards may either inhibit their economic development or act as protectionist barriers to their exports. The United States, based on a provision of the Uruguay Round Agreements Act, recommended that the WTO establish a working party to examine the relationship between trade and internationally recognized worker rights.<sup>16</sup> The U.S. proposal does not envision negotiations but seeks to begin discussions limited to how core labor standards and trade can be mutually supportive in promoting growth and development. Thus far, no consensus currently exists either on bringing labor issues into the WTO, or on developing potential linkages between the WTO and ILO, a possible first step.

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## Trade and Bribery and Corruption

The United States has proposed indirectly addressing bribery and corruption issues at Singapore by encouraging WTO members to enhance

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<sup>16</sup>Congress provided guidance for U.S. negotiators in the act by specific reference to 1984 amendments to the U.S. Generalized System of Preferences legislation. This legislation defined internationally recognized worker rights to include (1) the right of association, (2) the right to organize and bargain collectively, (3) a minimum age for the employment of children, (4) prohibition of forced labor, and (5) acceptable conditions of work. See Public Law 98-573, sec. 503, Oct. 30, 1984, 19 U.S.C. sec. 2462 (a) (4).

transparency in government procurement. Bribery and corruption increase the cost and risk of conducting business in foreign countries. The difference in the way that U.S. and foreign laws treat these activities can also reduce U.S. companies' access to foreign markets. For example, U.S. legislation passed in 1977 prohibits U.S. companies from engaging in bribery of foreign public officials.<sup>17</sup> In contrast, some other countries do not have criminal penalties for engaging in the bribery of foreign public officials, and in some countries businesses are allowed to take tax deductions for bribery expenses. Other multilateral organizations have already taken steps to address bribery and corruption, with U.S. encouragement. For example, OECD members have agreed to criminalize the acceptance and payment of bribes. Members of the Organization of American States have entered into a treaty that would make this conduct criminal. The OECD has also recommended that member countries eliminate tax deductions for the payment of bribes. The Association of Southeast Asian Nations foreign ministers in a recent forum on the WTO agenda rejected the U.S. proposal to include corruption and other "social clauses" that they did not consider trade related.

The United States is promoting efforts to reduce bribery by foreign companies and government officials by encouraging WTO members to sign the Agreement on Government Procurement. To date, only 22 industrialized countries, including the United States, have done so; and none of the least developed countries are signatories. The provisions of the new agreement, which went into effect in 20 countries on January 1, 1996, promote transparency in government procurement procedures and require that countries not discriminate against foreign or foreign-owned suppliers or otherwise allow practices that would preclude competitive procurement.

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## Accession of New Members

The accession of new members to the WTO is an important part of the WTO's work agenda and an issue of great interest to the United States. Although existing WTO members account for about 90 percent of world trade, important U.S. trading partners, including China, Taiwan, Saudi Arabia, and Russia, are not WTO members. Nonmember states or separate customs territories may apply for admission to the WTO. A working party composed of WTO members negotiates with the applicant concerning its domestic laws and obligations to join the WTO, a process that can require considerable time. For example, China's and Bulgaria's requests for accession date from 1986. Separately, applicants may undertake bilateral

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<sup>17</sup>See Foreign Corrupt Practices Act of 1977, Public Law 95-213, Dec. 19, 1977, 15 U.S.C. sec. 78dd-2.

negotiations with individual WTO members over tariff and market access commitments. After these negotiations are concluded, the working party submits a Protocol of Accession and a report to the Ministerial Conference for approval. Accession is approved by a two-thirds majority vote of WTO members.

The United States expects the Singapore ministerial meeting to address the broad range of accession applications—rather than single out any particular application for attention. USTR reports there are 31 countries whose applications for accession have been accepted; active negotiations are under way on about 20 of them. Four nations have completed accession negotiations since the WTO entered into force.<sup>18</sup>

The United States supports accession of countries capable of and willing to (1) undertake WTO obligations and (2) provide commercially viable market access commitments for goods and services to the WTO. The United States also uses the negotiations to address outstanding bilateral trade issues covered by the WTO. For example, USTR reports that Taiwan<sup>19</sup> has made significant concessions in its bilateral negotiations with the United States over market access, services, and government procurement. Nevertheless, significant issues remain outstanding.

The accession of China to the WTO is an issue of intense U.S. interest. China gained observer status to the GATT in 1982 and requested accession to the GATT in 1986. The United States and other nations have insisted that China's accession be approved on the basis of China's willingness to make commercially viable commitments that provide greatly expanded market access and ensure compliance with WTO obligations. U.S.-China bilateral negotiations are ongoing, and a WTO working party meeting on China's accession is scheduled for October 1996.

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This concludes my statement for the record. Thank you for permitting me to provide you with this information.

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<sup>18</sup>These are Ecuador, which was admitted as a member in January 1996; Mongolia, which has not yet been admitted but whose accession was approved in June; and Bulgaria and Panama, whose accession packages were completed in July.

<sup>19</sup>This WTO accession application is formally identified as either "Chinese Taipei" or "The Customs Territory of Taiwan, Penghu, Kinmen, and Matsu."

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