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World Trade Organization Negotiations: The Doha Development Agenda

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Summary

The World Trade Organization's (WTO) Doha Development Round of multilateral trade negotiations resumed in 2007 after being suspended in July 2006 after key negotiating groups failed to break a deadlock on agricultural tariffs and subsidies. The negotiations, which were launched at the 4th WTO Ministerial in 2001 at Doha, Qatar, have been characterized by persistent differences between the United States, the European Union, and developing countries on major issues, such as agriculture, industrial tariffs and non-tariff barriers, services, and trade remedies. Depending on the outcome, some U.S. industries may gain access to foreign markets, and others may see increased competition from imports. Likewise, some U.S. workers may be helped through increased access to foreign markets, but others may be hurt by import competition.

The negotiating impasse put negotiators beyond the reach of agreement under U.S. trade promotion authority (TPA), which expired on July 1, 2007. With the deadline passed, the parties are now attempting to make progress in the negotiations in the hope that the 110th Congress will extend TPA. During the second half of 2007, the chairmen of the agriculture, industrial, and rules negotiating groups released new draft texts. While elements of each of these texts have proved controversial, they have served to continue the engagement of the various parties in Geneva at a time when many have predicted the demise of the round.

Agriculture has become the linchpin of the Doha Development Agenda. U.S. goals are substantial reduction of trade-distorting domestic support; elimination of export subsidies, and improved market access. Some had looked to a potential Doha Round agreement to curb trade-distorting domestic support as a catalyst to change U.S. farm subsidies in the 2007 farm bill, but this source of pressure for change has dissipated with the Doha impasse. In addition, Members of Congress likely will carefully scrutinize any agreement that may require changes to U.S. trade remedy laws.

Three issues are among the most important to developing countries, in addition to concessions on agriculture. One issue, now resolved, pertained to compulsory licensing of medicines and patent protection. A second deals with a review of provisions giving special and differential treatment to developing countries. A third addresses problems that developing countries are having in implementing current trade obligations.

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Background

The World Trade Organization (WTO) is the principal international organization governing world trade. It has 151 member countries, representing over 95% of world trade. It was established in 1995 as a successor institution to the General Agreement on Tariffs and Trade (GATT). The GATT was a post-World War II institution intended to promote nondiscrimination in trade among countries, with the view that open trade was crucial for economic stability and peace.

Decisions within the WTO are made by member countries, not WTO staff[1], and they are made by consensus, not formal vote. High-level policy decisions are made by the Ministerial Conference, which is the body of political representatives (trade ministers) from each member country. The Ministerial Conference must meet at least every two years. Operational decisions are made by the General Council, which consists of a representative from each member country. The General Council meets monthly, and the chair rotates annually among national representatives.

The United States was an original signatory to the GATT and a leading proponent of the GATT's trade-liberalizing principles. It continues to be among the countries urging further discussions on opening markets to trade. Although decisions in the WTO are made by consensus, the United States has a highly influential role shaping decisions in the institution befitting its status as the largest trading nation in the world.

Periodically, member countries agree to hold negotiations to revise existing rules or establish new ones. These periodic negotiations are commonly called "rounds." The broader the negotiations, the greater the possible trade-offs, and thus theoretically the greater the potential economic benefits to countries. The multilateral negotiations are especially important to developing countries, which might otherwise be left out of more selective agreements. It must be remembered, however, that trade liberalization also results in job losses and other economic dislocations as well.

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[1] The WTO staff is based in Geneva and numbers about 625 with a budget of approximately $152 million in 2007. The organization is headed by a Director-General, currently Pascal Lamy of France.

What Began at Doha?

On November 9-14, 2001, trade ministers from member countries met in Doha, Qatar for the fourth WTO Ministerial Conference. At that meeting, they agreed to undertake a new round of multilateral trade negotiations.[2]

Before the Doha Ministerial, negotiations had already been underway on trade in agriculture and trade in services. These on-going negotiations had been required under the last round of multilateral trade negotiations (the Uruguay Round, 1986-1994). However, some countries, including the United States, wanted to expand the agriculture and services talks to allow trade-offs and thus achieve greater trade liberalization.

There were additional reasons for the negotiations. Just months before the Doha Ministerial, the United States had been attacked by terrorists on September 11, 2001. Some government officials called for greater political cohesion and saw the trade negotiations as a means toward that end. Some officials thought that a new round of multilateral trade negotiations could help a world economy weakened by recession and terrorism-related uncertainty. According to the WTO, the year 2001 showed "...the lowest growth in output in more than two decades," and world trade actually contracted that year.[3]

In addition, countries increasingly have been seeking bilateral or regional trade agreements. As of October 15, 2006, 366 regional trade agreements have been notified to the GATT/WTO, 214 of which are currently in force.[4] There is disagreement on whether these more limited trade agreements help or hurt the multilateral system. Some experts say that regional agreements are easier to negotiate, allow a greater degree of liberalization, and thus are effective in opening markets. Others, however, argue that the regional agreements violate the general nondiscrimination principle of the WTO (which allows some exceptions), deny benefits to many poor countries that are often not party to the arrangements, and distract resources away from the WTO negotiations.[5]

With the backdrop of a sagging world economy, terrorist action, and a growing number of regional trade arrangements, trade ministers met in Doha. At that meeting, they adopted three documents that provided guidance for future actions. The *Ministerial Declaration* includes a preamble and a work program for the new

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[2] For information on the results of the Doha Ministerial Conference, see CRS Report RL31206, *The WTO Doha Ministerial: Results and Agenda for a New Round of Negotiations*, coordinated by William H. Cooper.

[3] World Trade Organization (WTO), *Annual Report* 2002. p. 10.

[4] WTO, *Report (2006) of the Committee on Regional Trade Agreements to the General Council*, (WT/REG/17), November 24, 2006, p.1.

[5] For a discussion of the effect of free-trade agreements, see CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.

round and for other future action. This Declaration folded the on-going negotiations in agriculture and services into a broader agenda. That agenda includes industrial tariffs, topics of interest to developing countries, changes to WTO rules, and other provisions. The *Declaration on the TRIPS Agreement and Public Health* presents a political interpretation of the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS).[6] A document on *Implementation-Related Issues and Concerns* includes numerous decisions of interest to developing countries.[7]

Especially worth noting is how the role of developing countries changed at the Doha Ministerial. Since the beginning of the GATT, the major decision-makers were almost exclusively developed countries. At the preceding Ministerial Conference (Seattle, 1999), developing countries became more forceful in demanding that their interests be addressed. Some developing countries insisted that they would not support another round of multilateral negotiations unless they realized some concessions up-front and the agenda included their interests. Because of the greater influence of developing countries in setting the plan of action at Doha, the new round became known as the Doha Development Agenda.

At the Doha meeting, trade ministers agreed that the 5th Ministerial, to be held in 2003, would "take stock of progress, provide any necessary political guidance, and take decisions as necessary," and that negotiations would be concluded not later than January 1, 2005. With the exception of actions on the Dispute Settlement Understanding, trade ministers agreed that the outcome of the negotiations would be a single undertaking, which means that nothing is finally agreed until everything is agreed. Thus, countries agreed they would reach a single, comprehensive agreement containing a balance of concessions at the end of the negotiations.

Progress of the Negotiations: The Search for Modalities

Negotiations have proceeded at a slow pace and have been characterized by lack of progress on significant issues, and persistent disagreement on nearly every aspect of the agenda. A few issues have been resolved, notably in agriculture. However, the first order of business for the round, the negotiation of modalities, or the methods and formulas by which negotiations are conducted, still remain elusive four years after the beginning of the round.

The Cancun Ministerial. An important milepost in the Doha Development Agenda round was the 5th Ministerial Conference, which was held in Cancún, Mexico on September 10-14, 2003. The Cancún Ministerial ended without agreement on a framework to guide future negotiations, and this failure to advance

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[6] See CRS Report RS21609, *The WTO, Intellectual Property Rights, and the Access to Medicines Controversy*, by Ian F. Fergusson.

[7] The Ministerial Declaration (WT/MIN(01)/DEC/1), the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and the Implementation-Related Issues and Concerns (WT/MIN(01)/DEC/17) are available through the WTO home page at [http://www.wto.org/].

the round resulted in a serious loss of momentum and brought into question whether the January 1, 2005 deadline would be met.[8]

The Cancun Ministerial collapsed for several reasons. First, differences over the Singapore issues seemed irresolvable. The EU had retreated on some of its demands, but several developing countries refused any consideration of these issues at all. Second, it was questioned whether some countries had come to Cancun with a serious intention to negotiate. In the view of some observers, a few countries showed no flexibility in their positions and only repeated their demands rather than talk about trade-offs. Third, the wide difference between developing and developed countries across virtually all topics was a major obstacle. The U.S.-EU agricultural proposal and that of the Group of 21, for example, show strikingly different approaches to special and differential treatment. Fourth, there was some criticism of procedure. Some claimed the agenda was too complicated. Also, Cancun Ministerial chairman, Mexico's Foreign Minister Luis Ernesto Derbez, was faulted for ending the meeting when he did, instead of trying to move the talks into areas where some progress could have been made.

At the end of their meeting in Cancun, trade ministers issued a declaration instructing their officials to continue working on outstanding issues. They asked the General Council chair, working with the Director-General, to convene a meeting of the General Council at senior official level no later than December 15, 2003, "...to take the action necessary at that stage to enable us to move towards a successful and timely conclusion of the negotiations."

The Cancun Ministerial did result in the creation of the so-called Derbez text. Ministerial chairman Derbez invited trade ministers to act as facilitators in Cancun and help with negotiations in five groups: agriculture, non-agricultural market access, development issues, Singapore issues, and other issues. The WTO Director-General served as a facilitator for a sixth group on cotton. The facilitators consulted with trade ministers and produced draft texts from their group consultations. The Ministerial chairman compiled the texts into a draft Ministerial Declaration[9] and circulated the revised draft among participants for comment.

The Derbez text was widely criticized at Cancun and it was not adopted, but in the months following that meeting, members looked increasingly at this text as a possible negotiating framework. On agriculture, the Derbez text drew largely on both the U.S.-EU and Group of 21 proposals. It included a larger cut from domestic support programs than the U.S.-EU proposal made, contained the blended tariff approach of the U.S.-EU proposal but offered better terms for developing countries, and provided for the elimination of export subsidies for products of particular interest to developing countries. On the Singapore issues, it included a decision to start new

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[8] For more detailed information on the Cancún Ministerial, see CRS Report RS21664, *The WTO Cancún Ministerial*, by Ian F. Fergusson; and General Accounting Office. *Cancun Ministerial Fails to Move Global Trade Negotiations Forward; Next Steps Uncertain.* Report to the Chairman, Committee on Finance, U.S. Senate, and to the Chairman, Committee on Ways and Means, House of Representatives. GAO-04-250. January 2004.

[9] WTO document JOB(03)/150/Rev.2.

negotiations on government procurement and trade facilitation, but not investment or competition.

The WTO Framework Agreement. The aftermath of Cancun was one of standstill and stocktaking. Negotiations were suspended for the remainder of 2003. However, in early 2004, then-U.S. Trade Representative (USTR) Robert Zoellick offered proposals on how to move the round forward.[10] The USTR called for a focus on market access, including an elimination of agricultural export subsidies. He also said that the Singapore issues could progress by negotiating on trade facilitation, considering further action on government procurement, and possibly dropping investment and competition. This intervention was credited at the time with reviving interest in the negotiations, and negotiations resumed in March 2004.

On July 31, 2004, WTO members approved a Framework Agreement that includes major developments in the most contentious and crucial issue — agriculture.[11] Because of the importance of agriculture to the Round, the Framework, which provides guidelines but not specific concessions, was regarded as a major achievement. With a broad agreement on agriculture and on other issues, negotiators were given a clearer direction for future discussions. However, the talks settled back into a driftless stalemate, where few but the most technical issues were resolved.

The Hong Kong Ministerial. The stalemate in 2005 increased the perceived importance of the 6th Ministerial in Hong Kong as potentially the last opportunity to settle key negotiating issues that could produce an agreement by 2007, the *de facto* deadline resulting from the expiration of U.S. trade promotion authority. Although a flurry of negotiations took place in the fall of 2005, WTO Director-General Pascal Lamy announced in November 2005 that a comprehensive agreement on modalities would not be forthcoming in Hong Kong, and that the talks would "take stock" of the negotiations and would try to reach agreements in negotiating sectors where convergence was reported. The final Ministerial Declaration of December 18, 2005, reflected areas of agreement in agriculture, industrial tariffs, and duty-free and tariff-free access for least developed countries (see sectoral negotiations section below for details). Generally, these convergences reflect a step beyond the July Framework Agreement, but fall short of full negotiating modalities.[12]

Deadlines were established at Hong Kong for concluding negotiations by the end of 2006. These deadlines included an April 30, 2005 date to establish modalities for the agriculture and NAMA negotiations. Further deadlines set for July 31, 2006, include the submission of tariff schedules for agriculture and NAMA, the submission of revised services offers, the submission of a consolidated texts on rules and trade facilitation, and for recommendations to implement the "aid for trade"language in the

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[10] "Zoellick Letter to Trade Ministers," *Inside U.S. Trade*, January 16, 2004.

[11] See CRS Report RL32645, *The Doha Development Agenda: The WTO Framework Agreement*, coordinated by Ian F. Fergusson.

[12] The final Ministerial Declaration (WT/MIN(05)/DEC), December 18, 2005 is available at [http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.pdf]. For more information, see CRS Report RL33176, *The World Trade Organization: The Hong Kong Ministerial*, coordinated by Ian F. Fergusson.

Hong Kong declaration. On April 21, 2006, WTO Director-General Pascal Lamy announced there was no consensus for agreement on modalities by the April 30 deadline.

Trade negotiators likewise failed to reach agreement at a high-level meeting in Geneva on June 30-July 1, 2006. It was agreed at those meetings, however, that Director-General Pascal Lamy would undertake a more proactive role as a catalyst "to conduct intensive and wide-ranging consultations" to achieve agricultural and industrial modalities.[13] Prior to the summit, Lamy for the first time in his tenure suggested the outline of a possible compromise. Known as the "20-20-20 proposal," the offer (1) called on the United States to accept a ceiling on domestic farm subsidies under $20 billion, (2) proposed the negotiations use the G20 proposal of 54% as the minimum average cut to developed country agricultural tariffs, and (3) set a tariff ceiling of 20 for developing country industrial tariffs. This suggestion was roundly criticized by all sides and was not adopted at the Geneva meetings.[14] At the G-8 summit of leading industrialized nations in St. Petersburg, the leaders pledged a "concerted effort" to reach an agreement on negotiating modalities for agriculture and industrial market access with a month of the July 16 summit.

Suspension. Despite the hortatory language of the G-8 Ministerial Declaration, the talks were indefinitely suspended less than a week later by Director-General Lamy on July 24, 2006. The impasse was reached after a negotiating session of the G-6 group of countries (United States, EU, Japan, Australia, Brazil, and India) on July 23 failed to break a deadlock on agricultural tariffs and subsidies. The EU blamed the United States for not improving on its offer of domestic support, while the United States responded that no new offers on market access were put forward by the EU or the G-20 to make an improved offer possible. Members of Congress praised the hard-line position taken by U.S. negotiators that additional domestic subsidy concessions must be met with increased offers of market access.[15]

Following the July 2006 suspension, several WTO country groups such as the G-20 and the Cairns Group of agricultural exporters met to lay the groundwork to restart the negotiations. While these meeting did not yield any breakthrough, Lamy announced the talks were back in "full negotiating mode" on January 31, 2007. Key players in the talks such as the G-4 (United States, European Union, Brazil, India) conducted bilateral or group meetings to break the impasse in the first months of the year. In April 2007, G-6 negotiators (G-4 plus Australia and Japan) agreed to work towards concluding the round by the end of 2007. Subsequently, a G-4 summit in Potsdam, Germany collapsed in acrimony on June 21, 2007 over competing demands for higher cuts in developed country agricultural subsidies made by developing countries and developed country demands for greater cuts in industrial tariffs in developing countries. Despite this setback, the chairs of the agriculture and industrial market access (NAMA) negotiating groups put forth draft modalities texts on July

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[13] Bridges Weekly Trade News Digest, Special Update, July 3, 2006. [http://www.ictsd.org].

[14] "Lamy Outline of Possible Deal Meets U.S. Criticism As Talks Begin," *Inside U.S. Trade*, June 30, 2006.

[15] "Congress Blames EU for Doha Failure", *WTO Reporter*, July 25, 2006.

17. These texts, represent what the chair of each committee, as facilitators of the talks, believe is the basis for a balanced level of concessions based on the Doha Declaration and subsequent agreements. Despite the criticism these texts received from nearly all quarters, they have served to continue the engagement of the various parties in Geneva at a time when many have predicted the demise of the round.

If negotiators are not able to achieve a breakthrough, there may be several consequences for multilateral trade liberalization. First, the negotiation of bilateral and regional free trade agreements may accelerate. In the wake of the 2006 suspension, the United States, the EU, Brazil, and India all announced plans to concentrate on additional bilateral liberalization.

A second consequence may be the increased use of the WTO's dispute settlement function. If a political solution to disagreements among members cannot be agreed through negotiations, some practices like agricultural subsidies may be challenged in dispute settlement. An increased reliance on dispute settlement may, in turn, put stress on the WTO as an institution if the decisions rendered are not implemented or are not perceived as being fairly decided. A further consequence may be the loss of agreements already made at the negotiations.

A third consequence of a prolonged impasse may be the withdrawal of offers already on the table. Such development-oriented proposals such as aid-for-trade, duty-free and quota-free access for least developed countries, or trade facilitation may languish due to the stalemate in the negotiations. Other negotiating proposals currently on the table may not be reflected in future government policy, such as in U.S. farm legislation, or the mid-course review of the EU's common agriculture policy in 2008.

The 2006 negotiating impasse put negotiators beyond the reach of agreement under U.S. trade promotion authority (TPA), which expired on July 1, 2007. Thus, the parties are seeking to make progress in the negotiations in the hope that the 110th Congress may extend TPA. Possible Congressional consideration of TPA extension legislation may provide a venue for a debate on the status of the Round and the prospects for reaching an agreement consistent with principles set forth by Congress in granting TPA.

Significance of the Negotiations

Trade economists argue that the reduction of trade barriers allows a more efficient exchange of products among countries and encourages economic growth. Multilateral negotiations offer the greatest potential benefits by obliging countries throughout the world to reduce barriers to trade. The gains to the United States and to the world from multilateral trade agreements have been calculated in the billions of dollars. For example, a recent study by the International Trade Commission found that if the tariff cuts from the Uruguay Round were removed, the welfare loss to the United States would be about $20 billion.[16] A study by the University of Michigan

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[16] U.S. International Trade Commission. *The Impact of Trade Agreements: Effect of the* (continued...)

found that if all trade barriers in agriculture, services, and manufactures were reduced by 33% as a result of the Doha Development Agenda, there would be an increase in global welfare of $574.0 billion.[17] Other studies present a more modest outcome predicting world net welfare gains ranging from $84 billion to $287 billion by the year 2015.[18]

Multilateral negotiations are especially important to developing countries that might otherwise be left out of a regional or bilateral trade agreement. Developing country blocs can improve trade and economic growth among its members, but the larger share of benefits are from the trade agreements that open the markets of the world. Multilateral trade negotiations are also an exercise in international cooperation and encourage economic interdependence, which offers political benefits as well.

When a country opens its markets, however, increased imports might cause economic dislocations at the local or regional level. Communities might lose factories. Workers might lose their jobs. For those who experience such losses, multilateral trade agreements do not improve their economic well-being. Also, if a country takes an action that is not in compliance with an agreement to which it is a party, it might face some form of sanction. Further, some oppose WTO rules that restrict how a country is permitted to respond to imports of an overseas product that employs an undesirable production method, for example a process that might use limited resources or impose unfair working conditions. Thus, while multilateral trade agreements have been found to offer broad economic benefits, they are opposed for a variety of reasons as well.

The Doha Agenda

Doha Round talks are overseen by the Trade Negotiations Committee (TNC), whose chair is Director-General Lamy. The negotiations are being held in five working groups and in other, existing bodies in the WTO. Selected topics under

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[16] (...continued)
Tokyo Round, U.S.-Israel FTA, U.S.-Canada FTA, NAFTA, and the Uruguay Round on the U.S. Economy. Publication 3621. August 2003.

[17] Brown, Drusilla K., Deardorff, Alan V. and Robert M. Stern. *Computational Analysis of Multilateral Trade Liberalization in the Uruguay Round and Doha Development Round.* Discussion Paper No. 489. School of Public Policy. The University of Michigan. December 8, 2002.

[18] Thomas W. Hertel and Roman Keeney, "What is at Stake: The Relative Importance of Import Barriers, Export Subsidies and Domestic Support," in Anderson and Martin, eds., Agricultural Trade Reform in the Doha Agenda (Washington: World Bank, 2005); and Kym Anderson, Will Martin, and Dominique van der Mensbrugge, "Doha Merchandise Trade Reform: What's At Stake for Developing Countries," July 2005, available at [http://www.worldbank.org/trade/wto]. The different outcomes in these studies are due substantially to differing assumptions concerning liberalization resulting from the Doha Round as well as from differences in the econometric models themselves. For example, the World Bank studies do not attempt to quantify services liberalization.

negotiation are discussed below in five groups: market access, development issues, WTO rules, trade facilitation, and other issues.[19]

Market Access

Agriculture. The Uruguay Round Agreement on Agriculture called for continued negotiations toward "...the long-term objective of substantial progressive reductions in support and protection...." By early 2001, WTO members had achieved some preliminary work in those sectoral negotiations, and later that year, agriculture was wrapped into the broader Doha agenda.

Agriculture has become the linchpin in the Doha Development Agenda.[20] U.S. goals in the new round were elimination of agricultural export subsidies, easing of tariffs and quotas, and reductions in trade-distorting domestic support. The Doha Ministerial Declaration included language on all of these three pillars of agricultural support. It stated that the members committed to "comprehensive negotiations aimed at substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade distorting support."

The course of the negotiations in the lead up to Cancun were influenced by the reform of the EU's Common Agricultural Policy (CAP). A major issue for the EU was whether or not to approve separation ("decoupling") of payments to farmers based on production. Those types of payments are among the most trade-distorting ("amber box"). On June 26, 2003, EU agriculture ministers approved a reform package that included partial decoupling for certain products. The action was seen by many as a positive step for advancing the trade negotiations.[21]

The EU reform largely addressed one of the three pillars of agricultural reform — domestic support — but did little in a second pillar — market access. In the WTO negotiations on market access, the United States and the Cairns Group support a leveling, or harmonizing, of tariff peaks, or high rates. In comparison, the EU and Japan want flexibility to cut some items less than others to arrive at an average total rate cut.

Another difficulty is "geographical indications," or the protection of product names that reflect the original location of the product. An example is the use of "Bordeaux wine" for wines from the Bordeaux region only. Europeans, joined by India and some other countries, want a mandatory registry of geographical indications that would prevent other countries from using the names. The United States and

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[19] For a detailed 'state of play' of the DDA following the Hong Kong Ministerial, see CRS Report RL33176, *The World Trade Organization: The Hong Kong Ministerial*, coordinated by Ian F. Fergusson.

[20] See CRS Report RL33144, *WTO Doha Round: The Agricultural Negotiations*, by Charles E. Hanrahan and Randy Schnepf.

[21] See Buck, Tobias, Guy de Jonquieres and Frances Williams. "Fischler's New Era for Europe's Framers: Now the Argument Over Agriculture Moves to the WTO." *Financial Times*. June 27, 2003.

other countries refuse to negotiate a mandatory list, but will accept a voluntary list with no enforcement power. While the EU has said that it will not accept an agriculture agreement without a geographical registry, more recently it reportedly has lowered expectations to achieving a registry for wines and spirits.[22]

Developing countries view reform in agricultural trade as one of their most important goals. They argue that their own producers cannot compete against the surplus agricultural goods that the developed countries, principally the EU and the United States, are selling on the world market at low, subsidized prices. Some African countries also are calling for an end to cotton subsidies, claiming that such subsidies are destroying markets for the smaller African producers.

The July 2004 Framework Agreement provided a basis for which to continue the agriculture talks. On domestic support, subsidies are to be reduced by means of a "tiered" or "banded" approach applied to achieve "harmonization" in the levels of support. Subsidizing countries will make a down-payment of a 20% reduction in levels of support in the first year of the agreement. Tariff reduction will utilize a tiered formula with a harmonization component, but with some exceptions for "import sensitive products." The European Union finally agreed to the elimination of export subsidies, considered a major negotiating goal of the United States.

While there was no breakthrough at the December 2005 Hong Kong Ministerial, members agreed to eliminate export subsidies, and "export measures with equivalent effect" by 2013, a date favored by the European Union (EU). Members agreed to cut domestic support programs with a three band methodology. As the largest user of domestic agricultural subsidies, the EU was placed in the highest band. The United States and Japan were placed in the second band and lesser subsidizing countries were placed in the third band. However, the actual percentage cuts that these bands represent remain subject to negotiation. Members also renewed a commitment to achieve a tariff cutting formula by April 30, 2006. This deadline was not met. In the parallel negotiations on Cotton, members agreed to eliminate export subsidies for cotton and to provide duty-free and quota-free access for LDC cotton producers by year-end 2006. Members also agreed to reduce domestic support for cotton in a more ambitious manner than for other agricultural commodities as an "objective" in the ongoing agricultural negotiations.

Talks to reach modalities proved unsuccessful at the July 23, 2006 meeting of the G-6 countries in Geneva and the negotiations were suspended thereafter. Sources of the stalemate in the Geneva talks included U.S. concerns about the magnitude of deviations from market access commitments stemming from the so-called "3-S flexibilities": sensitive products, special products, and the special safeguard mechanism. While each of these flexibilities was incorporated into the July Framework Agreement as negotiating modalities that would allow countries to exempt certain products from the banded tariff formula, the United States contends that the scope envisioned by some countries for these modalities would unacceptably

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[22] "European Commission Lowers Expectations on Geographic Indications," *Inside U.S. Trade*, October 5, 2007.

diminish the overall market access gains from the agreement.[23] Conversely, the United States was under pressure at the meeting from the EU and the G-20 group represented by Brazil and India to improve its subsidy reduction offer, but the United States put no new offer on the table. The United States insisted that it will not improve its offer on domestic subsidy reduction unless the EU improves considerably its market access offer and the G-20 countries show a willingness to open their markets not only to agricultural products but to industrial products and services as well. These dynamics continued in 2007 discussions.

The July 17 draft modality paper submitted by the WTO Agriculture committee chairman Crawford Falconer sought to address the divergent negotiating positions of the parties. Some of the headline figures include a reduction of U.S. trade-distorting domestic support of 66% or 73% for a total of $13.0-$16.4 billion and a reduction in European domestic support of 75%-85% to $22.7 billion - $38.1 billion. The Falconer draft would cut U.S. and Japanese subsidies by equal percentages, resulting in a final cap on Japan's overall trade-distorting support (OTDS) of $12.3-$15.6 billion. The United States has publicly offered a cap of $23 billion although a figure of $17 billion has also been mentioned. The EU has set a 70% reduction as its upper bound. The G-20 group of developing countries, though, has demanded a reduction yielding an $11 billion cap in U.S. OTDS.

Developed country tariffs would be cut in a tiered formula in four increments: a 66%-73% reduction for tariffs currently above 75%, a 62%-65% cut for tariffs currently between 50% and 75%, a 55%-60% cut for tariffs currently between 20% and 50% and a 48%-52% cut for tariffs between 0 and 20%. Developing countries would be able to cut 2/3 of the amount of cuts agreed by developed countries from bands with higher thresholds. Thus for the highest tariff band, developed countries would have to cut between 66% and 73% (the definitive figure is still under negotiation) from tariffs currently above 75%. Developing countries would have to cut their highest tariffs between 43.6% and 48.2% on all tariffs above 130%. The draft proposal for the top band reduction is lower than what the United States favors (85%) but greater than what the EU has put on the table (60%).

The Falconer draft also proposes that countries may designate 4-6% of their agricultural tariff lines as sensitive, and thus subject to lower cuts. Developing countries would be allowed to claim that 1/3 more tariffs lines would be considered sensitive. The draft reaffirmed the Hong Kong Ministerial commitment to eliminate export subsidies by 2013 and seeks elimination of the agriculture state trading enterprises by 2013. The draft did not address the expansion of protected geographical indication, a key European objectives, "special products" for developing countries, or contemplate an extension of the peace clause.

Subsequent to this draft, Chairman Falconer issued working papers to clarify various aspects of the export competition (November 2007), domestic support (December 2007) and market access (January 2008) pillars. These papers are designed to resolve

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[23] For specifics on these flexibilities, see CRS Report RL33144, *WTO Doha Round: The Agricultural Negotiations*, "Market Access" section.

certain technical issues in advance of a new draft modalities paper expected to be released by Chairman Falconer in early 2008.

Services. Along with agriculture, services were a part of the "built-in agenda" of the Uruguay Round.[24] The General Agreement on Trade In Services (GATS), which was concluded in that Round, directs Members to "...enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement [January 1, 1995]...[to achieve] a progressively higher level of liberalization."

Those negotiations began in early 2000. Negotiating guidelines and procedures were established by March 2001. Under the request-offer approach being used, countries first request changes in other countries' practices, other countries then respond by making offers of changes, and finally the countries negotiate bilaterally on a final agreement. The Doha Ministerial Declaration recognized the work already undertaken and reaffirmed the March 2001 guidelines as the basis for continuing the negotiations. It directed participants to submit initial requests for specific commitments by June 30, 2002 and initial offers by March 31, 2003.

The services talks are going slowly. By July 2005 the WTO had received 68 initial commitment offers representing 92 countries (the EU represents 25 members) and 24 offers remained outstanding from non-LDC members (55 if LDCs are included). Only 28 revised offers had been tendered by November 2005, although the July Framework stipulated a March 31, 2005 deadline. All members were to have submitted their initial offers by March 31, 2003. Many have also decried the poor quality of offers, many of which only bind existing practices, rather than offer new concessions and excluded some sectors entirely.

At Hong Kong, members committed to submit a second round of revised offers by July 31, 2006, and to submit a final schedule of commitments by October 31, 2006. In order to expedite the negotiating process, members also agreed to employ plurilateral requests to other members covering specific sectors and modes of supply to be completed by February 28, 2006. In response to this deadline, twenty-three plurilateral requests concerning 16 sectors and 3 modes of supply were submitted. In order to invigorate the talks, developed countries have called for the preparation of a services modalities text to complement the prospective early 2008 release of revised agriculture and NAMA texts. However, because the request/offer format for the modalities of the services talks has already been established, there is disagreement about what such a document would contain, and for some developing countries, the need for a modalities document.[25]

One area of controversy is so-called "Mode IV" services. Mode IV relates to the temporary movement of business persons to another country in order to perform a service on-site. Developing countries want easier movement of their nationals

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[24] See CRS Report RL33085, *Trade in Services: The Doha Development Agenda Negotiations and U.S. Goals*, by William H. Cooper.

[25] "Members Differ on Need for Services Text," ICTSD *Bridges Monthly*, November-December 2007, p.7 [http://www.ictsd.org/monthly/bridges/Bridges%2011-7.pdf].

under Mode IV. They claim that the services negotiations have centered on the establishment of businesses in other countries, which has been a focus of developed countries, while there has been no negotiation on Mode IV, which would help them. Developed countries, especially the United States, have opposed discussions on Mode IV services trade. Congress might oppose easier entry for business persons, based on Senate approval of a resolution (S.Res. 211) in the 108th Congress expressing the sense of the Senate that future U.S. trade agreements and implementing legislation should not contain immigration-related provisions. Mode IV services will be a difficult issue to resolve. Fifteen countries have joined a plurilateral request for Mode IV services liberalization to the United States and other developed countries.

Non-Agricultural Market Access (NAMA). In the Doha Declaration, trade ministers agreed to negotiations to reduce or eliminate tariffs on industrial or primary products, with a focus on "tariff peaks, high tariffs, and tariff escalation."[26] Tariff peaks are considered to be tariff rates of above 15% and often protect sensitive products from competition. Tariff escalation is the practice of increasing tariffs as value is added to a commodity. The talks are also seeking to reduce the incidence of non-tariff barriers, which include import licensing, quotas and other quantitative import restrictions, conformity assessment procedures, and technical barriers to trade. The sectoral elimination of tariffs for specific groups has also be forwarded as an area of negotiation. Negotiators accepted the concept of less than full reciprocity in reductions for developing and least-developed countries.

Doha negotiators agreed to reach modalities for the reduction or elimination of tariffs and non-tariff barriers by the end of May 2003. This deadline was, as were subsequent ones, not met. NAMA issues were not discussed at Cancun, and there was no agreement on the draft texts proposed for consideration at that Ministerial. The July 2004 Framework Agreement adopted the use of a non-linear tariff reduction formula applied on a line-by-line basis, (i.e. one that it can work towards evening out or harmonizing tariff levels), and the Hong Kong Ministerial did agreed to use a Swiss formula. The Ministerial did not agree on the specific equation or coefficients, but negotiators did agreed on an April 30, 2006 deadline to resolve these modalities. The Framework Agreement also agreed that tariff reductions would be calculated from bound, rather than the applied, tariff rates.

Negotiators are also grappling with the concept of "flexibility," or the nature and extent of developing country-special and differential treatment, as it relates to formula cuts. In addition to longer implementation times, the July Framework Agreement allows for less than formula cuts for a certain (undetermined) amount tariff lines, keeping a percentage of tariff lines unbound, or not applying formula cuts for an (undetermined) percentage of tariff lines (the so-called Paragraph 8 flexibilities). At Hong Kong, negotiators did agree to provide tariff-free and quota-free access for LCDs by 2008. However, this agreement provides the caveat that 3%

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[26] For a detailed account of the NAMA negotiations, see CRS Report RL33634, *The World Trade Organization: The Non-Agricultural Market Access Negotiations*, by Ian F. Fergusson.

of tariff lines can be exempted as sensitive products such as textiles, apparel, and footwear.

Both the United States and the EU have favored using sectoral tariff elimination as an alterative modality for the NAMA negotiations, but negotiations have stalled on which products to cover and the extent of participation (i.e. whether developing countries or LDCs would be able exempt themselves from commitments). As noted above, the industrial market access talks also encompass negotiations on the reduction of non-tariff barriers (NTBs). No agreements have been reached on what modalities are to be used in negotiating reductions of NTBs.

The April 30, 2006 deadline, like so many before, was breached without agreement on the NAMA formula or on other issues. The end of June Geneva summit also failed to reach agreement on NAMA modalities. The United States, Canada, and Switzerland proposed a 5 percentage point differential between the Swiss formula coefficients of developed and developing countries, which is consistent with the EU proposal of a 10 coefficient for developed countries and a 15 coefficient for developing countries. A group of developing countries known as the NAMA-11 proposed that the differential should be at least 25 percentage points.[27] The NAMA talks are being linked more and more to the agricultural talks, with some movement on one becoming increasingly necessary on the other. Developing countries have been unwilling to commit on NAMA without agreement on agriculture, but now some developed countries are tying further agriculture progress to NAMA. This linkage has come be known as the "exchange rate" between the two negotiations. A G-4 meeting in Potsdam, Germany faltered in part over the rejection by Brazil of a U.S. proposal of a 10-25 spread for developed and developing country coefficients, a proposal that was a clear break from either country's stated positions.[28]

A draft modality paper was released on July 17, 2007 authored by Don Stephenson, the NAMA negotiating chairman. This paper sought to reconcile the positions of the parties to move the negotiations forward. As such, it faced mostly criticism from the diverse negotiating groups. For the Swiss tariff reduction formula, it called for a coefficient of 8-9 for developed countries and 19-23 for developing countries. These figures closely tracked a proposal put forth by several developing countries as an alternative to the NAMA-11 and U.S.-EU positions above. The draft also adopted the parameters of the July framework Paragraph 8 flexibilities that would allow for less than formula cuts for up to 10% of developing countries' tariff lines or exclusion of 5% of such tariff lines from any cuts. The draft did not make proposals concerning sectoral tariff reductions, non-tariff barriers, or tariffs on environmental goods. While the U.S. and the EU criticized the ambition of the draft, developing countries in various degrees criticized both the spread between tariff cuts for developed and developing countries and what developing countries consider the imbalance in ambition between NAMA and the agriculture talks. Despite ongoing negotiations during the fall of 2007 in Geneva, little has been resolved.

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[27] Bridges Weekly Trade News Digest, Special Update, July 3, 2006.

[28] "G-4 Ministerial Talks Collapse; U.S., EU Blames Brazil and India over NAMA," *Inside U.S. Trade*, June 22, 2007.

Development Issues

Three development issues are most noteworthy. One pertains to compulsory licensing of medicines and patent protection. A second deals with a review of provisions giving special and differential treatment to developing countries. A third addresses problems that developing countries were having in implementing current trade obligations.

Access to Patented Medicines. A major topic at the Doha Ministerial regarded the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).[29] The issue involves the balance of interests between the pharmaceutical companies in developed countries that held patents on medicines and the public health needs in developing countries. Before the Doha meeting, the United States claimed that the current language in TRIPS was flexible enough to address health emergencies, but other countries insisted on new language.

Section 6 of the Doha document *Declaration on the TRIPS Agreement and Public Health* (TRIPS Declaration), recognized that "...WTO Members with insufficient or no manufacturing capabilities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement." In Section 6, the trade ministers instructed the WTO TRIPS Council "...to find an expeditious solution to this problem and to report to the [WTO] General Council before the end of 2002."

On December 16, 2002, then-TRIPS Council chairman Eduardo Perez Motta produced a draft that would allow countries that lack the manufacturing capacity to produce medicines to issue compulsory licenses for imports of the medicines. All WTO members approved of the chairman's draft except the United States. The U.S. position, representing the interests of the pharmaceutical industry, was that the chairman's draft did not include enough protections against possible misuse of compulsory licenses. The United States sought a limit on the diseases that would be covered by the chairman's text, but other countries refused this initiative. The United States decided to oppose the chairman's draft and unilaterally promised not to bring a dispute against any least-developed country that issued compulsory licenses for certain medicines.

One concern of the pharmaceutical industry was that the medicines sent to the developing country might be diverted instead to another country. To address this problem, it was suggested that the medicines be marked so that they can be tracked. Another concern was that more advanced developing countries might use the generic medicines to develop their own industries. For this problem, it was proposed that countries voluntarily "opt-out," or promise not to use compulsory licensing.

On August 30, 2003, WTO members reached agreement on the TRIPS and medicines issue. Voting in the General Council, member governments approved a decision that offered an interim waiver under the TRIPS Agreement allowing a

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[29] See CRS Report RL33750, *The WTO, Intellectual Property Rights, and the Access to Medicines Controversy*, by Ian F. Fergusson.

member country to export pharmaceutical products made under compulsory licences to least-developed and certain other members. An accompanying statement represented several "key shared understandings" of Members regarding the Decision, including the recognition that the decision should be used to protect public health and not be an instrument to pursue industrial or commercial policy objectives, and the recognition that products should not be diverted from the intended markets. The statement listed a number of countries that either agreed to opt out of using the system as importers or agreed that they would only use the system in national emergencies or extreme urgency. At the 2005 Hong Kong Ministerial, members agreed to a permanent amendment to incorporate the 2003 Decision, which will become effective when it is ratified by two-thirds of the member states. To date, 38 countries (including the 27 members of the EU) have ratified the agreement.

Special and Differential (S&D) Treatment. In the Doha Ministerial Declaration, the trade ministers reaffirmed special and differential (S&D) treatment for developing countries and agreed that all S&D treatment provisions "...be reviewed with a view to strengthening them and making them more precise, effective and operational." In the Declaration, the trade ministers endorsed the work program on S&D treatment presented in another Doha document, *Decision on Implementation-Related Issues and Concerns* (Implementation Decision). That document called on the WTO Committee on Trade and Development to identify the S&D treatment provisions that are already mandatory and those that are non-binding, and to consider the implications of "...converting [S&D] treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002." It also called for the Committee on Trade and Development "to examine additional ways in which S&D treatment provisions can be made more effective, to consider ways...in which developing countries...may be assisted to make best use of [S&D] treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002."

The negotiations have been split along a developing-country/developed-country divide. Developing countries wanted to negotiate on changes to S&D provisions, keep proposals together in the Committee on Trade and Development, and set shorter deadlines. Developed countries wanted to study S&D provisions, send some proposals to negotiating groups, and leave deadlines open. Developing countries claimed that the developed countries were not negotiating in good faith, while developed countries argued that the developing countries were unreasonable in their proposals. At the December 2005 Hong Kong Ministerial, members agreed to five S&D provisions for LDCs, including the tariff-free and quota-free access for LDC goods described in the NAMA section.

Implementation Issues. Developing countries claim that they have had problems with the implementation of the agreements reached in the earlier Uruguay Round because of limited capacity or lack of technical assistance. They also claim that they have not realized certain benefits that they expected from the Round, such as increased access for their textiles and apparel in developed-country markets. They seek a clarification of language relating to their interests in existing agreements.

Before the Doha Ministerial, WTO Members resolved a small number of these implementation issues. At the Doha meeting, the Ministerial Declaration directed a two-path approach for the large number of remaining issues: (a) where a specific negotiating mandate is provided, the relevant implementation issues will be addressed under that mandate; and (b) the other outstanding implementation issues will be addressed as a matter of priority by the relevant WTO bodies. Outstanding implementation issues are found in the area of market access, investment measures, safeguards, rules of origin, and subsidies and countervailing measures, among others.

Trade Facilitation

The first WTO Ministerial Conference, which was held in Singapore in 1996, established permanent working groups on four issues: transparency in government procurement, trade facilitation (customs issues), trade and investment, and trade and competition. These became known as the Singapore issues. This issues were pushed at successive Ministerials by the European Union, Japan and Korea, and opposed by most developing countries. The United States was lukewarm about the inclusion of these issues, indicating that it could accept some or all of them at various times, but preferring to focus on market access.

In 2001, the Doha Ministerial Declaration called for further clarification to be undertaken on the four Singapore issues before the 5th Ministerial in 2003 (at Cancún), and for negotiations will take place on the basis of a decision to be taken *by explicit consensus* [italics added] at the 5th Ministerial. At Cancún, deadlock over the Singapore issues was a contributing factor in the breakup of that summit. After further negotiations during 2004, a compromise was reached in the July 2004 Framework Agreement: three of the Singapore issues (government procurement, investment, and competition) were dropped and negotiations would begin on trade facilitation.

Trade facilitation aims to improve the efficiency of international trade by harmonizing and streamlining customs procedures such as duplicative documentation requirements, customs processing delays, and nontransparent or unequally enforced importation rules and requirements. Although negotiations are still in their infancy, the talks have thus far revolved around the scope and obligations of the new disciplines. The scope has thus far revolved around proposals dealing with freedom of transit, fees and formalities, and administrative transparency. Discussions have also occurred concerning the technical assistance and trade capacity building needed by developing countries to implement any subsequent agreement. Developed countries, including the United States and the European Union, favor the negotiation of a concrete rules-based system with appropriate accountability, while some developing countries prefer optional guidelines with “policy flexibility.”

Although negotiations have proceeded in a constructive manner, no major breakthroughs in trade facilitation were announced in Hong Kong and the Ministerial declaration did not agree on a date for beginning text-based negotiations. No negotiating document has, thus far, been tendered.

WTO Rules

Rules Negotiations. The Doha Round negotiations included an objective of "clarifying and improving disciplines" under the WTO Agreements on Antidumping (AD) and on Subsidies and Countervailing Measures (ASCM).[30] The United States sought to keep negotiations on trade remedies outside of the Doha Round, but found many WTO partners insistent on including them for discussion. U.S. negotiators did manage to insert language asserting that "...basic concepts, principles and effectiveness of these Agreements and their instruments and objectives" would be preserved. However, Congressional leaders were highly critical of this concession by U.S. trade negotiators.[31]

The Doha Ministerial Declaration also calls for clarifying and improving disciplines on fisheries subsidies, and both the Ministerial Declaration and the Implementation Decision have special provisions on trade remedies and developing countries. In addition to trade remedies, the Declaration calls for clarifying and improving WTO disciplines and procedures on regional trade agreements.

The Declaration identified two phases for the work on trade remedies: "In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase." No deadlines were set for these phases. So far, countries are still essentially in the first phase.

The United States has primarily been on the defensive in the rules talks. Many countries have attacked the use of antidumping actions by the United States and other developed nations as disguised protectionism. However, many developing countries are now using antidumping actions themselves, which may goad some countries to reexamine the necessity for discipline. Most of the proposals on trade remedies focus on providing more specificity or restrictions to the AD/ASCM Agreements in terms of definitions and procedures. Yet, no agreements have been reached, even on what is to be negotiated.

The leading proponents of such changes have been a group of 15 developed and developing countries known as the "Friends of Antidumping" (Brazil, Chile, Colombia, Costa Rica, Hong Kong, Israel, Japan, Mexico, Norway, Singapore, South Korea, Switzerland, Taiwan, Thailand, and Turkey; though not all countries sign onto every proposal). They have made numerous proposals, and in essence their proposals would reduce the incidence and amount of duties. Many of their proposals would require a change in U.S. laws. Although the EU is a major user of trade remedies and not a member of the "Friends" group, it has agreed with some of the group's proposals.

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[30] See CRS Report RL32810, *WTO: Antidumping Issues in the Doha Development Agenda*, by Vivian C. Jones.

[31] "Zoellick Stance on Trade Remedy in WTO Provokes Criticism." *Inside U.S. Trade*. November 13, 2001.

The United States itself has sought some changes in the WTO rules, submitting papers on antidumping proposals on issues such as transparency, foreign practices to circumvent a duty order, and the WTO standard used by dispute panels in reviewing national applications of trade remedy laws. The United States also has submitted proposals on subsidies, such as expanding a list of prohibited subsidies and imposing disciplines on support to sales of natural resources. The United States and the EU support limits on fisheries subsidies, but Japan strongly opposes such limits.

The Rules negotiations Chair, Guillermo Valles Galmés, released a draft modalities paper on November 30, 2007. A key feature of this draft was language allowing the use of zeroing in certain antidumping (AD) calculations.[32] The draft is widely seen as a concession to the United States, the only country that now employs the zeroing methodology, which has faced several adverse Appellate Body decisions over the practice. While the United States expressed disappointment that the text did not go far enough in legitimizing the practice, several countries including the "Friends of Antidumping" group and others were harshly critical of the draft text as rolling back Appellate Body decisions on zeroing.[33] Meanwhile, House Ways and Means Chair Rangel, Trade Subcommittee Chair Levin, Senate Finance Chair Baucus and Senator Rockfeller wrote to USTR Schwab charging that the draft text would violate language in trade promotion authority to avoid agreements that would weaken U.S. antidumping and unfair trade remedy legislation.[34]

Dispute Settlement. At the end of the Uruguay Round, trade ministers called for a full review of WTO dispute settlement rules and procedures within four years after entry into force of the agreement establishing the WTO. That deadline, January 1, 1999, passed without a review being completed.[35]

At Doha, trade ministers continued to call for a review of dispute rules. The Ministerial Declaration directed that negotiations be held on improvements and clarifications of the Dispute Settlement Understanding (DSU). They stated that the negotiations should be based on work done so far and on any additional proposals. They set a deadline of May 2003. They directed that these DSU negotiations would be separate from the rest of the negotiations and would not be a part of the single undertaking.

Members are examining nearly all of the 27 Articles in the DSU. In early April 2003, the chair of the working group circulated a framework document that included

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[32] In determining dumping margins, zeroing refers to a calculation whereby only goods sold in the export market at less than the domestic market price are counted; goods sold in the export market at higher than domestic price are assigned a value of zero, thus tending to increase the dumping margin.

[33] "U.S. Defends Rules Language on Zeroing," *Washington Trade Daily*, December 13, 2007.

[34] "Key Democrats, Administration Lay Out Objections to Rules Text," *Inside U.S. Trade*, December 14, 2007.

[35] See CRS Report RS20088, *Dispute Settlement in the World Trade Organization: An Overview*, by Jeanne Grimmett.

over 50 proposals. There was some dissatisfaction that the document needed more focus. On May 16, 2003, the chair issued another text that was accepted by most countries. The United States and the EU favored additional reforms that were not a part of the text. For example, the United States has called for open public access to proceedings, and the EU had sought a roster of permanent dispute panelists.

Environment. The Ministerial Declaration included several provisions on trade and environment. Among the provisions, the trade ministers agreed to the following: (1) negotiations on the relationship between existing WTO rules and trade obligations in multilateral environmental agreements (MEAs); (2) procedures for the exchange of information between MEA Secretariats and WTO committees, and the criteria for granting observer status; and (3) the reduction or elimination of trade barriers to environmental goods and services.

On November 30, 2007, the United States and the European Union unveiled a two-tiered tariff elimination proposal. The first tier would be the elimination on tariffs on 43 goods and services directly related to climate change mitigation such as wind-turbine parts, solar collectors, and hydrogen fuel cells. All countries would be obliged to take on this mandate, although certain phase-in periods are contemplated for developing and least-developed countries. The second phase would be the creation of a plurilateral Environmental Goods and Services Agreement (EGSA) that would liberalise 153 additional environmental-related goods and services among developed and advanced developing countries. However, this proposal has been criticized by several developing countries. Brazil has decried the omission of biofuels from the list, as well as biofuel production equipment. India has questioned the inclusion of 'dual-use' goods, those that also have non-environmental uses.[36]

Congressional Role

Although the executive branch conducts trade negotiations in the WTO, the Congress has constitutional responsibility for regulation of U.S. foreign commerce. As part of this constitutional role, Congress conducts oversight of the negotiations. Oversight might be in the forms of hearings or meetings with executive branch officials. Members often communicate their positions through public statements and letters. In the spring of 2007, for example, a bipartisan group of 58 Senators wrote to President Bush to caution against further concessions in the agricultural talks and to press for increased market access for U.S. farm exports.[37]

Trade Promotion Authority expired on July 1, 2007. In the Trade Act of 2002 (P.L. 107-210), Congress prescribed trade objectives for U.S. negotiators in the Doha Development Agenda and in other trade negotiations. These objectives gave

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[36] "EU, US Call for Eliminating Trade Barriers to Climate-Friendly Goods and Services," *Bridges Weekly*, December 5, 2007 (www.ictsd.org); "U.S.- EU Environmental Goods, Services Proposal Faces Stiff Opposition," *Inside U.S. Trade*, December 7, 2007.

[37] Letter to President Bush, April 12, 2007, [http://finance.senate.gov/press/Bpress/2007press/prb041607a.pdf].

direction to negotiators on U.S. priorities. Congress also outlined requirements that the executive branch must meet, as a condition for expedited procedures for legislation to implement trade agreements, including those reached in the Doha Development Agenda. Among the conditions for expedited legislative procedures, the executive branch must consult with Congress at various stages of the negotiations, notify Congress before taking specified actions, and submit reports as outlined. Expedited procedures would apply to any trade agreement entered into (signed) before July 1, 2005. A two-year extension to that deadline was written in to the 2002 Act if the President requested the extension and Congress did not disapprove it. This request was requested by the President on March 30, 2005, and Congress took no action to disapprove it by the June 30, 2005 deadline. Thus, TPA was extended until July 1, 2007, when it expired. The Administration may ask the 110th Congress to renew or extend TPA to consider a future Doha Round agreement. Congress may use such a request as an opportunity to assess the prospects for completion of a Doha Round agreement and to evaluate the Administration's compliance with Congress' trade negotiating objectives as set forth in the original TPA.

If agreements are reached at the end of the negotiations, Congress will face a decision on whether to approve statutory changes to implement those agreements. If all requirements are met by the executive branch, and unless Congress decides otherwise, the trade agreements will be considered under trade promotion procedures (fast-track procedures). Under those procedures, an implementing bill is automatically introduced, considered in committee and on the floor under specified deadlines, and not amendable. As the negotiations progress, Congress will also likely hold oversight hearings to gauge the progress in the negotiations.