WHITE & CASE

August 2008

Japan External Trade Organization

WTO and Regional Trade Agreements Monthly Report

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United States

United States Highlights

CBP Announces Grace Period for 2008 Softwood Lumber Act Provisions

On August 18, 2008, US Customs and Border Protection (CBP) announced a 30-day grace period for the implementation of reporting requirements included in the Softwood Lumber Act of 2008 ("the Act"). Although the Act's data collection provisions were scheduled to take effect on August 18, 2008, a delay in publishing an interim rule implementing the Act prompted CBP to reschedule data collection to begin on September 18, 2008. In its announcement, CBP clarified that, "as a result of the delayed implementation, importations of softwood lumber subject to the Softwood Lumber Act of 2008 made between August 18 and September 17, 2008 will not be rejected based on any Softwood Lumber Act of 2008 requirements. In addition, entries of softwood lumber subject to the [A]ct made between August 18 and September 17 will not be amended or supplemented to provide the three new data elements."

The Softwood Lumber Act of 2008 was included in Title III (Trade), Subtitle D, Section 3301 of the 2008 Farm Bill (H.R. 6214). The 2008 Farm Bill, including the Act, became law (P.L. 110-246) on June 18, 2008 following a Congressional override of President Bush's veto. The provisions of the Act are as follows:

- **New Importer Declaration Program.** Section 803 of the Act establishes a softwood lumber importer declaration program, applicable to importers of both softwood lumber and specified softwood lumber products. Importers of relevant products are required to provide and declare in electronic record format the following information at the time the product enters into the United States: (i) the export price for each shipment of softwood lumber or specified product; and (ii) the estimated export charge applicable to the shipment, if any. Importers are also required to declare that "subsequent to an appropriate inquiry and to the best of the importer's knowledge the export price of the softwood lumber or softwood lumber product has been calculated in a manner consistent with the export permit granted by the country of export." The importer must also declare that all export charges have been paid or are committed to be paid, "in accordance with the volume, export price, and export charge

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rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States."

- **Ad Valorem Export Charges.** Under the Act, the Under Secretary for International Trade of the Department of Commerce is to determine on a monthly basis any *ad valorem* export charges to be collected by a country of export from exporters of softwood lumber or softwood lumber products, so as to ensure compliance with any international agreement between that country and the United States. These determinations are to be published immediately, primarily on the US Department of Commerce International Trade Administration (ITA) website.
- **Reconciliations.** The US Secretary of Treasury is in charge of conducting reconciliations to ensure the proper implementation and operation of international agreements with countries trading softwood lumber and relevant products. The Secretary (through Treasury Department staff) is to reconcile the export price declared by a US importer and the export price reported by the exporting country, or the revised export price reported by the exporting country if appropriate.
- **Verifications.** The Secretary of Treasury will periodically verify the declarations of US importers, determining whether: (i) the export price declared by a US importer equals the price listed on the export permit issued by the country of export; and (ii) the estimated export charge declared by the US importer is consistent with the determination published by the Under Secretary for International Trade.
- **Penalties.** Penalties are established for knowing violations of the title, including a USD 10,000 per-violation fine. In determining the amount of such a penalty, consideration is to be given to "any history of prior violations of this title." Penalties may be assessed only after the presumed violator has been notified and permitted to make statements with regard to the violation.
- **Reports.** The President of the United States will deliver semiannual reports to the Senate Finance Committee and the House Ways and Means Committee, describing reconciliations and verifications undertaken, penalties imposed, patterns of noncompliance, and any problems or obstacles encountered in implementing or enforcing the Act. The Secretary of Commerce will provide the Senate Finance Committee and the House Ways and Means Committee semiannual reports on any subsidies of softwood lumber or relevant products provided by countries of export. In addition, the Government Accountability Office (GAO) is to submit within 18 months to the Senate Finance Committee and the House Ways and Means Committee a report on the effectiveness of reconciliations and verifications undertaken under the Act, as well as a report on whether exporting

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countries are in compliance with their international agreements with the United States within 12 months.

The softwood lumber provisions of the Farm Bill provoked strong reaction from supporters and opponents earlier this year when the provisions appeared in Congress' conference report on the 2008 Farm Bill. At the time, the US Coalition for Fair Lumber Imports welcomed the announcement of these measures and commended Senators Max Baucus (D-MT), Olympia Snowe (R-ME), and Saxby Chambliss (R-GA) for their efforts to "maintain the competitiveness of US lumber producers." The Government of Canada opposed the measure; the National Association of Homebuilders joined Senators John Kyl (R-AZ) and Jim DeMint (R-SC) and Representative Roy Blunt (R-MO) in an unsuccessful attempt to remove the provisions from the 2008 Farm Bill.

ITC Highlights US Developments, Trends in 2007 Review Report

In July 2008, the United States International Trade Commission (ITC) published a report entitled *The Year in Trade 2007: Operations of the Trade Agreements Program*. In its report, the ITC reviewed broad economic conditions in the United States and trends between the United States and its major trading partners in 2007. The report also addresses trade preference programs and Free Trade Agreements (FTAs), key developments within US trade law and regulation, and dispute settlement action before the World Trade Organization (WTO). We review below several developments and trends included in the ITC's report.

The full text of *The Year in Trade 2007: Operations of the Trade Agreements Program* can be found at: **http://hotdocs.ITC.gov/docs/pubs/year_in_trade/pub4026.pdf**.

I. General Overview of US Economy

According to the report, the US economy grew in 2007, though more slowly than in preceding years. Boosted by the depreciation of the US dollar against currencies including the Canadian dollar, the euro, the Chinese yuan, and the Japanese yen, US exports – especially of machinery and transport equipment, chemical products, food and live animals, and crude materials – increased by 13 percent to USD 1,046 billion in 2007. US imports rose less quickly during the same period, only 5 percent. The US surplus in services trade expanded to USD 106.9 billion for 2007, led by business, professional, technical, insurance, and financial services.

II. US Trade with Major Partners

The United States' 2007 trade deficit reflected bilateral deficits with a number of major trading partners:

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- The European Union, second-largest regional trading partner to the United States, exported USD 352.2 billion in medical goods, passenger cars, petroleum derivatives, and nucleic acids and their salts, but imported only USD 226.3 billion of US merchandise in 2007, primarily aircraft and aircraft parts, medical goods, passenger cars, blood fractions, and gold.
- China, the largest single-country US trading partner, exported USD 323.1 billion in consumer goods including computers, wireless telephones, toys, video games, and footwear to the United States. The United States exported USD 61.0 billion in merchandise, mostly airplanes, soybeans, circuits, and metals, to China. Bilateral trade relations focused on intellectual property rights (IPR) enforcement, product safety and market access in China.
- Mexico imported USD 119.4 billion in goods from the United States, mostly machinery and transportation equipment. The United States received USD 210.2 billion in Mexican imports, including crude oils and motor vehicles.
- Japan exported USD 144.9 billion in goods, primarily motor vehicles and their parts, printing machinery, and technology equipment, to the United States; the United States, in turn, exported USD 58.1 billion worth of airplanes, helicopters, semiconductor and circuit machinery, soybeans, and other goods to Japan. Bilateral discussions under the US-Japan Economic Partnership for Growth focused on US beef exports to Japan and deregulation of the Japanese economy.
- India received USD 16.3 billion in US goods, including aircraft, fertilizers, nonindustrial diamonds, and nonmonetary gold, whereas the United States imported USD 23.9 billion of non-industrial diamonds, jewelry and previous metals, women's apparel, and other goods.

III. US FTAs

The report notes that as of December 31, 2007, the United Sates was party to nine FTAs, covering USD 999 billion in two-way trade. Despite a general merchandise trade deficit with its FTA partners, the United States enjoyed a merchandise surplus with Australia, Morocco and Singapore in 2007. The United States also sought to expand its network of FTAs in 2007: Congress ratified the US-Peru Trade Promotion Agreement (TPA) and President Bush signed the implementing legislation in December 2007, though the agreement has yet to enter into force. Trade officials further hoped a deal between Congress and the Administration reached in May 2007 would spur Congressional approval of pending FTAs with Colombia, Panama and South Korea by bringing core labor and environmental standards into pending and future trade agreements. To date, these three agreements have not been ratified.

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IV. Preference Programs

Preferential trade programs permitted the duty-free entry of billions of dollars of imports to the United States in 2007. According to the ITC, the Generalized System of Preferences (GSP) brought USD 30.8 billion of duty-free imports to the United States in 2007, with Angola, India, Thailand, Brazil, and Indonesia the principal beneficiaries. Under the African Growth and Opportunity Act (AGOA), 39 sub-Saharan African countries imported USD 42.3 billion in goods to the United States duty-free in 2007, an increase of 17 percent from the previous year. The ITC reported that the increase in petroleum prices drove the increased value of AGOA imports, as approximately 95 percent of imports under AGOA are petroleum-related products. Under the Andean Trade Preference Act (ATPA), Bolivia, Colombia, Ecuador, and Peru imported USD 12.3 billion duty-free to the United States in 2007, a number which fell from 2006 mainly due to decreased petroleum production. The Caribbean Bain Economic Recovery Act (CBERA) accounted for USD 5.5 billion in duty-free and reduced-duty imports to the United States in 2007, principally mineral fuels, methanol, and apparel products. Though CBERA imports declined from 2006, this was due to the reclassification of five of a total 24 country participants into other US trade programs.

V. Other Issues

The report states that the ITC relied on various laws and regulations in enforcing national trade interests in 2007, pursuing Section 301 action against a European Union (EU) meat hormone directive; Special 301 concerns relevant to IPR protection and enforcement in China and Russia; Section 337 investigations of patent infringement; 33 new antidumping (AD) investigations, particularly against China; and 7 new countervailing duty (CVD) investigations. That same year, the ITC also completed 74 sunset reviews of existing AD and CVD orders and cooperated with the Department of Labor on the issuance of 1,427 petitions for Trade Adjustment Assistance (TAA). In addition, the United States joined other Member States in utilizing WTO dispute settlement mechanisms in 2007, filing a total of 13 requests for consultation and establishing 13 new settlement panels. The United States acted as respondent in two matters (DS350, DS365) and complainant in four disputes (DS358, DS360, DS362, DS363), but settled a dispute with China (DS358) by mutual agreement.

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Multilateral

Doha Ministerial Meeting Collapses Under Weight of Differences on Agriculture

Summary

From July 21-29, 2008, World Trade Organization (WTO) Members gathered in Geneva for a Ministerial meeting on the Doha Round. WTO Director-General Pascal Lamy convened the Ministerial meeting in an effort to get WTO Members to reach an agreement in the contentious negotiating sectors of Agriculture and Non-Agricultural Market Access (NAMA), although Members did also discuss Services in a "signaling" conference. At the onset of the Ministerial meeting, observers had predicted that Members could reach an agreement on Agriculture and NAMA, a prediction bolstered by a July 25 compromise on the two sectors that Members of the Group of Seven (G-7) countries reached. However, by July 29, 2008, it seemed that the Ministerial meeting had collapsed over the issue of Agriculture. We review herein the Ministerial meeting, the reasons for its collapse and any possible next steps.

Analysis

I. Background

The Doha Ministerial meeting came on the heels of the July 10, 2008 release of the latest revised versions of the Agriculture and NAMA draft modalities texts. At the release of the latest versions of the negotiating texts, Lamy stated that the new documents – from Agriculture Negotiating Group Chair Crawford Falconer and NAMA Committee Chair Don Stephenson – "set the stage for a decisive moment in the Doha Round" and for the July 21 Ministerial meeting. Lamy urged WTO Members to use the revised texts to reduce the gaps present in the Agriculture and NAMA talks, and observers opined that in order for Members to complete a Doha round package by the end of 2008, they would have to agree to Agriculture and NAMA modalities during the July Ministerial meeting.

Just prior to the Ministerial meeting, observers began predicting that WTO Members could potentially reach an agreement on Agriculture and NAMA. Some of these predictions may have stemmed from a statement by United States Trade Representative (USTR) Susan Schwab that the United States would accept a cap of USD 15 billion on trade-distorting agricultural subsidies, an improvement from the USD 17 billion cut the United States was willing to make in its last proposal. Although the response to the US proposal was largely quiet, observers opined that a US proposal made so early during the Ministerial

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meeting could indicate its willingness to be more flexible in the negotiations, a willingness that could perhaps enable other WTO Members to present new proposals of their own.

II. Ministerial Meeting Developments: Day-by-Day

We review herein major developments in the Ministerial meeting, broken down day-by-day:

- **July 21.** On the opening day of the Ministerial meeting, trade ministers present in Geneva indicated their political willingness to settle their differences on the Agriculture and NAMA draft modalities texts. Consultations occurred for the remainder of the day in a wide range of different forms, including "Green Room" meetings comprised of a representative group of about 30 Members.
- **July 22.** Meetings on July 22 consisted of "Green Room" talks among a representative group of ministers, although observers noted that these meetings did not produce any new ideas. Several delegations spoke at an informal Trade Negotiations Committee meeting, although observers noted that the themes raised at the Trade Negotiations Committee meeting echoed ministers' statements on the first day to conclude the Doha talks as soon as possible.
- **July 23.** On July 23, Lamy noted that "Green Room" meetings had done little to resolve Members' differences on Agriculture and NAMA, and he stated that because progress had been uneven, smaller groups of delegations would discuss a series of agriculture and industrial products topics. Lamy labeled these meetings as "variable geometry." Lamy also indicated that a Services "signaling" conference that was to occur on July 24 would be moved to July 25 to account for the lack of movement in the Agriculture and NAMA negotiations. On Agriculture, Members seemed to have been focused on overall trade-distorting domestic support for developed countries (including the new US offer to lower its proposed limit to USD 15 billion), cotton, tariff cuts for developed countries, sensitive products, and tariff quotas. On NAMA, Members seemed to have been focused on the proposed anti-concentration clause and "sectorals."
- **July 24.** According to Lamy, although ministers continued to negotiate hard, they remained far apart on certain key issues, chief among them overall trade-distorting domestic agriculture support for developed countries, top-tier agriculture tariff cuts for developed countries, the designation of sensitive agriculture products, and the agriculture "special safeguard mechanism" (SSM) which provides for temporary increases in developing country tariffs to deal with import surges or price slumps.
- **July 25.** On July 25, observers of the WTO Doha Ministerial meeting reported that the G-7 group of countries had agreed on the major elements of a tentative deal that covered almost all critical aspects

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of the modalities for Agriculture and NAMA negotiations. Ministers representing over 30 WTO Members considered the deal during a "Green Room" meeting the evening of July 25, where several Members welcomed the proposals. On Agriculture, the deal included a cut by the United States of its overall trade-distorting agriculture support to USD 14.46 billion; an overall subsidy cut of 80 percent for the EU; a provision that would allow developed countries to designate 4-6 percent of tariff lines as "sensitive products"; a provision that would allow developing countries to designate 12 percent of tariff lines as special products; and a proposed SSM for developing countries under which developing countries would be entitled to raise their existing (pre-Doha) bound rates by 15 percent if imports rose by 40 percent over the average of the preceding three years, and if domestic prices fell as a result. On NAMA, the deal included coefficients (for the Swiss formula of tariff cuts) of 20, 22 or 25 for developing countries with corresponding allowances to deviate from tariff cuts, and a coefficient of 8 for developed countries. Sources noted, however, that India and Argentina opposed elements of the Agriculture deal on special safeguard mechanism and the figures for cutting industrial tariffs within the NAMA deal, respectively.

- **July 26.** On July 26, Lamy presented the elements of the G-7 compromise to a group of 30 trade ministers, many of whom supported the compromise as a basis for negotiation. At this stage, WTO Members and observers predicted that an overall agreement in Agriculture and NAMA was within reach. Lamy and WTO Members also participated in the Services "signaling" conference (which had to be re-scheduled again from July 25 to July 26 due to the Agriculture and NAMA talks). Observers noted that Members were willing to hold the "signaling" conference because of the progress made in the Agriculture and NAMA talks. Thirty-one Members participated in the Services conference and gave indications of the improvements in Services commitments they intended to make, subject to a satisfactory conclusion of the Doha Round, and of the improvements they expected from others. Members freely discussed liberalization in almost all major service sectors, rights of establishment and the movement of natural persons. The success of the Services "signaling" conference garnered more predictions of a Doha breakthrough.

- **July 27.** Observers reported that the compromise Agriculture proposal Lamy had presented to WTO Members had not been accepted by all of the members of the G-7 group of countries. In particular, India, along with China's support, criticized the proposed SSM for developing countries, noting that the proposed trigger would not permit action until great harm had been done to the poorest agricultural producers. Several Members attempted to bring up counter-proposals, including the Group of 33 developing countries which suggested that a 10-15 percent rise in imports should serve

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as a trigger for the safeguard action. India's criticism of the SSM and WTO Members' issuance of counter-proposal seemed to have provoked anger among certain WTO Members, and trade ministers began to "point fingers" at one another and blame each other for (another) impasse in the talks.

- **July 28-29.** Although Lamy continued to schedule two more days of negotiations, the "finger pointing" did not stop, and WTO Members continued to criticize one another's Doha stances in light of the breakdown. The United States criticized India and China for "walking away" from the compromise figures Lamy had presented on July 26, and for seeking to raise their agricultural tariffs above their current bound levels vis-à-vis the SSM discussions. China criticized the United States for its protection and subsidization of sectors such as cotton and sugar. Almost all WTO Members and observers seemed to have been bewildered by the quick change in mood, and Brazil's Foreign Minister Celso Amorim described the breakdown as one over an "eminently solvable issue." Lamy gave a rough estimate of the economic cost of the breakdown, noting that "what members have let slip through their fingers is a package worth more than USD 130 billion in tariff saving annually by the end of the implementation period, with USD 35 billion saving in agriculture and USD 95 billion in industrial goods."
- **July 30.** At a closing meeting, Lamy emphasized the value of negotiating offers on the table and the need to preserve all that had been achieved in the Doha Round to date. He also stated that Members must engage in serious reflection on "next steps."

III. Breakdown Dynamics

Observers noted that although the breakdown came as a surprise, especially in light of positive movement achieved in days prior, the differences between developed and developing countries were too entrenched, thus possibly explaining the quick change in the mood of the Ministerial and the eventual breakdown. Earlier on, some developing Members had complained and criticized that Lamy's invitation-only "Green Room" meetings and other gatherings, such as the G-7 meetings, were too exclusive, and did not count on participation from all WTO Members, thus setting the stage for what could have been a "lopsided" agreement on Agriculture and NAMA. Indeed, many observers point out that several developing countries – such as India and Argentina – view that the Doha Round's overall balance favors developed countries. This stand-off between developed and developing countries – and the underlying differences and views between the two groups – perhaps partly explains why this most recent Ministerial broke down, even after some momentum in the negotiations had been achieved.

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Outlook

It is unclear where the Doha Round stands now. Although Lamy has indicated that the breakdown is not the end of the Doha Round, it is likely that WTO Members will take a long "break" from the negotiations. Although this most recent breakdown was not as dramatic as the meltdown during the Ministerial meeting in Cancun in September 2003, the repercussions are likely to be similar. It is unclear if and when Members will return to the negotiating table with the same political will they indicated during this most recent Ministerial meeting. At this stage, it is also hard to tell if any progress made in the July meetings – including in the Services sector – will be preserved for future meetings. WTO officials and Members are certainly attempting to make sense of the breakdown and preserve and continue the negotiations, but there is still no official word as to "what comes next." Some observers opine that WTO Members could resume negotiations in the Fall, although given upcoming elections and new governments in economies such as the United States, the EU and India, among others, many predict that negotiators will not seriously pick up the talks again until the beginning of 2009. If Doha negotiations are not formally picked up until early 2009, it is likely that in the interim (between September and end-2008), Lamy and others will continue to convene meetings –albeit smaller ones- in an effort to maintain any momentum left from the Ministerial meeting. It is unclear if the Agriculture and NAMA Chairs will issue revised draft modalities texts that reflect the compromise numbers Lamy presented on July 26 (minus contentious issues such as the SSM, although these may appear in square brackets), but if they do, then the issuance of such texts would also likely occur during this interim phase. As it stands now, the Doha Round has once again become a "waiting game" with no clear ending in sight, although the majority of observers now safely predict that WTO Members will certainly be unable to complete a final package of modalities by the end of 2008.

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Multilateral Highlights

Japan To Reduce Byrd Amendment Retaliation

Japanese officials have announced that on September 1, 2008, Japan will narrow the scope of its retaliation against the United States for US non-compliance with an adverse WTO ruling against US distributions of trade remedy duty collections under the Continued Dumping and Subsidies Offset Act (CDSOA, also known as the "Byrd amendment"). In making the announcement, Japanese officials stated that Japan was narrowing its retaliation because of the Byrd amendment's repeal and because CDSOA distributions are decreasing due to the repeal.

Specifically, starting September 1, 2008, Japan is reducing the ad valorem level of its retaliatory duty in addition to narrowing the scope of goods subject to the duty. Only certain US bearing products will face retaliatory duties when imported into Japan, as opposed to the broad range of bearings, steel and industrial goods currently subject to duties. The bearings that will continue to be subject to Byrd retaliation from Japan include ball bearings and tapered roller bearings. Japan, however, will drop its retaliation on other US goods such as certain flat-rolled steel products, certain printing machinery, tool holders, navigational instruments and appliances, and certain other roller bearings and parts.

The Byrd Amendment instructed the Bureau of Customs and Border Protection (CBP) to distribute duties collected in antidumping and countervailing duty cases to affected domestic producers that petitioned for such distributions. Before the Byrd Amendment was enacted in October 2000, such duties went to the general fund of the Treasury. In 2003, the WTO Appellate Body upheld a 2002 WTO panel ruling that the Byrd Amendment constituted a "non-permissible specific action against dumping or a subsidy" contrary to global trade rules (DS234). The WTO gave eight WTO Members that initiated a joint complaint against the United States (the European Union, Japan, Canada, Mexico, South Korea, Brazil, India, and Chile) the right to impose trade sanctions after the United States missed an end-of-2003 deadline for withdrawing the legislation. In February 2006, the US Congress approved legislation repealing the Byrd amendment; the legislation, however, added transitional provisions that allowed US Customs authorities to continue collecting duties for distribution under the Byrd amendment until October 1, 2007. On October 1, 2007, the Byrd Amendment was officially phased out. Observers have noted, however, that CDSOA distributions could continue for several years because CBP has failed to collect some duties, and other duties are currently under litigation.

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Brazil Requests Consultations on US Cotton Dispute Retaliation

On August 25, 2008, Brazil formally requested the chairman of the WTO Dispute Settlement Body (DSB) arbitration panel permission to restart consultations with the United States over the amount of compensation to which Brazil is entitled due to the failure of the United States to implement an adverse WTO ruling against US subsidies for cotton producers (DS267). According to various reports, Brazil has requested the right to apply retaliatory measures against the United States equal to USD 4 billion.

In its original WTO complaint, Brazil alleged that the United States had not complied with a 2004 WTO panel ruling which found that US subsidies to domestic cotton producers violated the WTO's Agreement on Subsidies and Countervailing Measures (SCM) and prejudiced the trade interests of competing Brazilian producers by depressing global prices for cotton. Brazil initiated the compliance dispute in October 2005 and stated that it would seek WTO authorization to impose annual sanctions on the United States should the Compliance Panel rule in Brazil's favor. The 2004 WTO panel decision found that price-contingent US support programs for cotton producers paid out between 1999-2002 had caused "significant" price suppression in the world market for cotton within the meaning of Article 6.3(c) of the SCM Agreement, and that these payments caused "serious prejudice" to the Brazil's trade interests. The WTO Appellate Body (AB) upheld the ruling in March 2005. The WTO gave the United States until July 1, 2005, to withdraw the support programs deemed to constitute WTO-inconsistent subsidies. The WTO also gave the United States until September 21, 2005 to remove the "prejudicial effects" of countercyclical payments, market loss payments, market loan assistance, and "Step 2" payments for cotton producers, which were found to be depressing cotton prices on the world market. On August 1, 2006, the United States eliminated its "Step 2" program. US officials have argued that the AB's March 21, 2005 ruling did not call for the outright repeal of all cotton subsidy programs, nor did it specify reducing the subsidy amounts, claiming that the WTO's instructions were only to "remedy them." Hence, US officials justified their stance that the United States has complied with the AB ruling because the outright repeal of the Step 2 program is sufficient to "remedy" the "serious prejudice" that the cotton subsidy program inflicted upon Brazil. Brazil, however, argued that the elimination of the Step 2 did not eliminate the serious prejudice to Brazilian cotton producers arising from other support programs, such as marketing loans and countercyclical and export credit guarantee programs. In June 2008, the WTO AB affirmed that US cotton subsidies continue to violate the obligations of the United States under the SCM Agreement and the Agreement on Agriculture, and upheld the rulings of a WTO "compliance" Panel that the United States had failed to implement the original (2005) WTO rulings on cotton.

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According to Brazilian officials, the WTO DSB will attempt over the next several weeks to gather the original panelists from 2005 and use them to mediate the dispute over retaliation. Brazil had hoped that the issue of US agricultural subsidies – including those for cotton – would be successfully addressed in the WTO Doha Round. However, in light of the recent failure of the Ministerial meeting and negotiations in Geneva, it seems that Brazil has turned to the WTO's dispute settlement mechanism. Brazilian analysts opine that this may be an attempt by Brazil to pressure the United States to return to the Doha Round negotiating table. Brazilian Minister of Foreign Affairs Celso Amorim has been strongly advocating for another Ministerial meeting in late September in an effort to revive the WTO talks. However, it is still unclear whether other key WTO players will buy into Brazil's push and agree to meet again in September.

Russian Officials Predict No WTO Accession for Russia in Next 12 Months

According to several sources, Russian officials have indicated their doubt that Russia will be able to fully accede to the WTO over the next 12 months. Russia's First Deputy Prime Minister Igor Shuvalov has stated that "WTO accession is in line with Russia's strategic interests, and we will do everything necessary for talks to conclude with Russia joining . . . however, for the time being, we must note that we see no prospects for WTO accession within several months or a year." Shuvalov stated that Russia will continue with the accession process, but that it would also terminate some of the trade agreements it had previously reached with the WTO. He noted that "Russia intends to notify its WTO partners about its withdrawal from accords that are in conflict with its interests" although he declined to name these agreements, adding that Russia would resume honoring the agreements only upon WTO entry.

Observers note that statements from other government officials reinforce Shuvalov's statements. On August 25, Russian Prime Minister Vladimir Putin stated at a cabinet meeting that Russia saw "no benefits [in WTO membership] if they exist at all." Putin noted that Russia should not abandon its "strategic move toward the WTO" but that Russia must ensure that its Russian agricultural producers are adequately protected, noting that although Russia has "been honoring the commitments it made during WTO accession talks years ago", it has not gained any advantages and in fact has seen certain sectors of the economy, including agriculture, become adversely affected.

United States Requests WTO Panel Regarding EU High-Technology Tariffs

On August 18, 2008, United States Trade Representative (USTR) Susan Schwab announced that the United States has requested that the World Trade Organization (WTO) Dispute Settlement Body (DSB) establish a panel to determine whether the European Union (EU) is in compliance with its WTO

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obligations in imposing tariffs on high-technology goods. The United States alleges that the EU imposes tariffs of up to 14 percent on imports of certain information technology products in violation of the WTO Information Technology Agreement (ITA).

In announcing the panel request, USTR Schwab stated that, "The EU committed to bind and eliminate duties on ITA products in its WTO tariff schedules. We believe that these duties are inconsistent with the EU's commitments on these products, and that they discourage technological innovation in the IT sector." The US panel request follows the failure of the United States and the EU to resolve their differences via WTO dispute consultations. The WTO DSB will consider the US panel request at its next meeting on August 29, 2008.

The ITA is a plurilateral agreement negotiated under the auspices of the WTO. Under the ITA, signatories (including the United States and the EU) have eliminated all import duties on a range of information technology (IT) products. The ITA provides duty-free status to six main categories of goods: computers, telecommunications equipment, semiconductors, semiconductor manufacturing equipment, software, and scientific equipment. WTO Members signed the ITA at a WTO Ministerial Conference in Singapore on December 13, 1996. The ITA went into effect on March 13, 1997.

According to USTR, in recent years, the EU has adopted a series of measures that resulted in new duties on imports of specific high-tech products. These products include cable boxes that can access the internet, flat panel computer monitors, and certain computer printers that can also scan, fax and/or copy. Although these products are included in the ITA, USTR objects to "EU claims that it can now charge duties on these products simply because they incorporate technologies or features that did not exist when the ITA was concluded." USTR alleges that the EU's imposition of tariffs on these IT products is equivalent to "taxing innovation – a move that could impair continued technological development in the information technology industry and raise prices for millions of businesses and consumers."

In the panel request, USTR alleges that the EU has violated: (i) Article II of the General Agreement on Tariffs and Trade (GATT), which prohibits contracting parties from imposing duties or charges other than those included in their schedules; and (ii) Article X of the GATT, which obligates WTO Members to publish regulations promptly. Specific to its second challenge, the United States argued that the EU failed to promptly publish a measure amending the "Explanatory Notes" to its Combined Nomenclature (CN). The measure stated that set-top boxes would be subject to a 13.9 percent tariff if they use an Ethernet connection or contain a hard drive. Flat-panel graphic displays would also be subject to the same 13.9 percent tariff. The United States argued that the EU enforced this measure before it was officially published on May 7, 2008 in the EU Official Journal.

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The EU has argued that it can impose duties on these specific products without violating the ITA because the changes in the technology of these products make them objectively different products; thus they fall outside of the original product categories covered by the ITA when WTO Members concluded the agreement in 1996. In a May 28, 2008 press statement, the European Commission (EC) noted that the EU has respected its ITA obligations and has indicated its willingness to reassess the current ITA product coverage to reflect new technology in a negotiation with all ITA signatories. According to the EC, the United States has refused to enter into such a negotiation. Further, the EC argued that, "Where changes in technology have given a product multiple functions . . . then these products in many cases are objectively different products falling outside of the original product categories covered by the ITA and are classified as such by the EU and others." According to the European Commission, although the United States claims this is a violation of the ITA, "Both the spirit and explicit provisions in the ITA make it clear that extension to new products to reflect technological change would not be automatic, but based on periodic review by signatories."

The IT private sector reacted positively to the announcement that the United States would continue to pursue this matter before the WTO. The Information Technology Industry Council (ITI) stated that, "As one of the most successful pro-growth, pro-innovation WTO agreements of our time, the ITA is critically important to the high-tech industry and its workers and cannot be undermined." Members of Congress, including House Ways and Means Committee Chairman Charles Rangel (D-NY) and Ways and Means Trade Subcommittee Chairman Sander Levin (D-MI), have previously expressed their support for USTR's request for consultations concerning the alleged EU violations of its ITA obligations.

Japan and Taiwan join the United States in its request for a WTO dispute settlement panel on this matter. Japan and Taiwan also requested dispute settlement consultations with the EU on this matter on May 28, 2008 and June 12, 2008, respectively.

WTO Reviews Real, Nominal Regional Trade Trends in 2007

On July 15, 2008, the World Trade Organization (WTO) published its *World Trade Report 2008: Trade in a Globalizing World*. This report, an examination of international trade and its connection to globalization, provides a review of real and nominal trade developments in 2007. We review several of the developments included in the report.

The full text of *World Trade Report 2008: Trade in a Globalizing World* can be found online at: **http://www.wto.org/english/res_e/reser_e/wtr08_e.htm**.

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I. Real Merchandise Trade and Output Developments in 2007

According to the WTO, real international trade expanded at a rate of 5.5 percent in 2007. The report states that this rate is slower than preceding years as a consequence of an economic slowdown in developed countries. Substantial regional differences in real trade growth mirrored differences in economic activity and relative currency and price changes. According to the WTO, fuel-, mineral-, and net food-exporting regions generally enjoyed improved terms-of-trade. South and Central America and the Commonwealth of Independent States (CIS) increased real imports and exports in 2007, whereas Africa and the Middle East increased their real import but not export volumes. Real import growth varied throughout Asia, as China and India boosted imports by double-digit rates and imports to Japan stagnated. North American merchandise exports rose more quickly than imports, most of which is attributed to the United States due to the depreciating US dollar. European trade performance for 2007 was atypical, as both export and import growth declined by 3.5 percent, again with strong intra-regional variation.

II. Nominal Trade Developments in 2007: Merchandise Trade

The WTO reports significant price increases for 2007: metal prices rose by 18 percent, food and beverages by 15 percent, fuels by 10 percent, and raw agricultural materials by five percent. Export prices also rose in 2007, by an average of approximately nine percent but with much higher rates for iron and steel products and chemicals. For the fourth consecutive year, manufactured goods prices were less strong than those of primary products, which particularly boosted exports from the CIS, Africa and the Middle East.

The relative value of the US dollar varied by foreign currency, with differing impacts on regional trade in goods and services. Strong depreciation of the US dollar against the Australian dollar, Canadian dollar, euro, and Russian ruble affected prices of mining products in particular; European dollar export prices rose at double-digit rates. The US dollar fell in value in India, the Philippines, and Thailand by approximately 10 percent, though only by five percent in China, Singapore, and Malaysia; the US dollar remained stable against the currencies of Japan, Hong Kong, and Taiwan, according to the WTO. The net effect of these changes means that Asian export prices were approximately half of the world average in 2007.

World merchandise exports rose by 15 percent in 2007, though inflation accounts for two thirds of this increase. Nominal regional performance differed substantially:

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- The CIS experienced the strongest nominal growth in both exports and imports in 2007, boosting regional share in world merchandise trade to its highest level since 1990;
- South and Central America, benefitting from high primary commodity prices, maintained a merchandise trade surplus;
- Europe reported a stronger increase in the dollar value of its exports in 2007 than in 2006, driven almost exclusively by dollar depreciation;
- The United States experienced a decline in import growth, although there was a strong increase of 12 percent in imports from China – the largest US import partner for the first time ever. Though US exports to Canada, Japan, and Mexico slowed, exports elsewhere rose markedly when compared to the same period in 2006: by 16 percent to Europe, by 18 percent to China, by 20 percent to South and Central America and the Middle East, and by 25 percent to Africa;
- African import growth exceeded export growth in 2007, the first time since 2002;
- Middle Eastern merchandise exports grew by 10 percent in 2007, as imports rose by 23 percent; and
- Asia's merchandise exports grew more quickly than the world average, and also outpaced regional import growth. China's total trade exceeded the combined trade of Japan and the Republic of Korea, the second and third largest merchandise traders in the region.

Developing countries expanded exports by approximately 16 percent, and imports by 18 percent, allowing these countries to claim 34 percent of world merchandise trade in 2007. Least-developed countries also boosted their share of world trade, to 0.9 percent, the highest level since 1980.

III. Nominal Trade Developments in 2007: Commercial Services Trade

World commercial services trade rose by 18 percent in 2007, reflecting growth in all regions and all three services categories – transport, travel and "other commercial services." According to the report, exchange rate movements and increased transportation fuel costs accounted for much of this growth. Other commercial services experienced the strongest sectoral growth at 19 percent:

- Europe, the leader in world services trade, boosted both imports and exports of commercial services in 2007;
- The CIS recorded the highest regional growth in exports and imports of commercial services, but retains the smallest share by region;
- Asian commercial services trade increased in 2007, with substantial regional variation;

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- North America experienced the weakest growth in commercial services trade, and the United States experienced low growth of services imports, only nine percent, whereas commercial services exports grew at 14 percent to boost the United States' services surplus to USD 120 billion; and
- Increased travel raised South and Central America's commercial services imports at a higher rate than exports in 2007.

World Bank Highlights Trade Trends in 2008 Indicators Report

In June 2008, the World Bank published a report entitled *World Trade Indicators 2008: Benchmarking Policy and Performance.* In its report, the World Bank reviewed trends in trade policy over the last decade, specifically trends pertaining to developing and low-income countries. The report calls for a trade reform agenda to "rationalize" tariff peaks, reduce overall tariff levels and tariff escalation to protect special goods, liberalize services trade, and improve conditions that will expand trade and its gains. We review several developments and trends noted in the World Bank report.

The full text of *World Trade Indicators 2008: Benchmarking Policy and Performance* can be found at: **www.worldbank.org/wti2008**.

I. Trade Policy

The World Bank reports that most favored nation (MFN) tariff rates averaged 9.4 percent in 2007, whereas low-income countries applied an average 11 percent MFN tariff. Developing countries and regions have varied widely in their trade policy performance in the past decade, though average MFN applied tariffs fell 46 percent. According to the report, the East Asia Pacific (EAP) and South Asia (SAS) regions improved most by reducing average MFN tariffs approximately 50 percent in the past decade, although the Europe and Central Asia (ECA) region maintains the lowest average tariff at seven percent. The report states that 31 countries have bucked the trend toward liberalization by raising tariffs levels since the early 2000s. The report notes that tariff reform is tied to fiscal policy in many developing countries, as their governments often rely on tariffs to generate revenue to a greater extent than do developed countries.

The report also states that tariff trends do not address nontariff barriers, which are generally more restrictive in high-income countries and tend to target sectors of interest to developing-country exporters, such as agriculture, according to the World Bank. According to the report, export barriers are relatively higher for finished products than unfinished products, a particular concern of developing countries. Barriers also remain high in services trade, as low-income countries have made few commitments to

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liberalize this sector. According to the World Bank, nontariff barriers vary by region but are difficult to measure as current information on these policies may not always be available.

II. Market Access

According to the report, whereas many developing country exports are granted duty-free access to markets under trade preferences, free trade agreements (FTAs), customs unions (CU), or “MFN-0” tariff levels, weighted average tariff rates and restrictions vary by region, country income, and product country groups. The Middle East and North Africa (MNA) enjoy the highest percentage of exports at the MFN-0 tariff level, as well as the lowest applied tariff rates, including preferences. The report states that the sub-Saharan Africa (SSA) and SAS regions face the least favorable market access, and are the regions sending the lowest proportion of exports to countries with which they have established an FTA or CU.

III. Trade Performance

Despite global trade growth of 7.7 percent in 2007, the report noted that trade growth slowed in developing countries in 2007 – a change since the early 2000s, when developing countries led global trade growth. After leading for several years, global growth in services exports has slowed to a rate lower than that of merchandise exports. The report notes that the composition of global trade has also shifted in the past decade, as agriculture declined and manufacturing and mining grew in importance; all in all, services trade has remained stable as share of trade over the period.

The report states that trade growth has fostered increasing integration of the global economy, with smaller economies exhibiting greater integration than larger countries. In addition, a number of countries have diversified their export structures in order to minimize risk associated with volatile demand and supply conditions. The World Bank reports that higher income countries are the most diversified, whereas the most specialized countries tend to have abundant mineral resources or to be small island economies.

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