

**House Committee on Ways and Means
Subcommittee on Trade**

Hearing on the Future of the World Trade Organization

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EXECUTIVE SUMMARY

The United States, a leader in global trade liberalization, has actively promoted and supported the World Trade Organization (WTO) throughout the course of its ten and a half years of existence. Although the WTO Agreement offers unprecedented opportunities for companies in the U.S. to access new markets, in the U.S.' ten years of experience, many of those opportunities have been diminished by various trade-related problems that have gone unresolved since the Uruguay Round of Multilateral Trade Negotiations. Despite overall increases in U.S. trade, four major trade-related problems have caused a significant imbalance in global trade and have effectively reduced the benefits of U.S. participation in the WTO.

First, on the issue of different treatment of tax systems, the U.S. is seriously disadvantaged by the application of WTO rules on taxes. With 136 countries applying a VAT tax and a worldwide VAT tax average of 15%, the U.S. faces up to a \$450 billion total disadvantage to U.S. exports (\$180 billion) and export subsidies to import competition (\$270 billion).

Second, innovative U.S. industries are being denied the full value of their products due to the "global scourge" of counterfeiting and piracy. In the absence of full implementation of the TRIPs Agreement and adequate border enforcement, U.S. industries are being denied an estimated \$200 to 250 billion per year from counterfeiting alone.

Third, currency manipulation or misalignment is causing serious market distortions because it acts as both a *de facto* export subsidy for the foreign products and a hidden import duty. Without action by the international institutions established to govern trade and monetary systems, the U.S. trade deficit is estimated to have been worsened by \$100 billion annually.

Finally, the U.S. is also now faced with responding to WTO dispute settlement decisions that impose obligations that the U.S. did not agree to and would not have agreed to had they been included in the agreements at the end of the Uruguay Round. By engaging in "gap-filling," not adhering to the appropriate standards of review, and applying inconsistent interpretive approaches, WTO panels and the Appellate Body have acted

inconsistently with prior practice under the GATT and principles of treaty interpretation. Such “overreaching” is a significant detriment to U.S. industries.

For the U.S. to take full advantage of the benefits offered by the WTO membership over the next decade, however, it must urgently address those trade-related problems that have effectively reduced the benefits of U.S. participation in the WTO.

I. Focusing on the Future of the WTO

The World Trade Organization (WTO), created as a result of the Uruguay Round of trade negotiations and launched on January 1, 1995, has been in existence for roughly ten and a half years. The WTO agreements expanded the coverage of the multilateral trading system to include services and trade related intellectual property rights, brought all goods trade under WTO rules and disciplines, established agreements in areas dealing with certain non-tariff measures such as technical barriers to trade (TBT) and sanitary and phytosanitary measures, called for expanded liberalization in goods and services and created a dispute settlement system that results in adopted decisions unless all parties (including the winning party) agree otherwise. Interest in the WTO’s predecessor, the GATT, increased during the Uruguay Round, and other nations that were not members at the beginning of the organization have lined up in large number to receive the benefits of membership. At the present time, there are 148 members to the WTO, with 20 of these members (including China and Taiwan) having joined since the launch of the organization in 1995. Twenty-seven additional applicants (including the Russian Federation, Saudi Arabia, Vietnam and Ukraine) are in the queue awaiting membership.

The United States has been a champion of a rules-based system for international trade and has been, for the past decade and most of the period since the original GATT, one of the leading voices for expanded trade. While there have been many positive developments from the creation of the WTO, ten years of experience have also seen an exploding trade deficit in the United States and developments that are not necessarily understandable in light of the openness of the U.S. market and the benefits that should flow from expanded liberalization abroad.

There are a number of problems with the current system that need to be addressed to improve the WTO and to obtain for the United States the benefits that should flow from a well-functioning rules based trading system. The issues that urgently need to be addressed range in type and in what type of solution is needed/possible. Some issues have existed for decades and not been addressed. Others may be viewed as outside the competence of the WTO. Others may need to be addressed in domestic law versus changes to the trading system. All, however, directly affect the competitiveness of U.S. agricultural producers, U.S. manufacturers and U.S. service providers.

As the Ways and Means Committee considers progress in the WTO, I urge it to work with the Bush Administration to see that the following issues are addressed on a timely basis so that the trading system provides the benefits to our companies, workers and communities that American entrepreneurship, creativity and hard work justify.

II. The state of the U.s. economy today

The Uruguay Round created the WTO and introduced predictable, transparent and binding rules to the world trading system. In its first ten years of existence, the WTO has resulted in an exponential growth in global trade. As former U.S. Trade Representative, Mickey Kantor, observed at the conclusion of the Uruguay Round, expanded trade opportunities have a profound impact on the domestic economy, which consists not only of consumers, but also of producers, workers, employers, employees and services suppliers:

The benefits of trade ripple through our economy. Trade benefits not only the company that exports, but also the company which produces parts incorporated in exported products, the insurance agency which insures exporters, and the grocery store near the exporter's factory.

U.S. workers and companies are poised to take advantage of the dynamics of the global economy, if they have access to foreign markets and can be ensured they are competing on fair terms with their foreign counterparts.[\[1\]](#)

Former U.S. Trade Representative Robert Zoellick likewise emphasized that opening new markets would benefit each segment of the economy:

When we work with the world effectively, America is economically stronger. Ninety-five percent of the world's customers live outside our borders, and we need to open those markets for our manufacturers, our farmers and ranchers, and our service companies. Americans can compete with anybody – and succeed – when we have a fair chance to compete. Our goal is to open new markets and enforce existing agreements so that businesses, workers, and farmers can sell their goods and services around the world and consumers have good choices at lower prices.[\[2\]](#)

Similarly, at his recent confirmation hearing, Ambassador Portman considered the most important trade negotiation underway to be the WTO's Doha Development Agenda because it has the "potential to substantially reduce tariff and non-tariff barriers, begin to level the playing field for our agriculture producers, open new markets for services, and facilitate the more efficient movement of goods across borders."[\[3\]](#)

Since the WTO was created, the U.S. economy has expanded from \$7.4 trillion in 1995 to \$11.7 trillion in 2004. U.S. GDP is larger now than at any time in the nation's history. U.S. exports have also increased significantly, growing from \$812.2 billion to \$1.2 trillion. Imports, however, have grown at an even faster pace, rising from \$904 billion to \$1.8 trillion, and the trade deficit has consequently ballooned from \$91 billion in 1995 to more than \$600 billion in 2004:

The trade deficit as a percentage of GDP also more than quadrupled during the period, increasing from 1.2% of GDP to 5.2% of GDP. In agricultural trade, the U.S. has seen a trade surplus of \$26 billion in 1995 steadily decline to a surplus of just over \$7 billion in 2004 and only \$1 billion for the first quarter of 2005. The manufacturing sector has lost over 3 million jobs since 2000. There is also widespread and growing concern, recognized by the Administration and Congress, that U.S. companies can no longer afford to support traditional retirement systems, pensions, and health care for U.S. workers. Thus, the undeniable import trend over the past decade is not only a reflection of voracious American consumerism but an important bellwether of our future if the United States does not call for an improved and rebalanced WTO.

III. A series of Trade-related problems reduce the benefits of U.S. participation in the WTO

The WTO international trading system is an important vehicle for the United States and its trading partners to develop rational trade. The opportunities afforded by stimulating international trade through increased market access, however, are limited by a series of trade-related problems which WTO Members have not addressed within that framework. As explained below, serious discrepancies in the application or coverage of current WTO rules have jeopardized U.S. economic interests. The following problems have resulted in an escalating U.S. trade imbalance that requires urgent attention if the trading system is to deliver the benefits promised.

A. **Different Treatment of Tax Systems**

The United States is singularly prejudiced by the application of WTO rules to its tax system. As they currently exist, WTO rules discipline direct and indirect taxes differently. Under Articles VI and XVI of the GATT 1994, border adjustments are permitted for indirect taxes but not for direct taxes. Such border tax adjustments may exist in the form of refunds or remissions of internal taxes paid on products that are destined for export rather than domestic consumption. Typically, such refunded internal taxes are indirect taxes (*e.g.*, sales taxes and value-added taxes (VAT)) and do not include direct taxes (*e.g.*, income taxes paid by a company). At present, 136 countries have a VAT tax, and the worldwide VAT tax average is approximately 15%.^[4] In the EU countries alone, the VAT tax can range between 15%-25%.

In countries such as the U.S., that rely primarily on direct taxes, the price of the product reflects taxes paid to produce it, regardless of whether the product is destined for export or domestic sale. Consequently, U.S. producers and farmers that export do not receive the benefit of border tax adjustments that exporters from other countries that use an indirect tax system receive. This detrimentally affects U.S. exporters in two ways: 1) refunds of indirect taxes result in an export subsidy that causes unfair competitive advantage; and 2) in addition to paying direct taxes on the products in the U.S., if the U.S. producers and farmers export products to a VAT tax country, those products are also subject to VAT tax, resulting in double taxation.^[5] Moreover, these VAT taxes on U.S. exports are essentially a non-negotiable duty that is never subject to reduction through

rounds of trade negotiations. A worldwide VAT tax average of approximately 15%^[6] translates to U.S. exports facing \$180 billion in additional competitive disadvantage on our exports. At the same time, the remission of VAT taxes could be a \$270 billion export subsidy to our trading partners with VAT tax systems. This results in a \$450 billion total disadvantage to U.S. exports. While the U.S. permits rebate of sales taxes that have been paid, as a general matter, these rebates are much smaller than the VAT taxes imposed by our trading partners with VAT tax systems.

Congress has continuously recognized the prejudicial effect of disparate treatment of border taxes and has identified as a principal negotiating objective in the Trade Act of 2002 the task of obtaining “a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.”^[7] In the context of the Doha Rules negotiations, the U.S. has only expressed general concerns regarding disparities in the treatment of different taxation systems and has suggested that the goal of negotiations “should be to work toward greater equalization in the treatment of various tax systems...” thereby addressing the prejudicial effect that current practices have on trade.^[8] To date, the U.S. has not aggressively pursued this issue by offering specific proposals to satisfy the negotiating mandate.

The problems and disadvantages caused by the differences in treatment of border taxes remain one of the primary obstacles to more balanced trade relations between the U.S. and its major trading partners. In order to correct these disparities and to preserve the nation’s sovereign right of taxation, the U.S. must either submit further proposals in the Rules negotiations and must actively pursue modifications to the GATT 1994 and the SCM Agreement so as to equalize the treatment of direct and indirect tax systems or it must pursue neutralization of the disadvantage through a modification of the existing U.S. tax system.

B. Inadequate Intellectual Property Enforcement

As a leading exporter of products protected by copyrights or patents, the United States was an advocate of strong intellectual property provisions in the TRIPs Agreement. Yet, full implementation of TRIPs obligations, particularly the enforcement provisions, has not yet been achieved in certain countries and has led to “unacceptably high” levels of piracy and counterfeiting of U.S. intellectual property. For example, just hours after the first showing of *Star Wars: Episode III – Revenge of the Sith*, a pirated copy was available on the Internet.^[9] The World Customs Organization has estimated that global counterfeiting amounted to more than \$500 billion in lost sales last year with the majority of that originating in China.^[10] Thus, despite U.S. innovation and competitiveness, U.S. industries are being denied the full value of their products, in both domestic and export markets. As a result, the USTR estimates that losses to U.S. industries alone from counterfeiting amount to between \$200 to 250 billion per year.^[11]

The USTR has acknowledged the rapid explosion of counterfeit and pirated goods around the world and identified significant concerns with respect to Argentina, Brazil, China,

Egypt, India, Indonesia, Israel, Kuwait, Lebanon, Pakistan, Paraguay, the Philippines, Russia, Turkey, Ukraine, and Venezuela. Counterfeiting and digital piracy have developed into a “global scourge” harming companies, consumers, government revenue, and workers. According to USTR, stronger and more effective border enforcement is necessary to stop the import, export, and transit of pirated and counterfeit goods.^[12]

In granting trade promotion authority in 2002, Congress identified as a principal negotiating objective the promotion of adequate and effective protection of intellectual property rights through, *inter alia*, ensuring the accelerated and full implementation of the TRIPs Agreement particularly with respect to meeting enforcement obligations under that agreement. WTO Members should address this abuse of the global trading system in the Doha Round or otherwise adopt additional measures to ensure that intellectual property rights remain in the hands of innovators.

C. Foreign Currency Manipulation or Misalignment

Currency manipulation or misalignment causes serious market distortions that have been identified as a problem by U.S. manufacturers and members of Congress.^[13] Concern in Congress has led to a number of proposals to address the issue, including, for example, a bill introduced by Senators Charles Schumer (D-NY) and Lindsey Graham (R-SC) that would impose a 27.5% additional duty on Chinese imports, and a separate bill introduced by Representatives Duncan Hunter (R-CA) and Tim Ryan (D-OH) that would treat currency manipulation as a countervailable export subsidy or a market disruption.

Currency manipulation or misalignment occurs when foreign governments set exchange rates by pegging their currencies to the U.S. dollar and intervening in the currency market to maintain their exchange rates at that set level. This acts as a *de facto* export subsidy for the countries manipulating their currencies. It simultaneously acts as a hidden duty on imports, which is not reachable in market access negotiations. The result is a serious misallocation of economic resources, which creates trade distortions and undermines stability. Undervalued currencies, in particular, produce false market signals -- making it appear that industries in the country with an undervalued currency are more competitive than they actually are, leading to overexpansion of production and export flooding in particular products. For instance, since 1994, China has pegged its currency exchange rate at 8.28 yuan to the dollar. As has been detailed by various economists and other groups, such as the Fair Currency Alliance and the China Currency Coalition, the yuan is currently significantly undervalued. As a result, Chinese goods compete domestically and internationally at prices that are artificially low hurting U.S. producers in the U.S. market, in the Chinese market and in third country markets.

While, at present, China has been particularly singled out as a country with an undervalued currency that has had substantial negative effects on trade, other countries have also engaged in similar unwarranted interference in the value of their currencies. For example, Japan, South Korea and Taiwan have made frequent interventions to purchase U.S. dollars to maintain their exchange rates or minimize the appreciation of their currencies.^[14] Together, these three countries plus China hold \$1.9 trillion of

official reserves, which reflects an increase of more than \$600 billion since 2003.^[15] They also account for over 40% of the U.S. trade deficit.

The effects of currency manipulation on the U.S. economy have been staggering. Economists have estimated that the Chinese currency is undervalued by as much as 40% or more and that the effect of undervaluation by the four countries is that the U.S. trade deficit is about \$100 billion larger than it would otherwise be.^[16]

The International Monetary Fund (IMF) has responsibility to “exercise firm surveillance over the exchange rate policies” of member countries.^[17] However, the IMF has not acted to curb market distortions caused by currency manipulation or misalignment. Currency manipulation is not defined in the IMF Agreement and, in 2003, the IMF found “no clear evidence that [China’s] renminbi is substantially undervalued.” In 2004, the IMF noted that “greater exchange rate flexibility remains in China's best interest,” but the Fund took no action to bring about such flexibility.^[18] The IMF has abandoned its responsibility in this area of international monetary regulation and the U.S. economy has suffered greatly because of this inaction.

The focus of the WTO is trade liberalization. However, the current rules have proven ineffective at reaching the *de facto* subsidies and hidden import duties that result from currency manipulation or misalignment. WTO Members are not supposed to use exchange action to frustrate the intent of the trade agreements and are prohibited from providing export subsidies on manufactured goods, but these agreed principles have not been enforced to address currency manipulation or misalignment and ensure a level playing field. The U.S. is engaged bilaterally with China to obtain a fair exchange rate, but this issue is not a subject of multilateral negotiations in the WTO Doha Round, and China has moved very slowly in correcting the bias they have created. The needs of many sectors of the U.S. economy for a restoration of economic rationality in the value of the Chinese currency cannot await the likely years of internal reforms needed for to achieve a real float. A substantial upward revaluation of the yuan (e.g., by 40%) is needed now and it is also important that the U.S. work with other trading partners, including Japan, Korea, and Taiwan to ensure a restoration of exchange rate equilibrium for their currencies vis-à-vis the U.S. dollar. The concern is that the international institutions established to govern the trade and monetary systems are failing or abdicating their responsibility to address this issue and the result is significant damage to the U.S. economy. The international institutions established to govern trade and monetary systems must address this issue to avoid significant additional damage to the U.S. economy.

D. WTO Dispute Settlement Decisions That Rewrite Agreements

The United States is also now faced with responding to WTO dispute settlement decisions that impose obligations that the United States did not agree to and would not have agreed to had they been included in the agreements at the end of the Uruguay Round. In 1995, the Dispute Settlement Understanding (DSU) put into place an experimental dispute settlement system that allowed for automatic adoption of decisions

in international trade disputes. Moreover, the DSU created a system of accountability for Members' compliance with the covered agreements. In the DSU, the U.S. (and other countries) conditioned its acceptance of binding dispute settlement on the basis of its understanding that obligations not otherwise agreed to would not be created by the dispute settlement process. Indeed, DSU Articles 3.2 and 19.2 explicitly prohibit panels, the Appellate Body, and the Dispute Settlement Body (DSB) from making findings or recommendations that "add to or diminish the rights and obligations provided in the covered agreements."^[19] Instead, WTO Members have the exclusive authority to amend or adopt interpretations of the WTO Agreement pursuant to Article IX and X of the Marrakesh Agreement Establishing the WTO.

While most countries are generally pleased with the functioning of the WTO dispute settlement system, some systemic issues have arisen that involve the proper functioning of the DSU. Following the Uruguay Round, the U.S. amended its trade remedy laws to be fully consistent with WTO obligations. Moreover, the U.S. believed that the Antidumping Agreement's "special standard of review to be applied by WTO panels in resolving antidumping disputes" would "preclude panels from second-guessing U.S. antidumping determinations and from rewriting the terms of the Antidumping Agreement under the guise of legal interpretation."^[20] Despite this understanding, over the last ten years there have been a host of losses in WTO dispute settlement cases in which covered agreements have been interpreted in a manner that, in the view of many, has created new obligations for the U.S. and other WTO Members.

The conflict regarding the creation of new rights and obligations flows from three systemic problems. First, WTO panels and the Appellate Body have adopted the approach of taking unto themselves the right to fill "gaps" or "silences" in agreements and to increasingly disregard negotiating history when language in an agreement is deemed ambiguous. This approach is inconsistent with practice under the GATT and principles of treaty interpretation and effectively encourages Members to seek to achieve through dispute settlement what they were unable to achieve in negotiation. Second, in their efforts to clarify covered agreements, panels and the Appellate Body, when faced with multiple possible definitions, will not generally approach their task asking whether or not the Member's choice is reasonable, possible, or permissible. In so doing, panels and the Appellate Body have failed to honor the standard of review provisions contained in the covered agreements (DSU Arts. 3.2 and 19.2; ADA Art. 17.6) by ignoring that Members are presumed to be in conformity with their WTO obligations. Finally, the interpretative approaches taken by panels and the Appellate Body are inconsistently applied from case to case and agreement to agreement. For example, the Appellate Body has read GATT Article XIX and the Safeguards Agreement provisions together, but has not generally read GATT Article VI and the Antidumping Agreement provisions together.

As a result of these systemic problems and in conflict with the principles of sovereignty, the WTO Agreements are being modified in ways the U.S. neither accepted, nor would have accepted, during negotiations. It is implausible that a major user who actively participated in the negotiations on the Antidumping, SCM, and Safeguards Agreements

in the Uruguay Round to ensure general conformity of the agreements with its existing practices would be subject to roughly 40% of requests for consultations citing violations of those agreements even though accounting for only an estimated 15% of the cases initiated. This disparity and the failure of panels and the Appellate Body to follow prior rules of construction and the special dispute settlement provisions in the Antidumping Agreement have undermined the perception of objectivity and fairness of the WTO dispute settlement process.

The problem of the creation of rights or obligations, or “overreaching,” by WTO dispute settlement panels and the Appellate Body has been recognized and criticized by the U.S. Congress and the Administration. In fact, the Trade Act of 2002 reflects Congress’ concern with the “pattern of decisions by dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions” on the use of trade remedies and the appropriate application of the standard of review contained in the Antidumping Agreement.^[21] The Trade Act of 2002 includes the “overall” negotiating objective of “further strengthen[ing] the system of international trading disciplines and procedures, including dispute settlement...”^[22] The Administration has also recognized that “aspects of several recent reports by WTO panels and the Appellate Body have departed from” the clear requirements to “ground their analyses firmly in the agreement text and accept reasonable, permissible interpretations of the WTO agreements by the Members.”^[23] In DSB meetings, the U.S., in addition to many other WTO Members, has objected to the problem of “overreaching” by WTO dispute settlement bodies with respect to a wide range of WTO agreements. Despite these objections by WTO Members, the U.S. Congress and the U.S. Administration, the problem of “overreaching” has continued to date.

During the course of the Doha negotiations, the U.S. has made proposals aimed both at reforming the DSU and modifying specific WTO agreements (*e.g.*, Antidumping Agreement and Agreement on Subsidies and Countervailing Measures) in order to address aspects of adverse WTO panel or Appellate Body decisions. While the initial U.S. DSU proposals have raised important systemic issues, and the Rules proposals have addressed specific problems created by WTO panel or Appellate Body decisions, a comprehensive solution to this problem should be formulated. To many industries, achievement of the correction of this issue is critical to a successful outcome to the Doha negotiations.

E. Loss of U.S. Agricultural Trade Surplus

The Uruguay Round produced the first multilateral trade agreement covering agriculture which was expected to reduce barriers to export markets and trade-distortive subsidies. As a leading exporter of agricultural products, the United States anticipated that the WTO Agreement on Agriculture would significantly expand markets for U.S. agricultural products.

According to WTO trade statistics, however, the U.S. share of agricultural exports has dropped from over 14% of total world exports, by value, in 1990 to over 11% of total

world exports, by value, in 2003 while the export shares of other major agricultural exporters, such as Brazil, China, and Thailand, have increased.^[24] Indeed, the U.S. trade balance in agriculture products dwindled from a high of \$26.7 billion in 1996 to \$7.2 billion in 2004:^[25]

The U.S. Department of Agriculture predicts that the U.S. agricultural trade balance will reach 0 in fiscal year 2005.^[26]

The agricultural trade balance figures are disturbing and reflect a fundamental imbalance in global agricultural trade disadvantaging the U.S., as a highly competitive agriculture producer. There may be many potential causes of what appears to be an undeniable trend. For example, U.S. agricultural trade has been affected by the role of state trading enterprises and agricultural conglomerates and their impact on prices and the ability of fragmented producers to cover their costs. **A host of restrictive sanitary and phytosanitary measures have also been identified as limiting agricultural trade flows.**^[27] Given that U.S. agricultural exports are estimated to provide over 900,000 jobs to U.S. workers, it is critical that the United States identify those causes and address them in the short term. Yet, while the Doha Round negotiations on agriculture will address market access and subsidies, it should also evaluate whether special rules are needed for all or some parts of agricultural trade to account for the special characteristics of such trade (e.g., perishability) and should evaluate whether the SPS Agreement is achieving its objective, whether increased harmonization is needed or desirable and what abuses may be occurring.^[28]

IV. U.S. interests call for an improved and rebalanced wto

Over the last ten years, the WTO has extended trade rules beyond GATT's coverage of goods to cover sectors such as services and trade related intellectual property rights and has brought certain parts of good trade fully under WTO rules (agriculture and textiles). The WTO has provided a general framework for the application of uniform standards and an important forum for Members to address measures that do or can restrict international trade. At the same time, however, there has been a serious erosion in the U.S. balance of trade which flows from many factors, including gaps in the WTO agreements, an imbalance in rights and obligations of the U.S. and other Members in the tax arena, and a systemic failure to adhere to restrictions protecting those rights and obligations. While the Doha Round will offer another opportunity for Members to improve disciplines on a host of issues ranging from agricultural subsidies to regional trade agreements, most of the issues raised in this statement are not being pursued in those negotiations. For the U.S. to take full advantage of the benefits offered by the WTO membership over the next decade, however, they must be addressed on a fairly urgent basis. The U.S. must demand more comprehensive agreements, greater institutional accountability in WTO dispute settlement, and a better balance for our national interests.

- [1] Results of the Uruguay Round Trade Negotiations: Hearings Before the Committee on Finance, 103rd Cong. 211 (1994) (prepared statement of Ambassador Michael Kantor).
- [2] Statement of Robert B. Zoellick, U.S. Trade Representative before the Committee on Finance of the U.S. Senate (March 9, 2004).
- [3] Statement of Robert J. Portman, U.S. Trade Representative-designate before the Committee on Finance of the U.S. Senate (April 21, 2005).
- [4] The Value Added Tax – Experiences and Issues, Background Paper prepared for the International Tax Dialogue Conference on the VAT, Rome, March 15-16, 2005, *available at* www.itdweb.org.
- [5] The discrepancies between the direct and indirect tax systems also undermine the benefits of tariff concessions granted by Members.
- [6] The Value Added Tax – Experiences and Issues, Background Paper prepared for the International Tax Dialogue Conference on the VAT, Rome, March 15-16, 2005, *available at* www.itdweb.org.
- [7] 19 U.S.C. § 3802(b)(15). A nearly identical principal negotiating objective was also identified in the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2901(b)(16).
- [8] Communication from the U.S. of March 19, 2003, TN/RL/W/78, p. 4 (March 19, 2003).
- [9] USTR, 2005 Special 301 Report, at 2 (Executive Summary) (April 29, 2005); Adam Pasick, *Final 'Star Wars' film leaked to the Internet*, Reuters, May 20, 2005, available at <http://today.reuters.co.uk>.
- [10] *See Fakes!*, Business Week, February 7, 2005.
- [11] USTR, 2005 Special 301 Report, at 3 (Executive Summary) (April 29, 2005).
- [12] USTR, 2005 Special 301 Report, at 2-3 (Executive Summary) (April 29, 2005); USTR, 2004 Special 301 Report, at 2 (Executive Summary) (May 1, 2003).
- [13] *See* U.S. Dept. of Commerce, *Manufacturing in America: A Comprehensive Strategy to Address the Challenges to U.S. Manufacturers* (January 2004) at 52.
- [14] *See* “Monthly Currency Manipulation Monitor,” Coalition for a Sound Dollar, www.sounddollar.org (accessed May 23, 2005).

[15] *Compare* Report to Congress on International Exchange Rate and Economic Policies (October 2003) with Report to Congress on International Exchange Rate and Economic Policies (May 2005).

[16] *See* Testimony of Franklin J. Vargo, National Association of Manufacturers, before the House Committee on International Relations, Hearing on U.S.-China Ties: Reassessing the Economic Relationship at 2, 4 (October 21, 2003); Chinese Currency Manipulation and the U.S. Trade Deficit, Statement Before the U.S.-China Economic and Security Review Commission by Ernest H. Preeg, Senior Fellow in Trade and Productivity, Manufacturers Alliance/MAPI (September 25, 2003).

[17] Articles of Agreement of the International Monetary Fund, Article VI, Section 3.

[18] “IMF Concludes 2003 Article IV Consultation with the People's Republic of China,” Public Information Notice (PIN) No. 03/136 (November 18, 2003); “IMF Concludes 2004 Article IV Consultation with the People's Republic of China,” Public Information Notice (PIN) No. 04/99 (August 25, 2004).

[19] Understanding on Rules and Procedures Governing the Settlement of Disputes, Apr. 15, 1994, arts. 3.2 & 19.2, in World Trade Organization, *The Results of the Uruguay Round of Multilateral Trade Negotiations* 354 (2001).

[20] Statement of Administrative Action to the Uruguay Round Agreements Act, H. Doc. 103-316, Vol. 1, 103d Cong., 2d Sess. 807 (1994).

[21] 19 U.S.C. § 3801(b)(3)(A) & (B).

[22] 19 U.S.C. § 3802(a)(3). Congress also identified seven “principal trade negotiating objectives” regarding dispute settlement and the enforcement of trade agreements. 19 U.S.C. § 3802(b)(12).

[23] Executive Branch Strategy Regarding WTO Dispute Settlement Panels and the Appellate Body – Report to the Congress Transmitted by the Secretary of Commerce, 8 (Dec. 30, 2002).

[24] WTO International Trade Statistics 2004, at Table IV.9, available at http://www.wto.org/english/res_e/statis_e/its2004_e/its04_bysector_e.htm.

[25] ERS/USDA (updated February 11, 2005).

[26] USDA Agricultural Baseline Projections to 2014, February 2005, at 67.

[27] *See, e.g., National Foreign Trade Council, Inc., Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science at 10 (May 2003).*

[28] USTR, 2005 Trade Policy Agenda and 2004 Annual Report, Section II, at 8 (March 2005).
