

PERMANENT MISSION OF THE UNITED STATES TO THE WORLD TRADE ORGANIZATION
MISSION PERMANENTE DES ÉTATS-UNIS D'AMÉRIQUE
AUPRÈS DE L'ORGANISATION MONDIALE DU COMMERCE

11, ROUTE DE PREGNY
1292 GENÈVE

June 23, 2006

Mr. Harsha V. Singh
Director-General
World Trade Organization
Geneva, Switzerland

Dear Harsha:

We read with interest the WTO's *2005 World Trade Report* which includes over 120 pages devoted to standards and related topics. While the report is informative, it contains certain statements and references that are subjective, confusing and otherwise troublesome. In the Report, the term "standards" is used broadly and somewhat misleadingly to cover market-driven voluntary requirements as well as government regulations, and the analysis covers documents within the scope of the Agreements on Technical Barriers to Trade (TBT Agreement), Sanitary and Phytosanitary Measures (SPS Agreement), as well as the General Agreement on Trade in Services (GATS). This can be confusing. Of particular concern is the impression given by the Report that standards developed by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the International Telecommunications Union (ITU) are somehow recognized by the WTO and their use given primary importance (see attachment). While the United States is a member and active participant in the work of each of these bodies, we are concerned that as a result of the Secretariat's report, some Members might misconstrue the WTO obligations. This is unfortunate.

While the United States acknowledges that the SPS Agreement recognizes three specific standards-setting bodies, there is no similar identification of standards-setting bodies in the TBT Agreement. In fact, in the course of the Second Triennial Review of the TBT Agreement, the TBT Committee considered various approaches to this issue, including the possibility of developing a defined list of bodies, but this idea was rejected. It had become clear to Members that without adequate procedural safeguards, any given international standardizing body could have a standard, even if outdated or not reflective of the views of all interested parties. Such standard, if used by a Member as a basis for a technical regulation, could be presumed to be complying with the Agreement and still have adverse effects on trade (see G/TBT/9, section C). The Committee, instead of attempting to define a list of international bodies, agreed on a *Decision on Principles for the Development of International Standards* (see G/TBT/1/Rev.8, item IX).

The Report also suggests, erroneously, that the WTO strictly regulates the work of the ISO (page 118). At best, this is only partially true. In the course of the Second Triennial Review, the Committee recognized that the WTO could not directly bind the work of other international bodies. It therefore crafted its *Decision on Principles for the Development of International Standards* in such a way that responsibilities for ensuring compliance with the principles defined by the Committee reside with Members.

We appreciate the work the WTO Secretariat has done in giving prominence to issues relating to standards in general. We regret, however, that further effort was not made to consult with Members and/or seek peer review in advance of the publication. We believe the insights gained from consulting early in the process with experts outside the Secretariat would have enriched the Report and helped to avoid the misperceptions it has created. We have attached, for your information, some further examples to illustrate our concerns.

Sincerely,

A handwritten signature in cursive script that reads "David".

David P. Shark
Deputy Chief of Mission

