

REPORT ON OPERATIONS

2005

JANUARY 2006

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I. PREFACE

1. The Advisory Centre on WTO Law ("ACWL") was established in 2001 to provide to the least developed countries ("LDCs") and its developing country Members¹ (i) legal advice on WTO law, (ii) support in WTO dispute settlement proceedings and (iii) training in WTO law. This report describes how the ACWL performed these functions in 2005.²

2. The year 2005 was particularly active for the eight lawyers of the ACWL. They responded to 82 requests for legal advice. About half of these requests concerned general systemic or procedural issues of WTO law. A further quarter concerned measures taken or under consideration by the requesting LDC or Member. Thus, three quarters of the ACWL's advisory activities served to help LDCs and developing countries participate more effectively in WTO decision-making and meet their own WTO obligations. In the remaining quarter, the requesting LDC or Member sought an assessment of the viability of a complaint against a measure taken by another WTO Member.

3. The ACWL provided support to eight Members in ten different WTO dispute settlement proceedings, including five cases initiated in 2005. Since its inception, the ACWL has provided support in a total of 21 WTO disputes, or about one fifth of all WTO disputes initiated during that period. The ACWL's experience in WTO legal matters can therefore now be compared to that of developed country Members of the WTO. The founders of the ACWL wanted to create an institution that would pool the experience of LDCs and developing countries in WTO dispute settlement proceedings and thereby enable each of them to rely on the experience of all when facing developed countries in these proceedings. That goal is being achieved.

4. The ACWL is neither profit-making nor issue-driven. LDCs and Members can therefore be confident that the ACWL's legal advice is disinterested and impartial. This feature of the ACWL is particularly important for LDCs and Members that require a neutral assessment of the merits of initiating a dispute settlement proceeding. This is also an important feature for decision makers in LDCs and Members that are faced with internal disagreement as to the consistency of a proposed measure with WTO law and wish to obtain the advice of a neutral third party to settle the matter.

5. The ACWL continued to offer training in WTO law to LDCs and developing countries. In October, the ACWL began its second three-year cycle of training courses on WTO law by offering a six-month course on WTO dispute settlement procedures. Over 40 delegates have commenced the course, including seven officials from LDCs. The ACWL

¹Throughout this report, the terms "country" and "developing country" are meant to include customs territories and countries with economies in transition.

² This is the ACWL's first annual report on operations. It replaces the periodic cumulative report on operations that was previously submitted to the Management Board and the General Assembly. The ACWL's financial report for 2005, including the external auditor's report, will be issued separately.

also launched its Secondment Programme for Trade Lawyers in September, when two lawyers from Lesotho and Paraguay joined the staff of the ACWL for a period of nine months.

6. The membership of the ACWL continues to grow. In August, Costa Rica signed its protocol of accession to the ACWL. Once Costa Rica's accession is completed, 28 developing countries will be entitled to the services of the ACWL. Some of the developing countries with extensive experience in WTO dispute settlement proceedings – such as Brazil and Korea – have not become Members of the ACWL. However, all other developing countries that have been a party to WTO dispute settlement proceedings more than twice have decided to join. Thus, the ACWL's resources are being channelled primarily to the countries that need them most: those developing countries that participate actively in WTO legal matters but lack the experience and the resources to do so on their own.

7. LDCs enjoy a privileged position under the Agreement Establishing the ACWL. Prior to the establishment of the ACWL, no LDC had ever participated in a WTO dispute settlement proceeding. Since then, one LDC has brought a complaint with the assistance of the ACWL.³ LDCs have also discussed other potential cases with the ACWL. However, as LDCs are exempted from many obligations under WTO law and are accorded preferences not guaranteed by WTO law, their participation in dispute settlement proceedings is likely to remain infrequent, notwithstanding the availability of support by the ACWL. In practice, therefore, the LDCs rely on the ACWL primarily for legal advice and training on WTO law. Over one half of the applications received for the Secondment Programme for Trade Lawyers came from LDCs, and representatives from a quarter of the LDC missions in Geneva participate in the 2005-2006 lunch-time training course. The ACWL provided eight legal opinions to LDCs, most of which concerned issues arising from the Doha Development Round. This total includes opinions for the LDC Group, which represents all LDCs in the WTO, and the African Group, which includes many LDCs.

8. The achievements of the ACWL are a result of the contributions of many. ACWL developing and developed country Members, LDCs, the General Assembly and the Management Board have all provided sound advice and constructive support that has enabled the ACWL to work towards achieving the objectives for which it was created.



Frieder Roessler
Executive Director

³The ACWL assisted Bangladesh as a complainant in the consultations phase in the dispute *India – Anti-dumping Measure on Batteries from Bangladesh* (WT/DS306).

II. THE ACWL IN 2005 AT A GLANCE

Membership:

Developed Country Members:	10
Developing Country Members:	27
Members in the process of accession to the ACWL:	1
LDCs entitled to the services of the ACWL:	42
Total number of countries entitled to the services of the ACWL:	69

Operations:

Legal opinions requested:	82
WTO disputes in which the ACWL provided support in 2005:	10
New requests for support in WTO disputes received in 2005:	5
Participants in 2004/2005 training course who received Certificates of Training:	25

Staff:

Lawyers, including Executive Director:	8
Participants in Secondment Programme for Trade Lawyers:	2
Administrative staff:	2

III. THE ACWL'S OPERATIONS IN 2005

A. LEGAL ADVICE

9. During 2005, the ACWL received 82 requests for legal opinions from 21 Members and four LDCs. In addition, the ACWL received two requests for legal opinions from the LDC group in the WTO, which comprises the 42 LDCs that are Members of the WTO or in the process of acceding to the WTO, and one request from the African Group in the WTO, which comprises 41 African states, many of which are LDCs. As a result, more than 70 WTO Members and countries in the process of acceding to the WTO benefited from the ACWL's advice in 2005.

10. The advice provided by the ACWL can be broadly divided into three categories: (i) advice on general systemic or procedural issues arising from decision-making and negotiations in the WTO; (ii) advice on measures taken or under consideration by the LDC or Member seeking the advice; and (iii) advice on the viability of a complaint against measures taken by another WTO Member.

11. About half of the requests for legal advice concerned general systemic or procedural issues, including issues that arose in the Doha Development Round. For example, LDCs or Members submitted queries relating to the consequences of the expiration of the Agreement on Textiles and Clothing, the renegotiation of tariff concessions under Article XXVIII of the GATT 1994, and the legal implications of proposals made in the Doha Development Round. In these cases, the ACWL provided the legal analysis that the LDC or Member needed to participate more effectively in WTO decision-making and negotiations. A greater portion of the ACWL's opinions fell into this category in 2005 than in previous years. The LDCs have been particularly interested in systemic issues arising out of the Doha Development Round. Seven of the eight requests from LDCs related to these issues.

12. About one quarter of the requests for legal opinions concerned measures taken or under consideration by the LDC or Member seeking the advice, including proposed domestic legislation. In these cases, the ACWL's aim is to assist the LDC or Member in achieving its trade policy objectives in a manner consistent with WTO law. In some of these cases, the request was prompted by an internal conflict between the proponents and opponents of a proposed measure.

13. In the remaining quarter of the requests, the requesting LDC or Member sought an assessment of the viability of a complaint against measures taken by another WTO Member. In these cases, the ACWL aimed to enable the LDC or Member to make an informed decision on whether to bring a WTO challenge.

B. SUPPORT IN DISPUTE SETTLEMENT PROCEEDINGS

1. Direct support by the ACWL

14. During 2005, the ACWL provided support to eight of its Members in ten WTO disputes. This total includes five disputes that had been initiated previously, where the panel or Appellate Body hearings were held in 2005.

15. The ACWL supported Thailand in the Appellate Body proceedings in *EC – Export Subsidies on Sugar (Thailand)*.⁴ The ACWL had also assisted Thailand in the consultations phase and panel proceedings in this matter in 2003 and 2004. The dispute concerned subsidies on exports of sugar in excess of the export subsidy reduction commitments of the European Communities ("EC") under the Agreement on Agriculture. The panel had upheld Thailand's complaint and ruled that the subsidies were WTO-inconsistent. Thailand was successful in the appeal, as the Appellate Body upheld the panel's conclusions. In addition, the ACWL also supported Thailand in the arbitration to determine the reasonable period of time for the EC to implement the rulings and recommendations of the Dispute Settlement Body ("DSB"), pursuant to Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU").⁵

16. The ACWL also assisted Thailand in the Appellate Body proceedings in *EC – Chicken Cuts*.⁶ Thailand successfully argued before the panel and the Appellate Body that Commission Regulation (EC) No. 1223/2002 and Commission Decision No. 2003/97/EC resulted in tariff treatment for the frozen boneless chicken cuts less favourable than that provided in the EC's Schedule LXXX, in violation of Article II:1(a) and Article II:1(b) of the GATT 1994. The ACWL is currently assisting Thailand in the arbitration to determine the reasonable period of time for the EC to implement the DSB rulings and recommendations of the Dispute Settlement Body, pursuant to Article 21.3(c) of the DSU.

17. The ACWL assisted Honduras in the Appellate Body proceedings and implementation phase in *Dominican Republic – Import and Sale of Cigarettes*.⁷ The ACWL had also assisted Honduras in the consultations phase and panel proceedings in this matter in 2003 and 2004. The panel had found that measures imposed by the Dominican Republic on imports of cigarettes were inconsistent with various provisions of the GATT 1994, including the second sentence of Article II:1(b), Article III:2, Article III:4, Article X:3(a), and Article X:1. On

⁴ *European Communities – Export Subsidies on Sugar (Thailand)*, WT/DS283. The panel and Appellate Body reports were adopted on 19 May 2005.

⁵ *European Communities – Export Subsidies on Sugar*, Award of the Arbitrator pursuant to Article 21.3(c) of the DSU, WT/DS283/14, 28 October 2005.

⁶ *European Communities – Customs Classification of Frozen Boneless Chicken Cuts*, WT/DS286. The panel and Appellate Body reports were adopted on 27 September 2005.

⁷ *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes*, WT/DS302. The panel and Appellate Body reports were adopted on 19 May 2005.

appeal, the Appellate Body affirmed the panel's finding that the requirement that a tax stamp be affixed to all cigarette packets in the Dominican Republic's territory under the supervision of the local tax authorities was inconsistent with Article III:4 of the GATT 1994 and was not justified under paragraph (d) of Article XX of the GATT 1994. The ACWL also assisted Honduras during the implementation phase, in which Honduras and the Dominican Republic reached an agreement regarding the timeframe for the implementation of the DSB recommendations and rulings.

18. The ACWL also represented Colombia, Costa Rica, Ecuador, and Guatemala in two arbitration proceedings arising out of the Annex to the Decision of the Ministerial Conference on *The ACP-EC Partnership Agreement* adopted on 14 November 2001 (the "Doha Waiver"). In the first arbitration, Colombia, Costa Rica, Ecuador, and Guatemala argued that the envisaged rebinding of the EC's tariff on bananas of 230€/tonne would not result in at least maintaining total market access for MFN banana suppliers within the meaning of the Doha Waiver. The Arbitrator issued its award on 1 August 2005, in which it agreed that the envisaged tariff rebinding would not result in at least maintaining total market access for MFN banana suppliers.⁸ After consultations with the interested parties, the EC proposed a revised tariff rebinding of 187€/tonne and requested a second arbitration to determine whether this proposal rectified the matter as mandated by the Doha Waiver. Colombia, Costa Rica, Ecuador, and Guatemala argued that the EC had failed to rectify the matter because: (a) the proposal of a duty-free tariff rate quota of 775,000 tonnes for certain preferential banana suppliers could not be taken into account in determining compliance with the Doha Waiver; and, (b) in any event, the revised proposal increased the level of protection afforded to bananas of EC origin vis-à-vis bananas of MFN origin and did not take into account the conditions of competition between bananas of MFN origin and bananas of preferential origin. The Arbitrator issued its award on 27 October 2005 and determined that the EC had failed to rectify the matter within the meaning of the Doha Waiver.⁹

19. The ACWL provided support to Indonesia in the consultations phase and the panel proceedings in *Korea – Paper*,¹⁰ in which Indonesia challenged various aspects of Korea's determinations leading to the imposition of anti-dumping measures on Indonesian paper. The panel upheld several of Indonesia's claims that aspects of Korea's determinations of dumping and injury were inconsistent with the Anti-dumping Agreement, while rejecting others. The panel also found that Korea had not complied with some of the procedural requirements of the Anti-dumping Agreement. Departing from the tendency of panels not to reverse their

⁸ Award of the Arbitrator, *European Communities – The ACP-EC Partnership Agreement – Arbitration Pursuant to the Decision of 14 November 2001*, WT/LJ/616 (1 August 2005).

⁹ Award of the Arbitrator, *European Communities – The ACP-EC Partnership Agreement – Second Recourse to Arbitration Pursuant to the Decision of 14 November 2001*, WT/LJ/625 (27 October 2005) (the "Bananas Arbitrations").

¹⁰ *Korea – Anti-dumping Duties on Imports of Certain Paper from Indonesia*. WT/DS312 ("Korea – Paper"). The panel's report was adopted on 28 November 2005.

findings at the interim review stage, following arguments by Indonesia at that stage, the panel in its final report reversed one of its initial findings regarding an aspect of the determination of dumping.

20. The ACWL also assisted Guatemala, as a complainant in the consultations phase in *Mexico – Anti-dumping Duties on Steel Pipes and Tubes from Guatemala* (WT/DS331); Pakistan, as a complainant in the consultations phase in *Egypt – Anti-dumping Duties on Matches from Pakistan* (WT/DS327); and Thailand, as a complainant in the consultations phase in *United States – Provisional Anti-dumping Measures on Shrimp from Thailand* (WT/DS324). In addition, the ACWL represented Thailand as a third party in the panel proceedings in *United States – Measures relating to Zeroing and Sunset Reviews* (WT/DS322) and *United States – Final Dumping Determination on Softwood Lumber from Canada (Recourse to Article 21.5 of the DSU by Canada)* (WT/DS264). These proceedings are ongoing.

21. Since its establishment four and a half years ago, the ACWL has now represented its Members and one LDC in 21 disputes. A list of the disputes in which the ACWL has provided support is set out in Appendix 1 below.

2. Support provided through external legal counsel

(a) Roster of External Legal Counsel

22. If a dispute involving two or more ACWL Members or LDCs arises, the ACWL's policy is to support the Member or LDC that first requests its assistance. If the ACWL cannot then represent the other Member or LDC involved because to do so would result in a conflict of interest, the ACWL provides support to the other Member or LDC through external legal counsel.

23. To this end, in 2004, the Management Board adopted the "Decision on Rules for the Subcontracting of External Legal Counsel", under which recourse to external legal counsel is authorised "if the staff of the Centre cannot provide support to a least developed country or a Member in a WTO dispute settlement proceeding because of a conflict of interest".¹¹ The Member or LDC concerned may select the counsel it prefers from the ACWL's Roster of External Legal Counsel. This Roster includes law firms and individuals with prior experience in WTO dispute settlement proceedings that have agreed to make their services available on the basis of the time budgets established by the Management Board, albeit at hourly rates higher than those charged by the ACWL. The ACWL pays the higher fees of the external legal counsel and charges the Members or LDCs concerned the lower fees that would normally be charged by the ACWL. The difference is subsidised by the ACWL. By

¹¹ See "Rules for the Subcontracting of External Legal Counsel", ACWL/MB/D/2004/4 (26 March 2004).

this means, the ACWL ensures that Members or LDCs unable to use the resources of the ACWL because of a conflict of interest can obtain comparable legal advice at no additional cost.

24. As of 31 December, the Roster included 12 law firms and five individuals. The Roster is attached as Appendix 2.

(b) Recourse to external legal counsel

25. In 2005, the ACWL provided support to the Dominican Republic in the arbitration under Article 21.3(c) of the DSU in *Dominican Republic – Import and Sale of Cigarettes* through an external legal counsel, Sidley Austin Brown and Wood. This was the second time that the ACWL provided support through external legal counsel. Previously, the ACWL provided similar support to Colombia, Ecuador, Peru, and Venezuela, as third parties in the dispute *EC – Tariff Preferences*.¹²

3. Technical Expertise Trust Fund

26. The Technical Expertise Trust Fund was established to help finance the input of technical expertise that may be needed in WTO dispute settlement proceedings. In 2005, the ACWL used the trust fund to help Members obtain expert testimony in the *Korea – Paper* dispute and in the *Bananas* arbitrations. As of 31 December 2005, the balance of the trust fund was approximately CHF 680,000.

C. TRAINING ACTIVITIES

1. Lunch-time Training Course

27. The ACWL offers an annual training course on WTO law and procedures to government officials from LDCs and developing countries. The course starts in October of each year and ends in the following March. Classes are held every Thursday from 13:00 - 15:00 hours at the premises of the ACWL. Officials from developing country Members and LDCs are invited to attend the course. When space is available, the ACWL also invites delegates from developing countries that are not ACWL Members.

28. The ACWL offers participants in the course a free subscription to the WTO legal research website www.worldtradelaw.net. At the conclusion of the course, the ACWL awards a Certificate of Training to participants who attend a requisite number of sessions. In recognition of the constraints faced by delegates from LDCs, the ACWL, on request, conducts individual "catch-up" classes for participants from LDCs that are unable to attend the regularly-scheduled sessions.

¹²*European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries*, WT/DS246.

29. The ACWL has now completed three annual training courses, each covering a different aspect of WTO law. Thus, the 2002-2003 course focused on the WTO dispute settlement procedures, while the 2003-2004 course examined the basic principles of WTO law. Finally, the 2004-2005 course focused on topical issues in WTO law, with a particular emphasis on the Doha Development Round.

30. The ACWL plans to repeat this three-year cycle of courses focusing on WTO procedures, WTO substantive law and topical issues in WTO law. Accordingly, in October 2005, the ACWL began the second three-year cycle of this course by again offering a course on WTO dispute settlement procedures. The course will conclude in March 2006. Over 40 delegates have commenced the course, including seven officials from LDCs.

2. Occasional Seminars

31. The ACWL organises seminars on legal issues of interest to developing countries and LDCs on an *ad hoc* basis. On 15 November 2005, the ACWL hosted a seminar focusing on the Appellate Body's use of the *Vienna Convention on the Law of Treaties* (the "*Vienna Convention*") to determine the meaning of provisions in the WTO Agreement. The discussion centred on the Appellate Body's Report in *EC – Chicken Cuts*, in which the ACWL provided support to Thailand as a complainant. The ACWL lawyers involved in the case led a discussion on various issues that arose in the case relating to the interpretation of the terms "ordinary meaning", "context", "subsequent practice" and "supplementary means of interpretation" as used in Articles 31 and 32 of the *Vienna Convention*.

32. The ACWL invited delegates from both developed and developing countries to this seminar in order to encourage the sharing of their respective experiences in dispute settlement proceedings. Over 35 delegates from LDCs and developing countries attended the seminar. Officials from all of the parties to the dispute, including the EC (the respondent), Thailand and Brazil (the co-complainants), China and the United States (the third parties) also attended.

3. Secondment Programme for Trade Lawyers

33. The Agreement Establishing the ACWL envisages that the ACWL offer training to government officials through internships, among other means. To fulfil this objective, in 2005, the ACWL launched a Secondment Programme for Trade Lawyers, under which lawyers from the governments of LDCs and developing country Members join the staff of the ACWL as paid trainees for a nine-month period, starting in mid-September and ending in mid-June of the following year.¹³

¹³ See "*Secondment Programme for Trade Lawyers*", ACWL/MB/W/2005/4 (2 February 2005).

34. In March, an invitation to propose candidates for the 2005-2006 Secondment Programme was sent to all LDCs and developing country Members. The response was overwhelmingly positive. The ACWL received 52 applications, over half of which were from LDCs. In May, the ACWL interviewed ten candidates representing a cross-section of LDCs and developing country Members. Three trainees from Lesotho, Jordan and Paraguay were selected. Ms Mpho Palime of Lesotho and Ms Olga Dios of Paraguay, the two trainees who took up the offer, started their training at the ACWL in September.

35. Canada, Denmark, Norway and Sweden have contributed to the Secondment Programme. Their contributions will enable the ACWL to offer traineeships to two lawyers in 2006-2007. Invitations to apply for positions for 2006-2007 will be issued in March 2006. The ACWL hopes to receive more voluntary contributions that will permit it to extend the programme beyond 2006-2007.

IV. OUTREACH

A. ANNUAL DISPUTE SETTLEMENT LUNCHEON

36. Each year, at a lunch hosted by the ACWL in Geneva, the ACWL invites a prominent expert to deliver an address to the WTO community, in particular the representatives of LDCs and developing countries, on a subject related to dispute settlement.

37. In June, the ACWL welcomed Mr. James Bacchus, a founding member and former chairman of the Appellate Body, as the guest speaker at the fourth Annual Dispute Settlement luncheon. Mr. Bacchus spoke on the Appellate Body's approach to the complex task of treaty interpretation. A copy of Mr. Bacchus' remarks is posted on the ACWL's website. Over 50 ambassadors and delegates attended this luncheon.

38. Mr. Bacchus is the third former Member of the Appellate Body Members to have spoken at the ACWL Annual Dispute Settlement Luncheon. Mr. Claus-Dieter Ehlerman addressed the group in 2004 and Ambassador Julio Lacarte-Muró in 2003. Professor John Jackson gave the inaugural lecture in 2002.

B. COOPERATION WITH THE WTO

39. In 2005, the ACWL's lawyers cooperated with the WTO in the training and outreach activities listed below. The main aim of this cooperation was to ensure that all LDCs and developing countries are fully aware of the legal services that the ACWL provides.

- On 10 March, at the invitation of the African Group at the WTO, the ACWL provided training to 41 least-developed and developing African countries at an all-day seminar on trade facilitation.

- On 4 April, the ACWL made a presentation to participants in the WTO Trade Policy Course on the services offered by the ACWL. Over 30 delegates attended this session.
- On 22 April, the ACWL participated in the WTO's Public Symposium for the first time. The symposium is organised annually by the WTO as part of its own outreach activities, and provides an important forum for international and non-governmental organisations interested in the multilateral trading system.
- On 21 October, the Executive Director gave a lecture on the services provided by the ACWL to representatives of LDCs that participated in the 8th Introduction Course for LDCs offered by the WTO.
- Also in October, the Executive Director participated at a conference celebrating the 10th anniversary of the WTO Appellate Body in Tokyo. On that occasion, he also addressed government officials from South East Asian developing countries.
- On 9 November, the ACWL took part in the WTO's first specialised course on SPS procedures. These courses are intended to provide specialised training on specific issues of interest to LDCs and developing countries.
- On 17 November, as part of the WTO's 11th Geneva Week for Non-resident Members and Observers, the Executive Director addressed participants in the Geneva Week. After a presentation on the services of the Centre, the participants had an opportunity to ask questions about the ACWL. The WTO has undertaken to include the ACWL in all future Geneva Weeks.
- On 28 November, the ACWL made a presentation to a session of the WTO Trade Policy Course on the services provided by the ACWL.

C. COOPERATION WITH OTHER ORGANISATIONS

40. The ACWL also cooperates with other organisations involved in trade and development issues in their training and outreach activities. The following is a list of the most important activities in 2005:

- In February, the ACWL made a presentation on developing country participation in WTO dispute settlement at a seminar hosted by the International Centre for Trade and Sustainable Development (ICTSD).
- In April, the ACWL participated in a seminar organised by the Trade Law Centre for Southern Africa (TRALAC). The seminar was attended by government officials from LDCs and developing countries in Southern Africa.

- In May, at an ACP seminar on negotiating issues in the Doha Development Round, the ACWL discussed the legal implications of the GSP case, and addressed participants on the services offered by the Centre.
- In June and July, the ACWL assisted in the preparation and presentation of training seminars on topical issues of WTO jurisprudence hosted by UNCTAD for Geneva-based and visiting representatives of developing countries.
- In September, the ACWL participated in a seminar organised by the Quakers United Nations Office on the obligations of LDCs under the TRIPS Agreement.
- In November, the ACWL participated in a three-week training course in international trade law hosted by the International Development Law Organization (IDLO) in Sydney, Australia. The course was attended by trade officials from developing countries and LDCs in Asia and the Pacific Rim.

V. INSTITUTIONAL MATTERS

A. MEMBERSHIP

1. Current membership

41. As of 31 December 2005, the membership of the ACWL consisted of 27 developing country Members and ten developed country Members. The current Members of the ACWL are listed in Appendix 3 below.

42. The 42 LDCs that are Members of the WTO or are in the process of accession to the WTO are entitled to the services of the ACWL without having to take any steps to become Members of the ACWL. A list of the LDCs currently entitled to the services of the ACWL is attached as Appendix 4.

43. The ACWL's services are currently available to a total of 69 countries, representing approximately 40 per cent of the membership of the WTO.

2. Accessions in process

44. In March, Costa Rica initiated the process of acceding to the Agreement Establishing the ACWL. Costa Rica will accede as a category B Member, in accordance with the terms and conditions for Costa Rica's accession agreed between Costa Rica and the General Assembly.

45. Costa Rica will be the tenth country to have acceded to the Agreement Establishing the ACWL since 2002. All protocols of accession have been registered with the United Nations Treaty Office.

46. Upon Costa Rica's accession, the ACWL will have 28 developing country Members entitled to its services. A review of the list of these countries indicates that developing countries that have participated in the WTO dispute settlement proceedings actively, but not sufficiently often to have acquired substantial experience in that area, have been particularly interested in becoming Members of the ACWL. About two thirds of all developing countries that have participated in the WTO dispute settlement proceedings as complainant or respondent have decided to become a Member of the ACWL. As the table in Appendix 5 shows, once Costa Rica is a Member, all of the developing countries that have participated in these proceedings occasionally (*i.e.*, more than twice) but not frequently (*i.e.*, 19 times or more) will have joined the ACWL.

B. THE MANAGEMENT BOARD

47. The ACWL's Management Board takes the decisions necessary to ensure the efficient and effective operation of the ACWL and reports to the General Assembly. The Board consists of six persons serving in their personal capacity who have been selected on the basis of their professional qualifications in the field of WTO law or international trade relations and development. Three Board members are nominated by the developing country Members, two Board members are nominated by the developed country Members; while one Board member serves as the representative of the LDCs. The Executive Director serves *ex officio* on the Board.

48. The Management Board presently consists of Mr. John M. Weekes of Canada, Chairman, Dr. Toufiq Ali of Bangladesh, Vice-Chairman, Mr. Yi-fu Lin of Chinese Taipei, Ms Amina Chawahir Mohamed of Kenya, Dr. Stuart Robinson of Switzerland, and Ms Claudia Uribe of Colombia.

C. THE STAFF OF THE ACWL

49. As of 31 December 2005, the ACWL had a staff of eight lawyers (including the Executive Director), two junior lawyers under the Secondment Programme for Trade Lawyers, and two administrative officers. The day-to-day operations of the ACWL are managed by the Executive Director, Mr. Frieder Roessler, and the Deputy Director, Mr. Leo Palma, under the supervision of the Management Board. The legal staff consists of Mr. Niall Meagher, Ms Cherise Valles, Ms Petina Gappah, Mr. Fernando Piérola, Mr. Hunter Nottage and Mr. Thomas Sebastian.¹⁴

50. Ms Mpho Palime of Lesotho and Ms Olga Dios of Paraguay, the two trainees under the Secondment Programme for Trade Lawyers, joined the staff of the ACWL in September. Their period of training ends in June 2006.

¹⁴Biographies of the staff members are available on the ACWL website.

51. At the end of September, Ms Natacha Zofka, who served as the ACWL's office manager for over four years, left the ACWL to resume her duties at the WTO when her leave of absence from the WTO ended. Since then, the ACWL's office administrators are Ms Pascale Malot and Ms Carol Lau.

APPENDIX 1: WTO DISPUTES IN WHICH THE ACWL HAS PARTICIPATED:

For Colombia, Costa Rica, Ecuador and Guatemala as interested parties in the consultations and arbitration phase in *European Communities - The ACP Partnership Agreement (Recourse to Arbitration pursuant to the Decision of 14 November 2001)* (WT/L/616).

For Guatemala, as a complainant in the consultations phase in *Mexico - Anti-dumping Duties on Steel Pipes and Tubes from Guatemala* (WT/DS331).

For Pakistan, as a complainant in the consultations phase in *Egypt - Anti-dumping Duties on Matches from Pakistan* (WT/DS327).

For Thailand, as a complainant in the consultations phase in *United States – Provisional Anti-dumping Measures on Shrimp from Thailand* (WT/DS324).

For Thailand, as a third party in the panel proceedings in *United States – Measures relating to Zeroing and Sunset Reviews* (WT/DS322).

For Indonesia, as a complainant in the consultations phase and panel proceedings in *Korea – Anti-dumping Duties on Imports of Certain Paper from Indonesia* (WT/DS312).

For Bangladesh, as a complainant in the consultations phase in *India – Anti-dumping Measure on Batteries from Bangladesh* (WT/DS306).

For Honduras, as a complainant in the consultations phase, panel proceedings, Appellate Body proceedings and implementation phase in *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes* (WT/DS302).

For Guatemala, as a complainant in the consultations phase in *Mexico – Certain Pricing Measures for Customs Valuation and Other Purposes* (WT/DS298).

For Thailand, as a complainant in the consultations phase, panel proceedings and Appellate Body proceedings in *European Communities – Customs Classification of Frozen Boneless Chicken Cuts* (WT/DS286).

For Nicaragua, as a complainant in the consultations phase in *Mexico – Certain Measures Preventing the Importation of Black Beans from Nicaragua* (WT/DS284).

For Thailand, as a complainant in the consultations phase, panel proceedings, Appellate Body proceedings and implementation phase in *European Communities – Export Subsidies on Sugar* (WT/DS283).

For the Philippines, as a complainant in the consultations phase in *Australia – Certain Measures Affecting the Importation of Fresh Pineapple* (WT/DS271).

For the Philippines, as a complainant in the consultations phase and in the request for the establishment of a panel in *Australia – Certain Measures Affecting the Importation of Fresh Fruit and Vegetables* (WT/DS270).

For Paraguay, as a third party in the panel proceedings in *European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries* (WT/DS246).

For India, as a complainant in the consultations phase, panel proceedings, Appellate Body proceedings and implementation phase in *European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries* (WT/DS246).

For India, as a complainant in the consultations phase and panel proceedings in *United States – Rules of Origin for Textiles and Apparel Products* (WT/DS243).

For Ecuador, as a complainant in the consultations phase in *Turkey – Certain Procedures for the Import of Fresh Fruit* (WT/DS237).

For Peru, as a complainant in the consultations phase, panel proceedings, Appellate Body proceedings and implementation phase in *European Communities – Trade Description of Sardines* (WT/DS231).

For Pakistan, as a complainant in the Appellate Body proceedings in *United States – Transitional Safeguard Measures on Combed Cotton Yarn from Pakistan* (WT/DS192).

For India, as a respondent in the panel proceedings and Appellate Body proceedings in *India – Measures Affecting the Automobile Industry* (WT/DS146; WT/DS175).

APPENDIX 2: ROSTER OF EXTERNAL LEGAL COUNSEL:

Law Firms:

Baker & McKenzie
Clyde & Co
Gide Loyrette Nouel
King and Spalding
Minter Ellison
O'Connor & Company
Sidley Austin Brown & Wood
Thomas and Partners
Van Bael & Bellis
Vermulst Waer & Verhaeghe
White & Case
Willkie, Farr & Gallagher

Individuals:

Ms. Kirsten Goodwin
Mr. Edmond McGovern
Mr. Donald McRae
Mr. Richard Plender
Ms. Debra Steger

APPENDIX 3: MEMBERS OF THE ACWL:

	Members Entitled to the Services of the ACWL (27)	Developed Country Members (10)
Signatories to the Agreement Establishing the ACWL	Bolivia Colombia Dominican Republic Ecuador Egypt Guatemala Honduras Hong Kong, China India Kenya Nicaragua Pakistan Panama Paraguay Peru Philippines Thailand Tunisia Uruguay Venezuela	Canada Denmark Finland Ireland Italy Netherlands Norway Sweden United Kingdom
ACWL Members by Accession	Jordan (20 January 2002) Oman (26 March 2003) Mauritius (11 June 2003) Turkey (17 August 2003) El Salvador (4 March 2004) Indonesia (28 April 2004) Chinese Taipei (13 May 2004)	Switzerland (5 December 2004)

APPENDIX 4: LDCs ENTITLED TO THE SERVICES OF THE ACWL:

LDCs Entitled to the Services of the Centre (42)	
Afghanistan*	Malawi
Angola	Maldives
Bangladesh	Mali
Benin	Mauritania
Bhutan*	Mozambique
Burkina Faso	Myanmar
Burundi	Nepal
Cambodia	Niger
Cape Verde*	Rwanda
Central African Republic	Samoa
Chad	Sao Tome and Principe*
Congo, Democratic Republic of	Senegal
Djibouti	Sierra Leone
Ethiopia*	Solomon Islands
Gambia	Sudan*
Guinea	Tanzania
Guinea Bissau	Togo
Haiti	Uganda
Lesotho	Vanuatu*
Madagascar	Yemen
	Zambia

*In the process of acceding to the WTO.

APPENDIX 5: DEVELOPING COUNTRY/LDC PARTICIPATION IN WTO DISPUTES

Frequency of participation of developing countries or customs territories in DSU proceedings as complainants or respondents¹⁵					
Category	Members of the WTO (Members of the ACWL and the LDC assisted by the ACWL in bold) ¹⁶		Total	Complainant	Respondent
Frequent participation (19 times or more)	1.	Brazil	35	22	13
	2.	India	32	16	16
	3.	Korea	24	11	13
	4.	Argentina	25	9	16
	5.	Mexico	26	13	13
	6.	Chile	19	9	10
Occasional participation (between 3 and 18 times)	7.	Thailand	11	10	1
	8.	Turkey	10	2	8
	9.	Philippines	8	4	4
	10.	Guatemala	8	6	2
	11.	Indonesia	7	3	4
	12.	Peru	6	2	4
	13.	Colombia	5	4	1
	14.	Honduras	5	5	0
	15.	Ecuador	6	3	3
	16.	Pakistan	4	2	2
	17.	Costa Rica ¹⁷	4	4	-
	18.	Egypt	3	-	3
	19.	Nicaragua	3	1	2
	20.	Venezuela	3	1	2
Rare participation (2 times or less)	21.	China	2	1	1
	22.	Malaysia	2	1	1
	23.	Panama	2	2	-
	24.	South Africa	2	-	2
	25.	Trinidad and Tobago	2	-	2
	26.	Uruguay	2	1	1
	27.	Antigua and Barbuda	1	1	-
	28.	Chinese Taipei	1	1	-
	29.	Dominican Republic	2	-	2
	30.	Hong Kong	1	1	-
	31.	Singapore	1	1	-
	32.	Sri Lanka	1	1	-
	33.	Bangladesh	1	1	-

¹⁵Source: WTO Secretariat, Statistical Information on Recourse to WTO Dispute Settlement Procedures (1 January 1995 – 30 September 2004), Background Note prepared for the Special Session of the Dispute Settlement Body, 22 October 2004, JOB(03)225/Rev.1.

¹⁶ ACWL membership as of 31 December 2005.

¹⁷ In the process of acceding to the ACWL.