



# REPORT ON OPERATIONS

2008



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# PREFACE

I am pleased to present the ACWL's Report on Operations for 2008. The ACWL provides its services only in response to specific requests from its developing country Members and the least developed countries ("LDCs")\*. The operations described in this Report, therefore, reflect the main legal problems that these countries faced in 2008 as Members of the WTO and that they could not resolve without external assistance.

Most of the advice requested by Members and LDCs in 2008 concerned systemic issues of WTO law and procedure or the requesting countries' own measures. As developing countries, especially lower-income countries and the LDCs, become more involved in the multilateral trading system, they are increasingly confronted with questions of how to participate effectively in the WTO's complex decision-making processes and with problems in determining the scope of their obligations under the WTO's intricate trade rules.

Less than one fifth of the requests for assistance related to measures of another country. Of these requests, approximately one half related to measures of other developing countries. This suggests that developing countries face as many legal problems in their relations with other developing countries as they face in their relations with developed countries.

By assisting developing countries and the LDCs in addressing their WTO legal problems, the ACWL enables these countries to participate more effectively in the WTO's decision-making processes and to determine the scope of their rights and obligations, thereby contributing to the effectiveness of the WTO legal system. The ACWL, therefore, generates benefits not only for the 73 countries entitled to its services but for all Members of the WTO.

Once again, I offer my sincere thanks to the members of the ACWL's Management Board for their hard work and wise counsel and to the lawyers and administrative staff of the ACWL for responding diligently to the requests for the ACWL's assistance throughout the year.

Frieder ROESSLER, *Executive Director*



\* Throughout this Report, the terms "country" and "developing country" include separate customs territories and countries with economies in transition.

# THE ACWL IN FIGURES

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<b>OPERATIONS</b>	<b>2008</b>	<b>2007</b>
Legal opinions	175	110
WTO disputes in which the ACWL provided support	7	6
New requests for support in WTO disputes	2	2
Certificates of Training awarded	32	33
<b>MEMBERSHIP</b>		
Developed country Members	10	10
Developing country Members	28	27
Countries in the process of accession to the ACWL	2	2
LDCs entitled to the services of the ACWL	45	42
Countries entitled to the services of the ACWL	73	69
<b>STAFF</b>		
Lawyers, including the Executive Director	8	8
Participants in the Secondment Programme for Trade Lawyers	3	3
Administrative staff	2	2

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# THE ACWL'S OPERATIONS IN 2008

## LEGAL ADVICE

### NUMBER OF OPINIONS

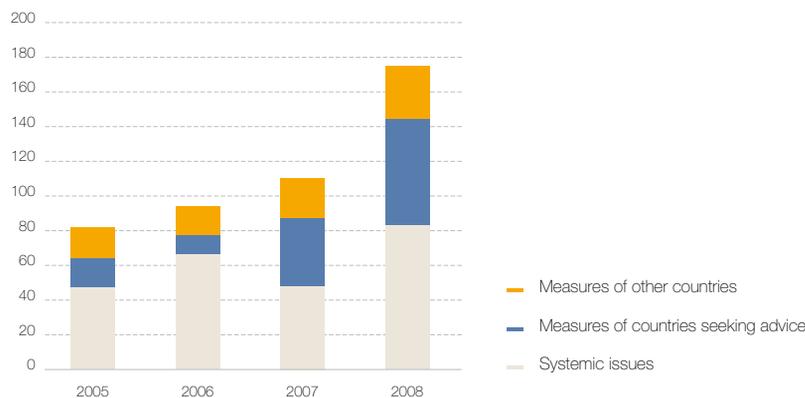
Of the ACWL's 28 developing country Members, 22 sought legal advice from the ACWL during 2008. All of the 45 LDCs entitled to the services of the ACWL received legal advice from the ACWL, in response either to requests submitted by individual LDCs or to requests submitted by the WTO LDC Group.

The ACWL provided a total of 175 legal opinions in 2008, of which 92 were provided in writing and 83 in meetings, conference calls or telephone conversations. The 83 oral opinions do not include the numerous instances in which legal advice is provided in discussions lasting less than half an hour.

As illustrated in the chart below, the number of legal opinions provided by the ACWL has more than doubled over a period of only four years, increasing from 82 in 2005, to 96 in 2006, to 110 in 2007 and to 175 in 2008.

The ACWL's legal advisory work has doubled over the past four years.

**ACWL Legal Opinions 2005-2008**



The overwhelming majority of the ACWL's legal opinions enabled the countries seeking the advice to participate more effectively in the WTO.

Only 20 per cent of the ACWL's legal advice in the past four years concerned other countries' measures.

## TYPES OF OPINIONS

The ACWL's legal opinions can be divided into three broad categories. The first comprises legal opinions on general systemic issues arising from negotiations and decision-making in the WTO. These legal opinions enhance the capacity of developing countries to pursue their interests within the complex institutional framework of the WTO and to participate actively in WTO decision-making and negotiations. Of the 175 legal opinions requested in 2008, 83, or 47 per cent, concerned such matters. For example, the ACWL advised on legal issues arising from negotiating proposals in the Doha Round negotiations and on the legal consequences of decisions of WTO bodies. The LDCs have been particularly interested in these issues, with 70 per cent of the legal opinions requested by LDCs falling within this category. The breakdown of the ACWL's legal opinions between these three categories is also illustrated in the above chart.

The second category of legal advice concerns measures taken or contemplated by the Member or LDC seeking the advice. In 2008, the ACWL responded to 61 requests for this category of legal opinion, which was 35 per cent of the total number of opinions requested. For example, the ACWL responded to questions regarding the modification of schedules of tariff concessions, proposed subsidies schemes and trade remedy measures. This type of advice assists ACWL Members and LDCs to achieve their policy objectives while respecting their WTO obligations. This advice is often sought by Members or LDCs faced with internal disagreement as to the consistency of a proposed measure with WTO law. The ACWL is in a unique position to provide a neutral third-party assessment of WTO law in these cases.

The third category of advice concerns measures taken by other WTO Members that affect the Member or LDC seeking the advice. In 2008, ACWL Members and LDCs sought an assessment of the viability of initiating WTO dispute settlement proceedings in 31 instances, representing 18 per cent of the total opinions requested. These opinions included assessments of the WTO consistency of preferential tariff schemes and a number of safeguard and anti-dumping measures. In about half of these cases, the country whose measure was at issue was also a developing country. In these cases, the ACWL provides an objective assessment of the chances of prevailing in a dispute settlement proceeding. As the ACWL is neither an issue-driven nor a profit-making institution, the Members and LDCs seeking such advice can rely on the objectivity of the ACWL's advice.

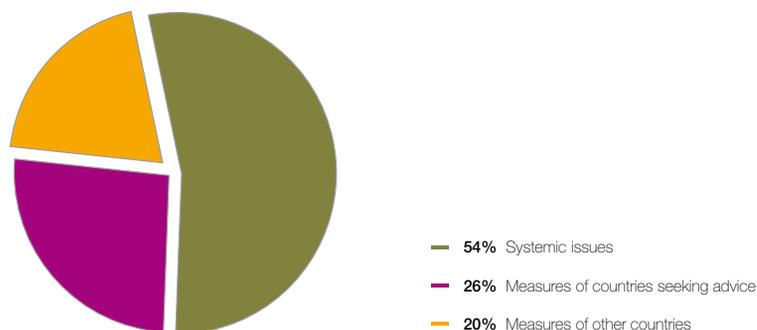
The following table provides a breakdown of the number of legal opinions provided by category from 2005 to 2008.

**Legal Opinions by Type of Opinion 2005-2008**

TYPE OF OPINION	2005		2006		2007		2008	
	TOTAL	SHARE	TOTAL	SHARE	TOTAL	SHARE	TOTAL	SHARE
SYSTEMIC ISSUES	47	57%	66	69%	48	44%	83	47%
MEASURES OF COUNTRIES SEEKING ADVICE	17	21%	11	11%	39	36%	61	35%
MEASURES OF OTHER COUNTRIES	18	22%	19	20%	23	21%	31	18%

As the above table shows, about 80 per cent of the legal advice provided by the ACWL during the past four years enabled ACWL Members and LDCs to participate more effectively in WTO decision-making or negotiations and to acquire a better understanding of their WTO obligations. The average distribution between the three categories of legal opinions during the past four years is indicated in the chart below.

**Legal Opinions by Type of Opinion (Four-Year Average)**



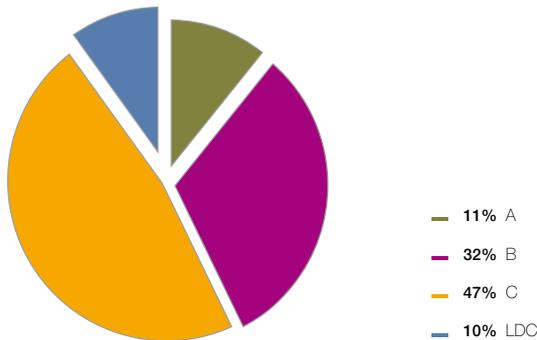
Lower income countries (category C Members and LDCs) requested the majority of the opinions.

### DISTRIBUTION OF OPINIONS AMONG COUNTRIES

The ACWL divides its developing country Members into category A, B, and C countries, according to their GNP per capita and share of world trade. As detailed in the table and chart below, of the 175 legal opinions provided in 2008, the majority (57 per cent) were sought by the low income category C countries (47 per cent) and LDCs (10 per cent). The middle category B countries requested 32 per cent of the opinions, while only 11 per cent of the opinions were requested by category A Members.

MEMBERSHIP CATEGORY	NUMBER OF OPINIONS	PERCENTAGE OF TOTAL
A	19	11
B	57	32
C	82	47
LDC	17	10
<b>TOTAL</b>	<b>175</b>	<b>100</b>

Legal Opinions in 2008 by Category of Member



## DISPUTE SETTLEMENT SUPPORT

The ACWL  
has assisted  
developing  
countries and  
LDCs in 32  
WTO disputes.

In 2008, the ACWL assisted Members and one LDC in seven WTO dispute settlement proceedings, including two disputes initiated in 2008 and five ongoing disputes that commenced in previous years. The ACWL has now provided support to its Members and two LDCs through its staff in 32 disputes and through an external legal counsel in five disputes. In half of the cases in which the ACWL assisted the complainant, the other party was a developing country.

A full list of the disputes in which the ACWL has assisted developing countries and LDCs is set out in Appendix 1.

### SUPPORT BY ACWL STAFF

#### NEW DISPUTES IN 2008

The ACWL assisted its Members in two new dispute settlement proceedings in 2008. In *South Africa – Anti-Dumping Measures on Uncoated Woodfree Paper* (DS374), the ACWL assisted **Indonesia** in the consultations phase of Indonesia's challenge to anti-dumping measures imposed by South Africa on imports of certain paper products. Indonesia claimed that South Africa's failure to terminate these measures following a "sunset" review was inconsistent with Article 11 of the WTO *Anti-Dumping Agreement*. Following the issuance of the request for consultations, South Africa terminated the measures. Consequently, in November 2008, Indonesia notified the WTO that it was withdrawing its request for consultations.

In *United States – Anti-Dumping Measures on Polyethylene Retail Carrier Bags from Thailand* (DS383), the ACWL is assisting **Thailand** in the consultations phase with the United States with respect to the application by the United States of the practice known as "zeroing" of negative dumping margins in its anti-dumping investigation of plastic carrier bags from Thailand. Thailand is challenging the use of zeroing in this case as inconsistent with Article 2.4.2 of the *Anti-Dumping Agreement*. As the type of zeroing at issue, known as average-to-average zeroing, has already been found to be WTO-inconsistent by previous panels and the Appellate Body, this aspect of this dispute is unlikely to be as controversial as some of the other current disputes involving other uses of the zeroing methodology. Consultations in this matter are likely to be held in early 2009.



In half of the disputes in which the ACWL assisted the complainant, the other party was also a developing country.

#### ONGOING DISPUTES

The ACWL continued to represent **Panama** as a complainant in the dispute *Colombia – Indicative Prices and Restrictions on Ports of Entry* (DS366). Panama is challenging Colombia's use of indicative prices to determine the value of products for the purpose of levying customs duties and internal taxes as being inconsistent with the valuation methods set out in the *Agreement on Customs Valuation*. Panama is also challenging Colombian measures that restrict the import of textile and footwear products from Panama to two designated ports of entry in Colombia as being inconsistent with Articles I:1, V:2, V:6, XI:1 and XIII:1 of the *General Agreement on Tariffs and Trade 1994* (the "GATT 1994"). This dispute is the first WTO dispute settlement proceeding to address directly the *Agreement on Customs Valuation*. All of the parties' submissions to the panel were made in 2008 and the panel held two meetings with the parties. The report of the panel is expected to be circulated in early 2009 and any Appellate Body proceedings are likely to take place later in the year.

The ACWL also continued to represent **Colombia** in *European Communities – Regime for the Importation of Bananas* (DS361). Consultations were held with the European Communities. These were followed by a request by Colombia that the WTO Director-General use his good offices to facilitate a mutually-agreeable solution pursuant to Article 3.12 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU") and the Decision of 5 April 1966 (BISD 14S/18). This was the first request for the Director-General's good offices since the establishment of the WTO. The ACWL assisted Colombia in preparing written documentation and oral presentations during the good offices process.

In addition, the ACWL advised **Colombia** as a third participant in the Appellate Body proceedings in *European Communities – Regime for the Importation, Sale and Distribution of Bananas (Second Recourse to Article 21.5 of the DSU by Ecuador)* (DS27). Colombia supported Ecuador's position that the EC's tariff concessions for bananas had not expired in 2002. The Appellate Body upheld the panel's findings in Ecuador's favour that the EC's tariff regime for bananas was inconsistent with Article II:1(b) of the GATT 1994. The ACWL expects to assist Colombia in further phases of this dispute, including the good offices process, in 2009.

In *United States – Measures Relating to Shrimp from Thailand* (DS343), the ACWL represented **Thailand** in its challenge to the United States' use of zeroing in the anti-dumping investigation of shrimp from Thailand and the United States' subsequent decision to impose enhanced bonding requirements for imports of Thai shrimp subject to the anti-dumping measure. In a report issued in February 2008, the panel found in Thailand's favour that the use of zeroing was inconsistent with Article 2.4.2 of the *Anti-Dumping Agreement* and that the imposition of the enhanced bond requirements constituted impermissible additional action against dumping contrary to Article 18.1 of the *Anti-Dumping Agreement*. Both Thailand and the United States appealed various aspects of the panel's legal reasoning with respect to the enhanced bonding requirements. In a report issued in July 2008, the Appellate Body affirmed the panel's finding with certain modifications to the panel's legal interpretations and reasoning. In addition to assisting Thailand in the panel and Appellate Body proceedings, the ACWL also assisted Thailand in negotiating an agreement with the United States under Article 21.3(b) of the DSU on the reasonable period of time for the United States to implement the panel and Appellate Body reports.

The ACWL assisted **Chad** as a third party in *United States – Subsidies on Upland Cotton (Recourse to Article 21.5 of the DSU by Brazil)* (DS267). The dispute concerned the implementation of rulings and recommendation in the dispute *United States – Subsidies on Upland Cotton*. In 2007, a panel established under Article 21.5 of the DSU held hearings to determine whether the United States had complied with the rulings and recommendations of the DSB. Chad, which had been a third party in the original panel proceedings, supported Brazil's complaint that the adverse effects of the subsidies continued and argued that these effects were particularly serious for farmers in West

Africa. In a report circulated in December 2007, the panel found that the United States had failed to address these adverse effects. The report was appealed in early 2008, and the ACWL represented Chad, in French, in the Appellate Body proceedings. The Appellate Body largely upheld the findings of the panel.

## SUPPORT PROVIDED THROUGH EXTERNAL LEGAL COUNSEL

### ROSTER OF EXTERNAL LEGAL COUNSEL

WTO dispute settlement proceedings between developing countries, including those entitled to the ACWL's services, are increasingly common. The ACWL can provide support to two parties involved in the same proceeding if they pursue the same objective, for instance as co-complainants. ACWL lawyers would, however, face a conflict if they were to give legal advice on a measure to different countries pursuing different objectives. In dispute settlement proceedings between two countries entitled to the services of the ACWL, therefore, ACWL lawyers normally provide support to the party in the proceeding that first requested advice on the measure. The ACWL provides its support to the other party to the proceeding through an external legal counsel selected by that party.

The ACWL has established a Roster of External Counsel consisting of experienced law firms and individuals that have agreed to represent developing countries and LDCs at reduced rates when the ACWL staff cannot do so because of a conflict. The party to the proceeding that cannot be served by the ACWL's staff selects its own counsel from the Roster. The selected counsel provides the same support that the ACWL would have provided if the conflict had not arisen. The ACWL finances the difference between the fees charged by the



The ACWL has supported its Members through external legal counsel in four disputes.

external counsel and the fees that the ACWL would have charged for the same services. The law firms and lawyers on the Roster for External Legal Counsel are listed in Appendix 2.

#### RECOURSE TO EXTERNAL LEGAL COUNSEL IN 2008

To date, the ACWL has provided support through external legal counsel in four WTO dispute settlement proceedings. In 2008, Colombia continued to use the law firm White & Case as its external legal counsel in the dispute *Colombia – Indicative Prices and Restrictions on Ports of Entry* (DS366), in which the ACWL’s lawyers assisted Panama as complainant.

The three previous cases in which external legal counsel have been used are: *Turkey – Measures Affecting the Importation of Rice* (DS334), in which support was provided to the respondent Turkey through the law firm O’Connor and Partners; *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes* (DS302), in which support was provided to the respondent, the Dominican Republic, through Sidley Austin Brown and Wood; and *European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries* (DS246), in which support was provided to Colombia, Ecuador, Peru, and Venezuela as third parties through Wilmer Cutler and Pickering.

#### TECHNICAL EXPERTISE TRUST FUND

The Technical Expertise Trust Fund was established to help finance the input of technical expertise that may be needed in WTO dispute settlement proceedings. It is funded by voluntary contributions of the developed-country Members. Denmark, the Netherlands and Norway have made contributions.

In 2008, the Trust Fund was used by Panama to defray part of the costs of obtaining expert witness testimony in the dispute *Colombia – Indicative Prices and Restrictions on Ports of Entry* (WT/DS366). In 2008, the Management Board adopted a proposal, approved by the General Assembly, clarifying that Members and LDCs may have access to the Technical Expertise Trust Fund not only in the course of a WTO dispute settlement proceeding, but also in anticipation of a proceeding.



## TRAINING

### ANNUAL TRAINING COURSE

The ACWL's training programme on WTO law and procedure is divided into three annual courses, each covering different aspects of WTO law. The first course covers the basic principles of WTO law, the second addresses WTO agreements relating to non-tariff issues (such as trade remedies, trade in agricultural products, trade in services and trade-related intellectual property rights), and the third course covers the WTO dispute settlement procedures.

The courses start in October of each year and end in the following March. Classes are held every Thursday from 13:00 - 15:00 hours at the premises of the ACWL. To address the constraints faced by delegates from countries with small missions, especially those from LDCs, the ACWL conducts additional "catch-up" classes on request for participants that were unable to attend the regularly-scheduled sessions. In principle, only officials from developing country Members and LDCs are invited to attend the course. However, when space is available, the ACWL also welcomes delegates from developing countries interested in getting to know the ACWL. At the conclusion of each course, the ACWL awards a Certificate of Training to participants attending at least two thirds of the 18 to 20 annual sessions.

The ACWL has completed six training courses to date. In October 2008, the ACWL commenced its seventh course, which focuses on WTO dispute settlement procedures. It will be completed in March 2009.

Delegates from all developing country Members except one and from over half of the LDCs with missions in Geneva have received a Certificate of Training for at least one of the six courses completed so far. In March 2008, 32 delegates received the Certificate. The participation of delegates from LDCs has evolved favourably: In 2006, only four delegates from LDCs received a Certificate of Training, while the number of successful LDC delegates rose to ten in 2007 and to eleven in 2008.

Delegates from virtually all ACWL Members have participated successfully in at least one of the six annual training courses.

LDCs are increasingly using the ACWL's training courses.



Ten lawyers have been recruited to date under the Secondment Programme for Trade Lawyers.

### SECONDMENT PROGRAMME FOR TRADE LAWYERS

In 2005, the ACWL launched the 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 term starting in mid-September and ending in mid-June of the following year. The Programme gives government lawyers from developing countries and LDCs an opportunity to work with, and learn from, a team of experienced lawyers that are actively involved in WTO legal issues and dispute settlement proceedings. To date, ten government lawyers from seven developing countries and three LDCs have participated in the Programme.

In 2008, Members and LDCs nominated a total of 51 candidates for the Programme. Almost half were nominated by LDCs. Eight candidates were invited to come to Geneva for interviews. The successful candidates were Ms Liang-Rong Lin of Chinese Taipei, Ms Gheidy Gallo Santos of Colombia and Ms Shandana Gulzar Khan of Pakistan. They joined the ACWL in September 2008 and will complete their secondment in June 2009.

Prior to joining the ACWL, **Ms Lin** worked as a legal advisor in the Office of Trade Negotiations in the Ministry of Economic Affairs, where she provided legal advice on trade policy, negotiations and dispute settlement. She has drafted several third party submissions for WTO disputes in which Chinese Taipei was involved. Ms Lin has LL.B and LL.M degrees from the National University of Taiwan and Soochow University. Ms Lin is also a reporter for the Oxford Reports on International Law in Domestic Courts.

**Ms Gallo Santos** worked as a legal advisor in International Economic Law at the Entrepreneurial Development Office of Colombia's National Planning Department. She previously worked for the Colombian Senate Committee on International Relations and Foreign Trade. She has also lectured at the Faculty of Law of the National University on the law of economic integration in Colombia. She has a B.A. degree in law from the National University of Colombia.

**Ms Gulzar Khan** has law degrees from the University of Peshawar and the University of Cambridge. As the Legal Affairs Officer of the Permanent Mission of Pakistan to the WTO for two years, she was responsible for the legal work of the mission, including the negotiations on the DSU and the TRIPS Agreement. She previously worked at Azam Chaudhry Law Associates and the Asian Institute of Trade and Development in Islamabad.

The participants who completed their secondment in June 2008, **Ms Sophia Sitati**, from Kenya, **Mr. Pema Rinzin**, from Bhutan, and **Mr. Talat Kaya**, from Turkey, all returned to their capitals. **Ms Sitati** has returned to her position as a State Counsel in the Office of the Attorney General, Department of Treaties and Agreements, where her responsibilities include advising government agencies in negotiating and implementing international agreements and treaties. **Mr. Rinzin**, the first participant in the Secondment Programme from an LDC in the process of acceding to the WTO, returned to his position as a senior Assistant Attorney General and as a member of the team working on the accession of Bhutan to the WTO. **Mr. Kaya** has returned to his position as Foreign Trade Expert in Turkey's Undersecretariat for Foreign Trade, where he advises on issues of WTO law and on aspects of Turkey's trade relations with the European Union.

The ACWL has tried to remain in touch with all of the participants after their return to their capitals. While it is still too soon to draw definitive conclusions, it appears that most of the participants continue to be involved in WTO legal issues for their governments or for regional bodies, indicating that the Programme will have a lasting capacity-building effect.



The Secondment Programme is funded by voluntary contributions made by developed country Members of the ACWL. Five Members, Canada, Denmark, Ireland, Norway and Sweden, have so far contributed. Further contributions will be required to continue the Programme after June 2010.

## SEMINARS AND TRAINING SESSIONS

In addition to its annual training course, ACWL offers occasional seminars on issues of topical interest. In 2008, the ACWL conducted three seminars on Appellate Body reports with systematically important rulings. These were the reports in the *Canada – Continued Suspension of Obligations in the EC – Hormones Dispute* (DS321) and *United States – Continued Suspension of Obligations in the EC – Hormones Dispute* (DS320) cases, *India – Additional and Extra-Additional Duties on Imports from the United States* (DS360) and, finally, *European Communities – Regime for the Importation, Sale and Distribution of Bananas (Second Recourse to Article 21.5 of the DSU by Ecuador / Recourse to Article 21.5 of the DSU by the United States)* (DS27). These seminars enabled delegates to familiarise themselves with the complex issues decided by the Appellate Body and were very well attended.

The ACWL also conducts training sessions on specific issues in response to requests by Members or LDCs. In October 2008, at the request of Zambia, the ACWL organised a one-day training session on the *General Agreement on Trade in Services* for a capital-based delegation visiting Geneva.

# OUTREACH

## OUTREACH ACTIVITIES ORGANISED BY THE ACWL

The ACWL's outreach activities are important to ensure that developing countries and LDCs are sufficiently familiar with the ACWL's work to enable them to benefit fully from the ACWL's services. Given the frequent turnover in Geneva-based delegates and capital-based officials responsible for multilateral trade issues, the ACWL tries to make sure that the relevant officials learn as much as possible about the ACWL and how to use its services. To this end, the ACWL participates as frequently as possible in activities conducted by the WTO and other organisations that inform developing country and, in particular, LDC officials about the WTO legal system.

The ACWL's outreach activities are also intended to ensure that developed countries that may be interested in joining the ACWL or otherwise funding its work are fully informed on the ACWL's activities. In June 2008, the ACWL hosted a special information seminar for WTO developing country Members that have expressed an interest in becoming Members of the ACWL. Throughout the year, ACWL lawyers met with delegates from such countries and continued its outreach activities to developed country WTO Members.

## COOPERATION WITH THE WTO AND OTHER ORGANISATIONS

While the ACWL does not itself have the resources to organise training activities outside Geneva, its lawyers frequently participate in such sessions organised by other international organisations. The ACWL is also a regular participant in the WTO's Geneva-based trade policy courses and other training activities.

Additionally, the ACWL cooperates with other organisations involved in trade and development issues in their training and outreach activities. ACWL lawyers also make presentations to university students studying aspects of international trade law and policy. Throughout the year, lawyers



from the ACWL discussed the activities of the ACWL and issues arising from WTO dispute settlement and WTO law more generally with students from various universities, including the London School of Economics, Duke University, the University of Melbourne, the University of Lausanne and the World Trade Institute. The main aim of this cooperation is to ensure that all LDCs and developing countries are fully aware of the legal services that the ACWL provides.

In 2008, the ACWL participated in about 50 such outreach activities, the most important of which are listed below.

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## COOPERATION WITH THE WTO

- In February, March and July, the ACWL helped train government officials in the WTO's Trade Policy Courses. The ACWL participated in all of the courses offered by the WTO during 2008. These courses were conducted in English, Spanish and French.
- In July, the ACWL participated in the WTO's Geneva Week for non-resident Members and Observers.
- In September, the ACWL participated in sessions on developments in WTO law relating to environmental measures and developments in dispute settlement at the WTO Public Forum 2008.
- In October, the ACWL participated in the WTO's specialised training courses on the *Agreement on the Application of Sanitary and Phytosanitary Measures* and the *Agreement on Technical Barriers to Trade*.
- In June and November, the ACWL participated in the WTO's introductory courses on WTO dispute settlement for government officials from LDCs. These courses were conducted in English and French.
- In October and December, the ACWL participated in the WTO's thematic training courses on the WTO dispute settlement system for developing country and LDC officials. These courses were conducted in French and English.

The ACWL participated in more outreach activities in 2008 than in any other year.

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## COOPERATION WITH OTHER ORGANISATIONS

- In February, the Executive Director of the ACWL participated in the LDC Ministerial Meeting in Maseru, Lesotho.
- In February, the ACWL participated in a training programme organised by the Agency for International Trade Information and Cooperation (AITIC).
- In March, the ACWL participated in a workshop on WTO Reform organised by the South Centre.
- In May, the ACWL participated in a training course on WTO law organised by the Trade Policy Training Centre in Africa (TRAPCA) in Arusha, Tanzania.
- In June, the ACWL met with officials from the Bangladesh Foreign Trade Institute (BFTI).
- Also in June, the ACWL participated in the "Regional Dialogue on Interim East African Community Economic Partnership Agreement with the EU," in Kigali, Rwanda, organised by the International Centre for Trade and Sustainable Development (ICTSD).
- In November, the ACWL participated in a seminar organised by the United Nations Conference on Trade and Development (UNCTAD) on legal issues regarding the novel foods regulation of the EC in Lima, Peru.

# INSTITUTIONAL MATTERS

The ACWL now has 28 developing country Members, compared to 19 in 2001.

40 per cent of WTO Members are entitled to the services of the ACWL.

## MEMBERSHIP

### CURRENT MEMBERSHIP

On 27 August 2008, the General Assembly approved **Sri Lanka's** request to accede to the ACWL, and on 22 October 2008, Sri Lanka's representative, Ambassador Chulabhaya Magedaragamage, signed Sri Lanka's protocol of accession, which became effective on 21 November 2008. With the accession of Sri Lanka, there are now 28 developing country Members entitled to the services of the ACWL and 38 ACWL Members in total (including the ten developed country Members).

All LDCs that are Members of the WTO or 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. The number of these LDCs has increased from 40 to 45 since the ACWL was established in 2001. Thus, the ACWL's services are currently available to a total of 73 countries, representing approximately 40 per cent of the membership of the WTO.

### ACCESSIONS IN PROCESS

Costa Rica and Georgia have initiated but not yet completed the process of acceding to the ACWL. At its meeting in June 2008, the General Assembly extended to 30 June 2009 the period for the deposit by Costa Rica of its instrument of ratification. While Georgia initiated its accession process in 2006, the deadline within which Georgia was to sign its protocol of accession expired in 2007 without Georgia taking any further steps to complete or extend the process. If Costa Rica and Georgia complete their accessions, the ACWL will have 30 developing country Members entitled to its services.

### WHICH DEVELOPING COUNTRIES HAVE BECOME ACWL MEMBERS?

Apart from several larger developing countries, virtually all developing countries that have been involved in WTO dispute settlement proceedings since the establishment of the ACWL have become Members of the ACWL.

The chart below lists all 30 developing countries and LDCs that have been either a complainant or respondent in WTO dispute settlement proceedings since the ACWL was established,

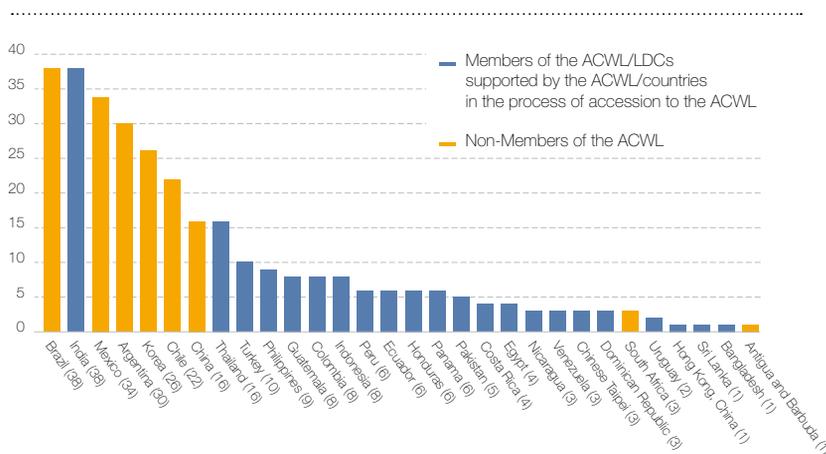


and the total number of WTO disputes in which each of these countries has participated since 1995. India, the second most active participant, is an ACWL Member. The other six most experienced participants (Brazil, Mexico, Argentina, Korea, Chile and China) have not joined the ACWL.

Virtually all of the remaining developing countries that have been involved in dispute settlement proceedings since the ACWL was established in 2001 have joined or are in the process of acceding to the ACWL. The only exceptions are Antigua and Barbuda, which was the complainant in the *United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services* dispute, and South Africa, which has received three requests for consultations but has never participated in a panel proceeding. Three other developing countries – Malaysia, Singapore, and Trinidad & Tobago – participated in dispute settlement proceedings before the ACWL was established, but have not done so since.

The ACWL, therefore, has attracted the very countries that it was intended to benefit, namely countries that are actively involved in WTO legal matters but have insufficient experience to deal with them.

Most ACWL Members are smaller developing countries that are actively involved in the WTO but lack internal legal resources.



## THE GENERAL ASSEMBLY

The General Assembly is the ACWL's highest decision-making body, consisting of the representatives of the Members of the ACWL and of the LDCs entitled to the services of the ACWL. The General Assembly met twice in 2008. At its meeting in June 2008, the General Assembly elected Mr. Declan Morrin of Ireland as its third Chairperson. Dr. Mohammed Saeed of Pakistan was re-elected as Vice-Chairperson.

## THE MANAGEMENT BOARD

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. It 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. In addition, the Executive Director serves *ex officio* on the Board.

In 2008, the Management Board consisted of H.E. Mr. Arsene Bahihuta of Uganda, H.E. Mr. Yi-fu Lin of Chinese Taipei, H.E. Prof. Maria Nzomo of Kenya, H.E. Mr. Eduardo Ernesto Sperisen-Yurt of Guatemala, Dr. Stuart Robinson of Switzerland and Mr. John M. Weekes of Canada. Mr. Weekes served as Chairperson of the Management Board until he was succeeded by Dr. Robinson in June 2008. Mr. Sperisen-Yurt is the Vice-Chairperson. The decisions adopted by the Management Board in 2008 included a decision extending the term of office of Mr. Frieder Roessler as ACWL Executive Director until 15 July 2013.



## THE STAFF

As of 31 December 2008, the ACWL's staff consisted of eight lawyers (including the Executive Director), three junior lawyers participating in the Secondment Programme for Trade Lawyers and two administrative officers.

The 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 lawyers are Mr. Thomas Sebastian, Mr. Hunter Nottage, Mr. Fernando Piérola, Ms Petina Gappah, Ms Cherise Valles and Mr. Niall Meagher. Biographies of the lawyers are available on the ACWL website ([www.acwl.ch](http://www.acwl.ch)). The ACWL's office administrators are Ms Carol Lau and Ms Pascale Colombo (on leave, replaced by Ms Leah Malabonga).

# APPENDIX 1

## WTO DISPUTES IN WHICH THE ACWL HAS PROVIDED SUPPORT

### SUPPORT PROVIDED BY THE ACWL STAFF

**For Thailand**, as a complainant in the consultations phase in *United States – Anti-Dumping Measures on Polyethylene Retail Carrier Bags from Thailand* (WT/DS383).

**For Indonesia**, as a complainant in the consultations phase in *South Africa – Anti-Dumping Measures on Uncoated Woodfree Paper* (WT/DS374).

**For Colombia**, as a complainant in the good offices process in *European Communities - Regime for the Importation of Bananas* (WT/DS361).

**For Colombia**, as a third participant in the Appellate Body proceedings in *European Communities – Regime for the Importation, Sale and Distribution of Bananas (Second Recourse to Article 21.5 of the DSU by Ecuador)* (WT/DS27).

**For Panama**, as a complainant in *Colombia – Indicative Prices and Restrictions on Ports of Entry* (WT/DS366).

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

**For Panama**, as a complainant in *Colombia – Customs Measures on Importation of Certain Goods from Panama* (WT/DS348).

**For Chad** as a third party in *United States - Subsidies on Upland Cotton: Recourse to Article 21.5 of the DSU by Brazil* (WT/DS267).

**For Thailand** as a complainant in *United States – Measures Relating to Shrimp from Thailand* (WT/DS343).

**For Thailand** as a third party in the Article 21.5 Panel and Appellate Body proceedings in *United States – Final Dumping Determination on Softwood Lumber from Canada* (WT/DS264).

**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/LJ/616).

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

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

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

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

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

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

**For Honduras**, as a complainant in *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes* (WT/DS302).

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

**For Thailand**, as a complainant in *European Communities – Customs Classification of Frozen Boneless Chicken Cuts* (WT/DS286).

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

**For Thailand**, as a complainant in *European Communities – Export Subsidies on Sugar* (WT/DS283).

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

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

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

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

**For Peru**, as a complainant in *European Communities – Trade Description of Sardines* (WT/DS231).

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

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

## **SUPPORT PROVIDED THROUGH AN EXTERNAL LEGAL COUNSEL**

**For Colombia** as a respondent in *Colombia – Indicative Prices and Restrictions on Ports of Entry* (WT/DS366).

**For Turkey**, as a respondent in *Turkey – Measures Affecting the Importation of Rice* (WT/DS334).

**For the Dominican Republic**, in the arbitration proceedings pursuant to Article 21.3(c) of the DSU in *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes* (WT/DS302).

**For Columbia, Ecuador, Peru and Venezuela**, in their participation as third parties in *EC – Conditions for the granting of Tariff Preferences to Developing Countries* (WT/DS246).

# APPENDIX 2

## ROSTER OF EXTERNAL LEGAL COUNSEL

LAW FIRMS	INDIVIDUALS
AKIN GUMP STRAUSS HAUER & FELD LLP BORDEN LARDNER GERVAIS LLP FRATINIVERGANO GIDE LOYRETTE NOUEL KING & SPALDING MINTER ELLISON O'CONNOR & COMPANY SIDLEY AUSTIN LLP VAN BAEL & BELLIS VERMULST, VERHAEGHE & GRAAFSMA WHITE & CASE	MR. EDMOND MCGOVERN MR. DONALD MCRAE

# APPENDIX 3

## MEMBERS OF THE ACWL

	<b>MEMBERS ENTITLED TO THE SERVICES OF THE ACWL (28)</b>	<b>DEVELOPED COUNTRY MEMBERS (10)</b>
<b>SIGNATORIES TO THE AGREEMENT ESTABLISHING THE ACWL</b>	BOLIVIA COLOMBIA DOMINICAN REPUBLIC ECUADOR EGYPT GUATEMALA HONDURAS HONG KONG, CHINA INDIA KENYA NICARAGUA PAKISTAN PANAMA PARAGUAY PERU PHILIPPINES THAILANDW TUNISIA URUGUAY VENEZUELA	CANADA DENMARK FINLAND IRELAND ITALY NETHERLANDS NORWAY SWEDEN UNITED KINGDOM
<b>ACWL MEMBERS BY ACCESSION</b>	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) SRI LANKA (21 NOVEMBER 2008)	SWITZERLAND (5 DECEMBER 2004)
<b>IN THE PROCESS OF ACCESSION</b>	COSTA RICA GEORGIA	

# APPENDIX 4

## LDCS ENTITLED TO THE SERVICES OF THE ACWL

MEMBERS OF THE WTO (33)	IN THE PROCESS OF ACCEDING TO THE WTO (12)
ANGOLA BANGLADESH BENIN BURKINA FASO BURUNDI CAMBODIA CAPE VERDE CENTRAL AFRICAN REPUBLIC CHAD CONGO, DEMOCRATIC REPUBLIC OF DJIBOUTI GAMBIA GUINEA GUINEA BISSAU HAITI LESOTHO MADAGASCAR MALAWI MALDIVES MALI MAURITANIA MOZAMBIQUE MYANMAR NEPAL NIGER RWANDA SENEGAL SIERRA LEONE SOLOMON ISLANDS TANZANIA TOGO UGANDA ZAMBIA	AFGHANISTAN BHUTAN COMOROS EQUATORIAL GUINEA ETHIOPIA LAO PEOPLE'S DEMOCRATIC REP. LIBERIA SAMOA SAO TOME AND PRINCIPE SUDAN VANUATU YEMEN



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