

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that without adequate procedural safeguards, any given international standardizing body could have a standard, even if outdated or not reflective of the views of all interested parties.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 P. Shark".

David P. Shark
Deputy Chief of Mission

Attachment

Example A: On page xxxii, the Report asserts that *“ISO is the most important international standards body.”* On page 76, there is a banner that asks: *“Where are Standards Set?”*. In the paragraph(s) under the banner, the report states: *“The World Standards Services Network provides comprehensive lists of international and regional standardizing bodies including links to their web pages.....Of the 49 international standardizing bodies listed by the World Standard Services Network, ISO, the IEC and ITU are the most important.”* The Report appends a table listing the 49 “international standardizing bodies”.

These statements are confusing and misleading for two reasons. First, it is our understanding that the World Standard Services Network does not use any particular criteria in determining which standardizing bodies to include on this list. “National” bodies are limited to member bodies of the ISO and IEC. “International” bodies include organizations such as the OIV – a body from which the United States withdrew its membership due to concerns with its flawed procedures for standards development. Second, the Report notes only later that, unlike the SPS Agreement, the TBT Agreement does not specify international standardizing bodies. While this statement is correct, it appears too late in the Report to dispel the misconceptions created by the earlier reference to the list.

Example B: On page 118, the Report states: *“The development process for voluntary, consensus based standards, and in particular the procedures used by ISO and many of its member bodies, are strictly regulated by the WTO and ISO codes of good practice.”*

The statement appears to elevate the status of the ISO process above that of other standardizing bodies. It is clear that ISO viewed this statement, as well as the statement on page 76, as endorsements, as evidenced by the press release issued by ISO five days after the WTO published the report. (The ISO press release can be found at: <http://www.iso.org/iso/en/commcentre/pressreleases/2005/Ref965.html>).

As we have noted, the United States is a member and active participant in these international bodies; nevertheless, we believe it is inappropriate for the WTO Secretariat to endorse one (or more) particular standard-setting bodies over others. Moreover, the Report does not give a complete picture of the views that have been expressed by Members. For instance, some Members have been critical of procedures which restrict participation to ‘national member bodies’ as opposed to any interested party (which is the practice of many U.S.-domiciled standards developers, for example), or a regional body.