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WTO Dispute Settlement

Steptoe & Johnson LLP is widely recognized as one of the premier international law firms advising clients on matters before the World Trade Organization (WTO). Steptoe routinely advises sovereign and commercial clients on a wide array of dispute settlement, market access, and trade policy matters arising under the WTO Agreements. In 2010, Steptoe was one of only two law firms in the world that received a top-tier ranking from Chambers & Partners for its WTO practice.

WTO Dispute Settlement

Steptoe has advised WTO Member governments and private sector interests in nearly two dozen WTO proceedings, which have given rise to more than 40 panel and Appellate Body reports. Steptoe has represented and advised clients at every stage of WTO dispute settlement, and is among the few law firms in the world that have appeared on behalf of WTO Members in both panel and Appellate Body proceedings.

Steptoe lawyers have been involved in many of the most complex and high-profile WTO disputes since the founding of the WTO in 1995, and the GATT before it. For example, Steptoe has:

- Represented the Government of China in dispute settlement proceedings against the United States concerning the imposition of antidumping and countervailing duty orders on four Chinese products.
- Represented the Government of China in its first appearance as a respondent in WTO dispute settlement.
- Argued on behalf of the Government of Canada before the Appellate Body in *United States – Lumber ITC Investigation*, an important decision concerning the standard of review that panels apply in reviewing national trade remedy determinations.
- Represented the Canadian Wheat Board in *Canada – Wheat*, the first major dispute concerning state trading enterprises under Article XVII of the GATT 1994.
- Represented a major European steel producer in *United States – “Zeroing” of Dumping Margins*, working closely with the European Communities in the successful appeal of this dispute to the Appellate Body.

WTO Dispute Settlement

- Represented the British Columbia Lumber Trade Council in *United States – Lumber CVDs*, which resulted in an important decision by the Appellate Body concerning the application of the Agreement on Subsidies and Countervailing Measures to claims of natural resource subsidization.
- Represented clients in two major WTO disputes concerning the countervailability of pre-privatization subsidies provided to state-owned enterprises.
- Represented leading companies in the distilled spirits industry in multiple WTO disputes concerning national tax measures.

Our team works with WTO Member governments and private sector interests to develop case strategies, participate in the consultations process, assist in panel composition, prepare written submissions, and present arguments before panels and the Appellate Body. We are also actively involved in issues concerning the implementation of Dispute Settlement Body (DSB) recommendations and potential retaliation. Steptoe has extensive experience in coordinating WTO dispute settlement proceedings with related proceedings before national investigating authorities, national courts, and other international dispute settlement tribunals.

Whether we are advising a WTO Member government or an interested private party, Steptoe always takes into account the special legal and diplomatic characteristics of WTO dispute settlement. Steptoe works closely with clients to ensure that the litigation of a particular WTO dispute is consistent with their broader objectives in the international trade arena, whether they are market access objectives, trade negotiation objectives, or positions in other international trade disputes.

Market Access Analysis and Advocacy

Steptoe regularly advises clients on the use of the WTO Agreements as a means of securing commercial and market access objectives in specific markets. Our team analyzes and interprets WTO commitments, examines potential market access restrictions, and assists clients in assessing potential WTO claims. We devise market access strategies for our clients that include advocacy before government agencies (such as USTR and the European Commission), advocacy before the WTO Member government in question, the use of domestic procedures for identifying foreign trade barriers, and the judicious use of threatened WTO action.

These are examples of our recent work in the market access area:

WTO Dispute Settlement

- We advised a major US retailer in evaluating market access restrictions in China, including possible claims under the General Agreement on Trade in Services.
- We have advised the European pharmaceuticals industry on an array of issues arising under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), including the WTO-consistency of a recent EU proposal to restrict the re-importation of pharmaceuticals exported from the EU to certain developing countries.
- On behalf of the EU wine and spirits industry, we prepared successful complaints under the EU Trade Barriers Regulation in respect of discriminatory taxes and other measures in certain export markets.
- We have advised a US exporter on tariff and non-tariff barriers that have affected market access opportunities for large US motorcycles in certain Asian countries.
- On behalf of a US company, we have advocated that the US Food and Drug Administration recognize the validity of foreign testing of certain animal drugs, to ensure consistency with US obligations under the Agreement on Sanitary and Phytosanitary Measures.

In representing clients on market access matters, we draw upon our extensive connections with trade officials and other decision makers in capitals around the world. We also draw upon the experience of firm attorneys who have held high-level government positions, including Deputy US Trade Representative and USTR General Counsel.

WTO Trade Negotiations and Policy

An important element of our International Trade Policy & Strategy practice is advising clients on multilateral trade negotiations and policy developments at the WTO. We have counseled clients on the formulation of national positions in both the Uruguay Round and the Doha Round. Among the areas in which we have advised clients are the negotiation of the Basic Telecommunications Agreement, the treatment of agricultural state-trading enterprises under the GATT 1994, and the Doha Round rules negotiations on antidumping and countervailing duties.

Noteworthy

- Ranked, *Chambers Global 2011* — International Trade/WTO (Belgium); International Trade/WTO (Europe-wide); International Trade/WTO (Global)