

V. Other Multilateral Activities

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents corrupt practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to international trade, environment, labor and other trade-related interests are balanced and mutually supportive.

A. Trade and the Environment

The U.S. Government has been very active in promoting a trade policy agenda that pursues economic growth in the broader context of sustainable development, integrating economic, social, and environmental policies. To help ensure that trade and environmental policies are mutually supportive, the Bush Administration announced in April 2001 that it would continue the policy of conducting environmental reviews of trade agreements under Executive Order 13141 (1999) and implementing guidelines. The Order and implementing guidelines require careful assessment and consideration of the environmental impacts of trade agreements, including detailed written reviews of environmentally significant trade agreements. The reviews are the product of rigorous interagency consultations. During 2002, as part of the review policy, USTR continued its work on the environmental reviews of FTAs under negotiation with Chile and Singapore. Draft reviews of both agreements have now been issued. The review process made important contributions to the negotiations and to the content of the final agreements. USTR also continued its work on an environmental review of the WTO Doha Development Agenda negotiations and an environmental review of the Free Trade Area of the Americas (FTAA).

Following the successful conclusion of the fourth WTO Ministerial Conference in Doha, Qatar (November 2001), the U.S. Government took an active role in the WTO Committee on Trade and Environment (CTE) to put into effect the WTO's commitment to sustainable development and to the simultaneous advancement of trade, environment, and development interests.

At the World Summit for Sustainable Development, concluded in Johannesburg, South Africa in September 2002, the United States worked to ensure that the benefits of participation in the global trading system were recognized as important means to achieving sustainable development. The resulting document, the Johannesburg Plan of Implementation, also encourages countries to take positive steps to make trade and environment policies mutually supportive, through actions such as conducting environmental reviews of trade agreements and the reduction of environmentally harmful subsidies.

The U.S. Congress specified certain objectives with respect to trade and environment in the Trade Act of 2002, and USTR took these into account in coordinating interagency development of positions. In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Trade Act of 2002 (TPA) Guidance on Environment

TPA recognizes the important linkages between trade and environmental policies and provides that negotiations pursuant to TPA should ensure that their mutual supportiveness is promoted. TPA addresses trade and environment objectives in three different areas: overall trade negotiating objectives, principal negotiating objectives and promotion of certain priorities.

With respect to overall negotiating objectives, TPA refers to promoting trade and environment policies that are mutually supportive. It also provides that USTR seek provisions in trade agreements in which the Parties will strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental laws as an encouragement for trade.

Principal trade negotiating objectives in TPA cover a broad array of linkages between trade and environmental policies, all of which are related to the overall objective of mutual supportiveness. These objectives include: (1) ensuring that a party does not fail to effectively enforce its environmental laws in a manner affecting trade between the United States and that Party; (2) recognizing that a party to a trade agreement is effectively enforcing its environmental laws if a course of action or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources, and that no retaliation may be authorized based on the exercise of these rights or the right to establish domestic levels of environmental protection; (3) strengthening the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development; (4) reducing or eliminating government practices and policies that unduly threaten sustainable development; (5) seeking market access for U.S. environmental technologies, goods, and services; and (6) ensuring that environmental, health, and safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Finally, TPA specifies several priorities related to the environment and establishes a number of related reporting requirements. These include: (1) seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and reporting to the House Ways and Means Committee and the Senate Committee on Finance on the control and operation of such mechanisms; (2) conducting environmental reviews of future trade and investment agreements consistent with Executive Order 13141 and its relevant guidelines, and reporting to the two Committees on the results of such reviews; and (3) continuing to promote consideration of multilateral environmental agreements and consulting with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing exceptions under Article XX of the GATT 1994.

2. Multilateral Fora

As described in more detail in the WTO section of this report, the United States was active on all aspects of the Doha trade and environment agenda. The United States coordinated effectively with other WTO Members in seeking new disciplines on fisheries subsidies through negotiations in the Rules Negotiating Group. In the Committee on Trade and Environment in special session, the United States pressed ahead on new approaches to increase communication and coordination between WTO bodies and secretariats of multilateral environmental agreements (MEAs). The United States also identified increased market access for environmental goods and services as an effective means to enhance access to environmental technologies around the world. With respect to the Doha trade and environment agenda that does not specifically involve negotiations, the United States played an active role, particularly in emphasizing the importance of capacity-building, including with respect to environmental reviews of trade negotiations,

and of the role of the CTE in regular session in discussing the environmental implications of all areas under negotiation in the Doha Development Agenda.

USTR co-chairs U.S. participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met two times in 2002 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment. These activities are discussed further in the OECD section of this report (Chapter V, Section C).

USTR participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the United Nations Framework Convention on Climate Change, international fisheries management schemes, and the recently concluded Cartagena Protocol on Biosafety and Stockholm Convention on Persistent Organic Pollutants. USTR also continues to be involved in the trade-related aspects of international forest deliberations, including in the newly-formed permanent United Nations' Forum on Forests – the successor to the Commission on Sustainable Development's *ad hoc* Intergovernmental Forum on Forests – and in the International Tropical Timber Organization. In addition, USTR participates in international negotiations to develop a Framework Convention on Tobacco Control, under the auspices of the World Health Organization, and advises on trade-related tobacco issues.

3. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with the agencies that lead U.S. participation in the institutions created by the NAFTA environmental side agreements, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreement. These institutions were designed to ensure that expanded North American trade does not take place at the expense of the environment. The Border Environment Cooperation Commission and the North American Development Bank develop and finance needed environmental infrastructure projects along the U.S.-Mexico border.

The Commission for Environmental Cooperation (CEC), governed by the trilateral Ministerial-level Council that implements the NAAEC, continues its efforts on numerous fronts and devotes a significant portion of its annual work program to trade and environment issues. The CEC work program encompasses four broad areas: environment, economy, and trade; conservation of biodiversity; pollutants and health; and law and policy. The projects in the annual work program are designed to deepen cooperation among the Parties by furthering environmental sustainability in open markets and stewardship of the North American environment. For example, under the Children's Health and the Environment project, the United States, Mexico and Canada work together to identify the interrelationship between environmental quality and the health of children. At its 2001 meeting, the CEC Council agreed to initiate work in the area of sustainable watershed management, and in 2002, the CEC conducted a series of workshops, with a view developing a long term strategy for the CEC in this area. In 2002, the CEC held a workshop to outline and assess North American experiences in conducting environmental reviews of trade agreements, and released a compilation of papers from a CEC symposium on the environmental effects of the NAFTA. The CEC also decided to conduct a 10-year review of the NAFTA, the NAAEC, and the work of the CEC.

In 2002, USTR also participated in the NAFTA 10(6) group (named after the provision of the NAAEC addressing CEC cooperation with the NAFTA itself). The 10(6) group is composed of senior trade and

environment officials from all three NAFTA governments, and meets to discuss issues of common concern.

In May 2002, the NAFTA Free Trade Commission reviewed the operation of Chapter 11 of the NAFTA and directed investment experts from Canada, Mexico, and the United States to continue their work examining the implementation and operation of Chapter 11. (Chapter 11 sets out each government's obligations with respect to investors from other NAFTA countries and their investments in its territory). The operation of Chapter 11 and the cases that have been brought under its investor-state dispute settlement procedures have given rise to issues that the NAFTA investment experts group has begun to discuss with a view to ensuring the effective and proper implementation of the Chapter. USTR and other executive agencies have worked with their Mexican and Canadian counterparts in this group and will continue to do so over the course of 2003.

4. The Western Hemisphere

To provide direction in striving for mutually supportive trade liberalization and environmental policies, as was agreed at the 1994 Miami Summit of the Americas and the 2002 Quito Trade Ministerial, U.S. negotiators worked over the past year within the framework of the FTAA negotiating groups to identify and pursue relevant trade-related environmental issues. Complementary environmental elements in the overall Summit of the Americas Plans of Action are intended to further regional cooperation.

The United States also has continued to support efforts by the FTAA Civil Society Committee to expand opportunities for two-way communication with members of civil society throughout the Hemisphere, and carefully considered civil society's submissions to that Committee on the full range of issues, including environmental concerns.

5. Bilateral Activities

In the negotiation of FTAs with Chile and Singapore, the United States achieved environment text that fully incorporated Congressional guidance on TPA. The environment chapters in both agreements include core commitments by each Party to effectively enforce environmental laws, provide for high levels of environmental protection, and to not weaken or reduce environmental laws to encourage trade or attract investment. The FTAs also provide a robust consultative process for implementing the environmental provisions, including transparency provisions and opportunities for public involvement, and an agreement to pursue environmental cooperative activities. If either Party fails to implement the obligation to effectively enforce its environmental laws, the other Party can promote compliance through innovative dispute settlement procedures, including the use of either fines or trade remedies.

B. Trade and Labor

Because the trade policy agenda of the U.S. Government includes a strong commitment to improving labor standards and protecting the rights of workers, the Bush Administration welcomed the bipartisan consensus in TPA to help assure that trade and labor policies are mutually supportive and reinforcing. In keeping with TPA guidance, USTR worked cooperatively with other USG agencies in multilateral, regional and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor.

Expanded trade benefits all Americans through lower prices and greater choices among imports. Many American workers benefit from expanded employment opportunities created by trade liberalization.

However, some American workers in sectors adversely affected by trade flows may experience periods of job displacement. Because such workers should be fairly compensated and given the resources such as training or re-training to adjust to new jobs, the reauthorization of, and significant improvements to, the system of Trade Adjustment Assistance (TAA) was also an integral part of the Administration's international trade agenda during 2002.

1. Trade Act of 2002 (TPA) Guidance on Trade and Labor

The importance of the linkages between trade and labor is underscored by the fact that TPA has labor-related clauses in three sections of the legislation: overall trade negotiating objectives; principal negotiating objectives; and the promotion of certain priorities to address U.S. competitiveness in the global economy.

The labor-related overall U.S. trade negotiating objectives are threefold. First, to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Secondly, to strive to ensure that parties to trade agreements do not weaken or reduce the protections of domestic labor laws as an encouragement for trade. And finally, to promote the universal ratification and full compliance with ILO Convention 182 – which the United States has ratified – concerning the elimination of the worst forms of child labor.

The principal trade negotiating objectives in TPA include, most importantly for labor, the provision that a party to a trade agreement with the United States should not fail to effectively enforce its labor laws in a manner affecting trade. TPA recognizes that the United States and its trading partners retain the sovereign right to establish domestic labor laws, and to exercise discretion with respect to regulatory and compliance matters, and to make resource allocation decisions with respect to labor law enforcement. To strengthen the capacity of our trading partners to promote respect for core labor standards is an additional principal negotiating objective, as is to ensure that labor, health or safety policies and practices of our trading partners do not arbitrarily or unjustifiably discriminate against American exports or serve as disguised trade barriers. A final principal negotiating objective is to seek commitments by parties to trade agreements to vigorously enforce their laws prohibiting the worst forms of child labor.

In addition to seeking greater cooperation between the WTO and the ILO, other labor-related priorities in TPA include the establishment of consultative mechanisms among parties to trade agreements to strengthen their capacity to promote respect for core labor standards and compliance with ILO Convention 182. The Department of Labor is charged with consulting with any country seeking a trade agreement with the United States concerning that country's labor laws, and providing technical assistance if needed. Finally, TPA mandates a series of labor-related reviews and reports to Congress in connection with the negotiation of new trade agreements. These include an employment impact review of future trade agreements, the procedures for which are to be modeled after the Executive Order establishing environmental impact reviews of trade agreements. A meaningful labor rights report, and a report describing the extent to which there are laws governing exploitative child labor, are also required for each of the countries with whom we are negotiating.

2. Multilateral Efforts

At the WTO Ministerial meetings in Singapore (1996) and Seattle (1999), the United States was among a group of countries supporting the creation of a WTO working party to examine the interrelationships between trade and labor standards. At the 2001 Doha WTO Ministerial, we supported a similar proposal which was put forth by the EU, but a vocal group of developing countries adamantly opposed this proposal. The text of the Doha Ministerial Declaration, adopted by consensus, therefore includes the following: “We affirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimensions of globalization.”

The work underway at the ILO referenced in the WTO Doha Declaration is that which is being done by the Working Party on the Social Dimensions of Globalization of the ILO’s Governing Body. The ILO is unique among international organizations in that it has a tripartite (Government, employer and worker representatives) membership in all of its committees and constituent bodies. Thus the Working Party on the Social Dimensions of Globalization has a representative not only of the U.S. Government, but also the U.S. Council for International Business and the AFL-CIO. As a further extension of this work, the ILO created a “World Commission on the Social Dimension of Globalization.” During 2002 the United States Trade Representative met with both the Director-General of the ILO and the President of Finland, who co-chairs the World Commission, to discuss its work and to encourage greater policy coherence and cooperation between the WTO and the ILO.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of two ILO initiatives: the International Program on the Elimination of Child Labor (IPEC), and work to implement the 1998 *ILO Declaration on Fundamental Principles and Rights at Work*. Recognizing that all child labor will never be eliminated until poverty is eliminated, IPEC/ILO efforts have focused on the means to eliminate the worst forms of child labor, including child prostitution and pornography, forced or bonded child labor, and work in hazardous or unhealthy conditions.

3. Regional Activities

The Declaration and Plan of Action of the Third Summit of the Americas, held in Quebec City, Canada, charged the Inter-American Conference of Ministers of Labor (IACML) with addressing the labor dimensions of economic integration and globalization. A USTR official therefore joined the Departments of Labor and State on the U.S. Delegation to a meeting of the IACML working group on the labor dimensions of the Summit of the Americas process, including the Free Trade Area of the Americas (FTAA). A second working group focuses on capacity-building of Labor Ministries, including improving the ability of Ministries to effectively promote the *ILO Declaration on Fundamental Principles and Rights at Work*. Each of these working groups will involve the ILO, the Organization of American States, the Inter-American Development Bank, the UN’s Economic Commission for Latin America and the Caribbean and the Trade Union Technical Advisory Committee in their work. The November 2002 FTAA Quito Ministerial Declaration not only renewed the commitment to observe the *ILO Declaration*, but also asked the IACML working group on the Summit of the Americas process for a report on its work regarding globalization related to employment and labor.

Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

4. Bilateral Activities

The most significant bilateral activities involving the interaction of trade and labor policies came in the context of negotiations of FTAs with Chile and Singapore. In each of these negotiations, the United States negotiated labor text that fully incorporated Congressional guidance regarding all of the negotiating objectives for trade and labor contained in TPA. In each of these FTAs the parties reaffirm their obligations as ILO members and commit to strive to ensure that core labor standards, including the *ILO Declaration on Fundamental Principles and Rights at Work* and ILO Convention 182 concerning the worst forms of child labor, are recognized and protected by domestic labor laws. Each Party is also obligated to effectively enforce its labor laws, subject to the discretionary authority spelled out in TPA. Cooperation and consultations are the preferred means to achieve these labor objectives and assure compliance with all obligations. However, if a dispute settlement panel were to find that a party had failed to enforce its labor laws in a manner affecting trade, and the offending party failed to comply, that party could be subject to either fines or, as a last resort, trade remedies designed to promote compliance.

Our bilateral textile agreement with Cambodia has a unique aspect in that import quotas for several of the categories of textiles and apparel covered by the agreement may be increased dependent upon the efforts of the government to effectively enforce its domestic labor laws and protect the fundamental rights of Cambodian workers. With funds provided by the U.S. Department of Labor, the ILO monitors working conditions in Cambodian enterprises and reports on the results of that monitoring. Based upon ILO monitoring reports and two field visits, at the end of 2002 the U.S. Government approved a 12 percent increase in quota levels for next year.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs. Near the end of 2002, USTR received petitions requesting that GSP trade preferences be withdrawn from several countries for alleged non-compliance with internationally recognized worker rights. It is important to note that the receipt and review of such petitions had been suspended from the expiration of the GSP program in October, 2001, until Congress renewed the GSP program as part of the Trade Act of 2002. As the year ended, these new petitions were being reviewed by an inter-agency committee chaired by USTR.

C. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is a 30-member forum for discussion of economic and social issues. The OECD membership includes the United States, Canada, Mexico, the countries of Western Europe, Japan, Australia, New Zealand, the Czech Republic, Korea, Hungary, Poland and Slovakia. Argentina and Russia have formally applied to join. The OECD conducts wide-ranging outreach activities to non-members and business and civil society, in particular through its series of “Global Forum” events held around the world each year. Non-members may also apply to participate as observers of committees for which they meet “major player” and “mutual benefit” criteria. The OECD carries out a number of regional and bilateral cooperation programs. Its Russia program, for instance, supports Russia’s efforts to establish a market economy and eventual membership in the OECD.

The OECD was founded in 1960 as the successor to the Organization for European Economic Cooperation, which oversaw European participation in the Marshall Plan. Its fundamental objective is “to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries while maintaining financial stability and thus to contribute to the world economy.” This objective is pursued through in-depth analysis of economic problems confronting the developed market

economies and the development of cooperative solutions to many of these problems. Through a non-binding peer review process and/or the negotiation of recommendations or binding agreements, members work together on issues not adequately addressed in other fora. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora such as the World Trade Organization (WTO).

1. Work Program

In 2002, the OECD Trade Committee, through its subsidiary Working Party and its joint working groups on environment, competition and agriculture, continued to address a number of issues of significance to the multilateral trading system. The Committee and the trade-related work of other OECD bodies have become more diverse, dealing with traditional trade issues as well as those which have been traditionally within the purview of domestic policy discussions. The Trade Homepage on the OECD website (www.oecd.org/trade) contains up-to-date information on published analytical work and other trade-related activities. The major analytical project completed under the Trade Committee during 2002 was a ten-chapter study on "Regional Trade Agreements and the Multilateral Trading System." With an eye on the needs of WTO negotiators in Geneva, additional work addressed GATT Articles VIII and X in the context of WTO discussions on trade facilitation, agriculture policies in OECD countries, and services-related topics such as managing request-offer negotiations under the GATS, quantifying costs to national welfare of barriers to services trade, and labor mobility and the GATS. Other analytical work covered non-automatic import licensing, a survey of non-tariff measures in the information and communication technology sector, the trade policy implications of the new economy, standards-related barriers in the telecommunications sector, transparency in government procurement, and a consultant's report on the impact of the September 11, 2001 terrorist attacks on international trading and transport activities.

2. Competition Policy and Trade

The Joint Group on Trade and Competition (JG) continued work on issues at the intersection of trade and competition policy with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD as well as in other fora, such as the WTO. This forum has helped to promote mutual understanding and interaction between the trade and antitrust "cultures," as well as better clarity and coherence of approaches toward issues of common interest. The JG renewed its mandate for two years and met three times in 2002. The JG reviewed Secretariat papers on the potential application of the principles of transparency, non-discrimination, and procedural fairness to competition law concerns, on the possible use of peer review in a multilateral framework on competition policy, and on competition provisions of various regional trading agreements.

3. The OECD Anti-Bribery Convention: Deterring Bribery of Foreign Public Officials

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in February 1999. The Convention was adopted by the 29 members of the OECD and five non-members in 1997. The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). In summer 2001, Slovenia, also a non-member, became the thirty-fifth country to sign the Convention. The Convention requires the parties to criminalize bribery of foreign public officials in executive, legislative, and judicial branches, levy dissuasive penalties on those who bribe, and implement adequate accounting procedures to make it harder to hide illegal payments. Thirty-four of the 35 signatories have adopted legislation to implement the Convention.

Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms have lost international contracts allegedly worth billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions in developing countries, undermine the rule of law and create an unpredictable environment for business.

The signatories to the Convention commenced the second phase of peer monitoring - the evaluation of enforcement - in November 2001. By the end of 2002, four countries had been reviewed under Phase 2: Finland, the United States, Iceland and Germany. The United States successfully pressed for an accelerated Phase 2 monitoring schedule and OECD budget funds to support it. The Working Group on Bribery will undertake five country reviews in 2003, and seven country reviews in 2004, with the goal of completing the first 35 country cycle in 2007. The OECD Convention Parties also continue to study whether the Convention's coverage should be expanded to include several related issues (bribery of foreign public officials as a predicate offense for money laundering, the role of foreign subsidiaries and offshore financial centers in bribery transactions, and the bribery of foreign political parties and candidates).

4. Dialogue with Non-OECD Members

The OECD has continued its contacts with non-member countries to encourage the integration of developing and transitional economies into the multilateral trade regime, such as the Central and Eastern European Countries, the Newly Independent States of the Former Soviet Union (NIS), and the Dynamic Non-Member Economies or "DNMEs" (leading developing economies in Asia and South America).

At the May 2002 Ministerial Council Meeting, the OECD invited a number of key non-member trading partners to its trade-related discussions, and also initiated a dialogue with the African member countries of NEPAD. Argentina, Brazil, Chile and Hong Kong remain active non-member observers of the Trade Committee and its Working Party. As part of its series of Global Forum on Trade events, the OECD invited non-members to discussions of the "Singapore Issues" in Hong Kong in June 2002 and on "Developing Country Market Access Concerns with Environmental Measures" in New Delhi in November 2002.

Under the ongoing trade policy dialogue with transition economies, the OECD held two informal Working Party meetings in June and November 2002. The first focused on Russia's integration into the global trading system and on services liberalization in the Baltic States. The second built on the ongoing work on the Baltic States' experience to take a look at the economic and regulatory environment for trade in services across a full range of transition economies. Russian Deputy Minister for Economic Development and Trade Medvedkov was invited to participate in a special Trade Committee discussion in October of Russia's current economic situation and the status of its WTO accession.

The Trade Committee's fourth informal consultation with civil society organizations took place in October 2002. Discussion centered on two themes: "The Multilateral Trading System and Sustainable Development: Finding Common ground for Shared Objectives," and "Domestic Regulation in a Multilateral Context: a Right, an Obligation, a Necessity?" A number of U.S. members both of the OECD's Business and Industry Advisory Committee and of the U.S. Government's Technical Advisory Committees participated in the consultation.

5. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met two times in 2002 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment. During the year, the JWPTE undertook important work on the development dimension of trade and environment, building upon the development initiatives agreed upon at Doha. The work consisted of 24 case studies of how developed country environmental measures may affect developing country exports, followed by a workshop soliciting developing country views that was held in New Delhi, India, in November 2002. The JWPTE will seek to identify lessons learned from the case studies and the workshop early next year, and review existing practices in OECD countries to address developing country concerns. The JWPTE also began work on environmental goods and services to support the Doha negotiating agenda, including work on how changing environmental policy needs in developing countries are affecting trade in this sector.

6. Export Credits

The OECD Arrangement on Guidelines for Officially Supported Export Credits places limitations on the terms and conditions of government supported export credit financing so that competition among exporters is based on the price and quality of the goods and services being exported, rather than on the terms of government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries (tied aid). The Participants to the Arrangement, a standalone policy-level body of the OECD, are responsible for implementing the 24 year old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

The OECD tied aid rules have dramatically reduced tied aid and redirected aid from capital projects, where it had trade-distorting effects, toward rural and social sector projects. Tied aid levels were nearly \$10 billion in 1991 before the rules were adopted, but were reduced to approximately \$3.5 billion in 2001. Data for the first half of 2002 indicates that a further decline is expected to less than \$3 billion.

In 2002, Participants accepted a U.S. proposal to merge and update two agreements that banned tied aid in Central and Eastern Europe (CEE) and key countries of the former Soviet Union (FSU), respectively, and formally incorporated the new agreement into the Arrangement. The new agreement keeps these newly-opened markets free from the trade-distorting effects of tied aid until such time as per capita income levels increase and render these markets ineligible for tied aid under the tied aid rules. The inclusion of the new agreement in the Arrangement eliminates the temporary nature of the FSU agreement, which had to be renewed annually by consensus. The new agreement will now be a permanent fixture of the tied aid rules, and took effect on January 1, 2003.

Participants also continued their consideration in 2002 of a U.S. proposal to apply the tied aid disciplines to untied aid. Untied aid is a form of aid financing that is not currently subject to multilateral disciplines but which can have trade-distorting effects. Furthermore, because untied aid is not governed in any way, it is a vehicle through which other Participants can circumvent existing anti-trade distortion disciplines by simply declaring their aid to be untied. Japan is the largest provider of untied aid, in addition to tied aid. In 2002, the Trade Promotion Coordinating Committee recommended the use of the tied aid War Chest to combat trade-distorting untied aid and to seek an OECD agreement to discipline untied aid.

The Arrangement is saving U.S. taxpayers about \$800 million annually in reduced appropriations because Ex-Im Bank (the U.S. export credit agency) no longer has to offer loans with low interest rates and long

repayment terms in order to compete. In addition, the "level playing field" created by the Arrangement's tied aid disciplines has allowed U.S. exporters to increase their exports by about \$1 billion a year. These exports would have cost taxpayers about \$300 million in annual appropriations to Ex-Im Bank if the United States had to create its own tied aid program in order to compete.

Participants are addressing a number of other issues, including a review of market window behavior. Market windows are quasi-governmental financial institutions that support national exports and yet are unbound by multilateral rules. In 2002, Congress requested that the Administration negotiate disciplines for market windows and report on the status of those negotiations in 2004.

One of the biggest challenges to face Participants in 2002, and which will continue in 2003, is the attempt by some developing countries to move export credit matters from the OECD to the WTO. However, the subsidy reductions in the Arrangement could not have been negotiated in a consensus forum that included those countries that benefit from subsidies. Therefore, Participants began a concerted effort to assure that the Arrangement rules equitably address the trade finance needs of both least developed countries and OECD members. This includes the task of redrafting the Arrangement to address specific issues and principles that have been identified by the WTO as providing benefits to OECD countries.

In 2002, members of the Working Group on Export Credits and Credit Guarantees (ECG) (except the United States and Turkey) continued to refine their environmental practices and gain experience through *voluntary* implementation of "Common Approaches." Common Approaches is the name of the last draft OECD agreement intended to develop common procedures and practices for export credit agencies (ECAs) to follow when addressing the environmental factors associated with the projects that ECAs consider financing. The United States did not sign onto Common Approaches in 2001, believing it to be inadequate, so the agreement did not formally take effect. However, several ECAs have reported significant improvements in their environmental practices since voluntary implementation began. The Common Approaches agreement will be reviewed in its entirety in late 2003.

7. Investment

The United States places a high priority on international investment issues in the OECD. The Committee on International Investment and Multinational Enterprises (CIME) plays a leading role within the OECD on the OECD Declaration on International Investment and Multinational Enterprises, of which the Guidelines for Multinational Enterprises are a part. The CIME held the second annual meeting in 2002 of National Contact Points (NCPs), the government agencies designated by each OECD Member country to monitor implementation of the Guidelines within their territory. The NCP annual meeting provided an opportunity to review the second year of implementation activity under the revised Guidelines. The meeting confirmed that the visibility and user recognition of the Guidelines have increased, with government, business entities, labor unions, NGOs and other civil society leaders referring to or using the Guidelines as an instrument for the promotion of appropriate business conduct. The NCPs also identified several areas requiring further consideration, including: NCP procedural questions; scope of application of the Guidelines; and the relationship between specific inquiries brought before NCPs; and other legal or administrative processes. The 2002 OECD Roundtable on Corporate Responsibility, held in conjunction with the annual meeting of the NCPs, dealt with the issue of supply chain management and the relationship of the Guidelines to the supply chain.

CIME published a study on the "Benefits and Costs of Foreign Direct Investment for Development" and completed another research project that assessed the usefulness of investment incentives to be used by national policy-makers as they decide on measures of incentives for foreign direct investments. This

project, which was designed to help governments make decisions on the use of investment incentive measures, produced a checklist that can help policymakers assess the costs and benefits of incentives, and which provides operational criteria for their efficient design. The Committee also undertook extensive work relating to the Doha Development Agenda, including preparation of a paper on the relationship between bilateral investment treaties, regional agreements and multilateral investment disciplines, and another paper on transparency.

The United States contributed to a working paper to the CIME describing the U.S. understanding of the meaning of the general treatment and expropriation obligations in international investment agreements. The purpose of the U.S. paper was to help clarify the content of these obligations for arbitrators, investors, and the international community. The OECD expanded its outreach on investment issues to non-members, including on-going work with Russia and China (e.g. follow-up work with Russia on implementation of the OECD Russia Investment Survey policy recommendations; a comprehensive FDI Policy Study on China, and the 2002 Global Forum on International investment on “Attracting FDI for Development,” held in Shanghai, China). A 2002 OECD Ministerial Declaration on “Attracting Investment to South East Europe” was signed by all the countries of South East Europe, complimenting and strengthening the monitoring instruments of the Investment Compact. Israel and Slovenia announced that they would adhere to the Declaration on International Investment and Multinational Enterprises.

8. Labor and Trade

In 1996, the OECD released a report on “Trade, Employment, and Labor Standards,” which examined the relationship between core labor standards and economic development and trade. These core labor standards are: freedom of association, collective bargaining, elimination of exploitative forms of child labor, prohibition of forced labor, and non-discrimination in employment. The report concluded that a mutually reinforcing relationship exists between core labor standards and trade liberalization. It refuted the long-standing argument that adherence to such standards negatively affects the economic performance of developing countries; indeed, it reinforces long-term development prospects. In May 1999, the OECD Trade Committee asked the Secretariat to prepare an update of the 1996 report, which would review factual developments and summarize relevant economic literature since the report was issued. The 124-page updated report was approved and presented to the International Labor Organization’s Working Party on the Social Dimension of Globalization. It can be purchased and downloaded from the OECD’s online book store (www.oecd.org).

The Trade Union Advisory Committee (TUAC) to the OECD, which is made up of national trade union organizations from OECD member countries and has played a consultative role to the OECD since 1962, held two informal consultations with the OECD Trade Committee in 2002, in April and October. TUAC provided the Committee with informal notes and supporting documents prepared by the international labor movement on the social dimension of globalization, in particular an ICFTU analysis of the WTO’s Doha Declaration. TUAC urged the trade committee to give a clear message to OECD Ministers that there is a need to better address the concerns of trade unions to ensure support for the multilateral trading system. In their final communique following the OECD Ministerial in May 2002, OECD members pledged to continue to consult with non-members, business, labor and civil society, and to seek to contribute constructively to the work of the ILO World Commission on the Social Dimension of Globalization.

9. Regional Economic Integration

At the request of the Trade Committee, its Working Party undertook a ten-chapter study on "Regional Trade Agreements and the Multilateral Trading System." The consolidated report was published at the end of 2002. The study compares rule-making provisions in RTAs with those in the WTO and finds that RTA provisions frequently "go beyond" the WTO, for example in their country coverage, by including novel or more far-reaching provisions, by using a negative list approach, or by mandating adherence to international accords. The report also concludes that certain consequences of RTA activity in the ten areas studied can be seen as contributing to the case for a strengthened multilateral framework, in light of the negative effect which the patchwork of RTAs can have on non-members of those agreements and on transaction costs for business. At the same time, the report concludes that regional approaches can complement the multilateral system. In fact, there are a number of features of regional agreements which might usefully be drawn upon in seeking a stronger multilateral framework.

10. Regulatory Reform

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance on the basis of country reviews of regulatory reform efforts. The United States has supported this on the grounds that targeted regulatory reforms, e.g. transparency, can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making, non-discrimination, avoidance of unnecessary trade restrictions, use of internationally harmonized measures where available/appropriate, recognition of the equivalence of other countries' procedures for conformity assessment where appropriate, and application of competition principles.

The Trade Committee has reviewed sixteen country studies (for the United States, Japan, Mexico, the Netherlands, Korea, Spain, Denmark, Hungary, Greece, Italy, Ireland, the Czech Republic, the United Kingdom, Poland, Canada and Turkey). In 2002 it reviewed a paper synthesizing findings of these studies and studies of two additional countries (Finland and Norway).

In June 2002, the Trade Committee Working Party reviewed a paper on "regulation of services traded electronically". In addition, in September 2002, the OECD released a study entitled "Non-tariff measures in the Information and Communications Technology Sector: a Survey".

11. Services

Work in the OECD on trade in services has continued to provide analysis and background relevant to the WTO negotiations, with emphasis on issues of importance to developing countries in the negotiations. The Secretariat has produced an effective guide for governments to expand their domestic consultations on services trade issues, both within the government (e.g., through increased inter-ministerial discussions) and with non-governmental constituencies. The guide, "Managing request-offer negotiations under the GATS," was published in June 2002.

The Secretariat also has been working on reports analyzing the role of individuals as service suppliers (called "mode four" in the GATS) in trade in services and their treatment in trade agreements.

A third "services experts" meeting, at which OECD and developing-country services negotiators participated, was held in 2002, with regulatory issues a focus of discussion.

12. Steel

Pursuant to the President's Initiative on Steel announced on June 5, 2001, the United States has been engaged in efforts over the past year within the framework of the OECD High Level Process on Steel to address overcapacity in the global steel sector and the market-distorting practices that have contributed to excess, inefficient steel capacity. High Level delegates have convened on five occasions since the inception of the process in September 2001, and two subsidiary committees were created last year and tasked with assessing on a more probing basis the respective issues of overcapacity and market-distorting practices. These bodies, known as the Disciplines Study Group and the Capacity Working Group, held two meetings each in 2002.

At the most recent High Level meeting, in December 2002, participating delegations took stock of the work completed by the subsidiary bodies and agreed on a series of follow-on steps. With respect to disciplining market-distorting practices, participants decided to begin work immediately to develop the elements of an agreement for reducing or eliminating trade-distorting subsidies in steel. In addition, they agreed to explore undertaking a voluntary commitment to refrain from introducing new subsidy programs that may maintain or enhance steel capacity. Moreover, where practicable and without compromising the priority work on subsidies, they indicated that they might pursue efforts at a later stage to address other distortions in the global steel market. It was determined that the work on subsidies should proceed on an expedited basis in the Disciplines Study Group, and be concluded in 2003, with consideration to be given to how the results of this work might be fed into the WTO framework.

With regards to efforts to evaluate progress in reducing excess capacity, the High Level Process initiated in 2002 a rigorous semi-annual peer review system in which participants submit and subsequently review data on the current status of their respective steel industries, including information on the closure of steel capacity. The High Level Group has identified 140 million tons of capacity that could be closed during the period 1998 through 2005 based on present market conditions. In addition to adopting improvements in reporting and review procedures that should enable participants to obtain a better understanding of current conditions in the global steel market, the Capacity Working Group will also evaluate the feasibility of options for assisting steel plant closures. While the feasibility study of options to facilitate plant closure is intended to be completed this year, the peer review process for tracking industry restructuring will continue beyond 2003 so long as participants consider it useful.

13. Developing Countries

In 2002, the Trade Committee worked with the OECD Development Assistance Committee to bring all recent OECD work together in a way which can help trade negotiators, particularly from developing countries. The end product is a CD-Rom "Tool Kit" for wide global distribution, including through member governments, that addresses the broad range of issues under the Doha Development Agenda (DDA). It currently contains more than 40 analytical OECD publications and reports on DDA-relevant trade policy issues and video presentations from the June 2002 OECD Global Forum in Hong Kong on "The Development Dimensions of the Singapore Issues." Free updates are available through a link on the OECD Trade Homepage.

With support from the United States, the OECD also established a joint trade capacity building database with the WTO in 2002. The database identifies trade-related technical assistance and capacity building

efforts of multilateral agencies and national governments within the context of the DDA. This information is critical to documenting assistance and assessing responsiveness to developing country needs. All multilateral and bilateral donors contributed to the compilation of information. The database indicates that the United States is the largest bilateral donor, accounting for 57 percent of bilateral trade capacity building and 37 percent of both bilateral and multilateral support reported to the WTO/OECD. The information from the database is being widely distributed among donors and developing country trade officials to coordinate more effectively trade-related technical assistance activities worldwide.

D. Semiconductor Agreement

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the fifth party. The 1999 Joint Statement on Semiconductors reflects over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei).

The 1999 Joint Statement includes the essential elements of the 1996 accord such as regular meetings among governments and between governments and industry representatives.

In May 2002, industry CEOs representing all five parties held their third World Semiconductor Council (WSC) meeting under the 1999 Joint Statement. The WSC was created under the 1996 Joint Statement to provide a forum for industry representatives to discuss and engage in cooperation concerning global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. Membership in the WSC requires governments of national/regional industry associations to have eliminated semiconductor tariffs, or committed to eliminate these tariffs expeditiously.

The 1999 Joint Statement also requires that governments and other authorities meet at least once a year to receive and discuss the recommendations of the WSC regarding policies that may affect the future outlook and competitive conditions within the global semiconductor industry. The third such meeting was held in September 2002, and was hosted by Japan. At that meeting, the WSC recommended that government authorities pursue the following policies: promotion of open and competitive markets around the world; protection of intellectual property rights; non-discrimination for foreign products in all markets; improved rules on investment and an end to investment restrictions tied to technology transfer requirements; expanded participation in the Information Technology Agreement (ITA); revitalization of efforts to conclude ITA II; adoption of a growth-promoting, transparent, technology-neutral, non-discriminatory and market-oriented approach to electronic commerce; a permanent customs duty moratorium on electronic commerce transactions; elimination of tariffs and non-tariff measures applied to information technology products and services, and a pledge not to impose new non-tariff measures (such as excessively restrictive standards or licensing); restraint from imposing local establishment requirements or placing special tariffs or local taxes on electronic commerce, including levies; and adoption of environmental regulations that are both the least trade restrictive possible and based on scientific assessments of the risks posed by the targeted materials and their likely substitutes. The WSC remains fully engaged in a multi-billion dollar effort to find safe alternatives to replace, wherever possible, the very small amounts of lead found in semiconductors. The WSC has also invited China to become a party to the Joint Statement. China is expected to become the second-largest market for

semiconductors within a decade. The United States will host the next meeting of governments and other authorities in November 2003.

Foreign market share in the Japanese market has averaged over 30 percent for the five years ending with the fourth quarter 2001 – a major achievement for U.S. trade policy.

E. Steel Trade Policy

In 2002, the Administration continued to implement the President's comprehensive strategy to respond to the challenges facing the United States steel industry. This strategy, announced on June 5, 2001, is designed to restore market forces to world steel markets and to eliminate practices that harm the U.S. steel industry and its workers.

The Administration's initiative contains three elements. First, the President directed the United States Trade Representative to request the initiation of an investigation of injury to the steel industry by the International Trade Commission under Section 201 of the Trade Act of 1974. Second, the President directed the United States Trade Representative, in cooperation with the Secretaries of Commerce and Treasury, to initiate negotiations with our trading partners to eliminate inefficient excess capacity in the steel industry worldwide. Finally, the President directed the United States Trade Representative, together with the Secretaries of Commerce and Treasury, to initiate negotiations on the rules that will govern steel trade in the future, so as to eliminate the underlying market-distorting subsidies that led to current conditions.

On March 5, 2002, in response to a unanimous finding by the U.S. International Trade Commission (USITC) that imports were a substantial cause of serious injury to the U.S. steel industry, the President announced his decision to impose additional tariffs of between 8 percent and 30 percent on imports of certain steel products.

The steel safeguard measures are the most comprehensive remedies ever imposed under Section 201. The President's decision to temporarily impose tariffs on imports will provide appropriate relief to those parts of the U.S. steel industry that have been most damaged by import surges.

The Section 201 action on steel is temporary. Tariffs will be phased out over a three year period, during which time U.S. steelmakers are expected to further restructure, reduce excess capacity and increase productivity -- a process that the USTR and the Department of Commerce are monitoring closely.

In formulating the safeguard measures, the Administration has taken steps to minimize the impact of steel safeguards on steel consumers and our trading partners. For example, the Section 201 remedy exempts steel imports from our North American Free Trade Agreement and FTA partners. Most steel imports from developing countries were also excluded from the increased tariffs.

In recognition of the needs of American consumers who rely on certain types of steel that are not sufficiently available domestically, the President instructed the USTR to determine whether specific types of steel could be excluded from the tariffs without undermining the effectiveness of the safeguard measure. During the summer of 2002, the USTR and the Department of Commerce reviewed several thousand product exclusion requests filed by steel consumers and importers, and excluded over 700 specific steel products from the Section 201 remedy. In December 2002, the USTR and the Department of Commerce began reviewing a second round of exclusion requests that will be concluded in March 2003.

Regarding the other elements of the Administration's steel strategy, significant progress was made in the discussions at the OECD regarding inefficient excess capacity and establishing greater disciplines on subsidies and other market distorting practices affecting the global steel trade. *(See steel discussion in the preceding section of activities of the OECD).*