

# **2014 Trade Policy Agenda and 2013 Annual Report**

of the President of the United States  
on the Trade Agreements Program



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Office of the United States Trade Representative



# FOREWORD

The 2014 Trade Policy Agenda and 2013 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). Chapter II and Annex II of this document meet the requirements of Sections 122 and 124 of the Uruguay Round Agreements Act with respect to the World Trade Organization. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984. Goods trade data are for full year 2013. Services data by country are only available through 2012.

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report. U.S. Trade Representative Michael Froman gratefully acknowledges the contributions of all USTR staff to the writing and production of this report and notes, in particular, the contributions of Brittany Bauer, Colby Clark, and Michael Roberts. Thanks are extended to partner Executive Branch agencies, including the Environmental Protection Agency and the Departments of Agriculture, Commerce, Health and Human Services, Justice, Labor, State, and Treasury.

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## LIST OF FREQUENTLY USED ACRONYMS

AD.....	Antidumping
AGOA.....	African Growth and Opportunity Act
APEC.....	Asia-Pacific Economic Cooperation
ASEAN.....	Association of Southeast Asian Nations
ATC.....	Agreement on Textiles and Clothing
ATPA.....	Andean Trade Preferences Act
ATPDEA.....	Andean Trade Promotion & Drug Eradication Act
BIA.....	Built-In Agenda
BIT.....	Bilateral Investment Treaty
BOP.....	Balance of Payments
CACM.....	Central American Common Market
CAFTA.....	Central American Free Trade Area
CARICOM.....	Caribbean Common Market
CBERA.....	Caribbean Basin Economic Recovery Act
CBI.....	Caribbean Basin Initiative
CFTA.....	Canada Free Trade Agreement
CITEL.....	Telecommunications division of the OAS
COMESA.....	Common Market for Eastern & Southern Africa
CTE.....	Committee on Trade and the Environment
CTG.....	Council for Trade in Goods
CVD.....	Countervailing Duty
DDA.....	Doha Development Agenda
DSB.....	Dispute Settlement Body
EAI.....	Enterprise for ASEAN Initiative
DSU.....	Dispute Settlement Understanding
EU.....	European Union
EFTA.....	European Free Trade Association
FTAA.....	Free Trade Area of the Americas
FOIA.....	Freedom of Information Act
GATT.....	General Agreement on Tariffs and Trade
GATS.....	General Agreements on Trade in Services
GDP.....	Gross Domestic Product
GEC.....	Global Electronic Commerce
GSP.....	Generalized System of Preferences
GPA.....	Government Procurement Agreement
IFI.....	International Financial Institution
IPR.....	Intellectual Property Rights
ITA.....	Information Technology Agreement
LDBDC.....	Least-Developed Beneficiary Developing Country
MAI.....	Multilateral Agreement on Investment
MEFTA.....	Middle East Free Trade Area
MERCOSUL/MERCOSUR.....	Southern Common Market
MFA.....	Multifiber Arrangement
MFN.....	Most Favored Nation
MOSS.....	Market-Oriented, Sector-Selective
MOU.....	Memorandum of Understanding
MRA.....	Mutual Recognition Agreement

NAFTA .....	North American Free Trade Agreement
NEC .....	National Economic Council
NIS .....	Newly Independent States
NSC.....	National Security Council
NTR .....	Normal Trade Relations
OAS .....	Organization of American States
OECD.....	Organization for Economic Cooperation and Development
OPIC .....	Overseas Private Investment Corporation
PNTR .....	Permanent Normal Trade Relations
ROU .....	Record of Understanding
SACU.....	Southern African Customs Union
SADC.....	Southern African Development Community
SME .....	Small and Medium Size Enterprise
SPS .....	Sanitary and Phytosanitary Measures
SRM .....	Specified Risk Material
TAA .....	Trade Adjustment Assistance
TABD.....	Trans-Atlantic Business Dialogue
TACD.....	Trans-Atlantic Consumer Dialogue
TAEVD.....	Trans-Atlantic Environment Dialogue
TALD.....	Trans-Atlantic Labor Dialogue
TBT .....	Technical Barriers to Trade
TEP .....	Transatlantic Economic Partnership
TIFA.....	Trade & Investment Framework Agreement
TPRG .....	Trade Policy Review Group
TPP.....	Trans-Pacific Partnership
TPSC.....	Trade Policy Staff Committee
TRIMS .....	Trade Related Investment Measures
TRIPS.....	Trade Related Intellectual Property Rights
T-TIP.....	Trans-Atlantic Trade and Investment Partnership
UAE .....	United Arab Emirates
UNCTAD.....	United Nations Conference on Trade & Development
UNDP.....	United Nations Development Program
URAA .....	Uruguay Round Agreements Act
USDA.....	U.S. Department of Agriculture
USITC.....	U.S. International Trade Commission
USTR .....	United States Trade Representative
VRA .....	Voluntary Restraint Agreement
WAEMU .....	West African Economic & Monetary Union
WB .....	World Bank
WTO .....	World Trade Organization

# TABLE OF CONTENTS

<b>I. THE PRESIDENT’S TRADE POLICY AGENDA .....</b>	<b>1</b>
<b>II. THE WORLD TRADE ORGANIZATION .....</b>	<b>1</b>
A. INTRODUCTION .....	1
B. THE DOHA DEVELOPMENT AGENDA UNDER THE TRADE NEGOTIATIONS COMMITTEE AND OTHER PRIORITY WTO ACTIVITIES .....	2
1. <i>Committee on Agriculture, Special Session</i> .....	3
2. <i>Council for Trade in Services, Special Session</i> .....	4
3. <i>Negotiating Group on Non-Agricultural Market Access</i> .....	5
4. <i>Negotiating Group on Rules</i> .....	6
5. <i>Negotiating Group on Trade Facilitation</i> .....	7
6. <i>Committee on Trade and Environment, Special Session</i> .....	10
7. <i>Dispute Settlement Body, Special Session</i> .....	10
8. <i>Council for Trade-Related Aspects of Intellectual Property Rights, Special Session</i> .....	11
9. <i>Committee on Trade and Development, Special Session</i> .....	13
C. WORK PROGRAMS ESTABLISHED IN THE DOHA DEVELOPMENT AGENDA.....	15
1. <i>Working Group on Trade, Debt, and Finance</i> .....	15
2. <i>Working Group on Trade and Transfer of Technology</i> .....	16
3. <i>Work Program on Electronic Commerce</i> .....	17
D. GENERAL COUNCIL ACTIVITIES .....	18
E. COUNCIL FOR TRADE IN GOODS .....	19
1. <i>Committee on Agriculture</i> .....	20
2. <i>Committee on Market Access</i> .....	22
3. <i>Committee on the Application of Sanitary and Phytosanitary Measures</i> .....	24
4. <i>Committee on Trade-Related Investment Measures</i> .....	25
5. <i>Committee on Subsidies and Countervailing Measures</i> .....	27
6. <i>Committee on Customs Valuation</i> .....	31
7. <i>Committee on Rules of Origin</i> .....	33
8. <i>Committee on Technical Barriers to Trade</i> .....	35
9. <i>Committee on Antidumping Practices</i> .....	38
10. <i>Committee on Import Licensing</i> .....	41
11. <i>Committee on Safeguards</i> .....	42
12. <i>Working Party on State Trading Enterprises</i> .....	44
F. COUNCIL ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS .....	45
G. COUNCIL FOR TRADE IN SERVICES.....	50
1. <i>Committee on Trade in Financial Services</i> .....	51
2. <i>Working Party on Domestic Regulation</i> .....	51
3. <i>Working Party on GATS Rules</i> .....	52
4. <i>Committee on Specific Commitments</i> .....	53
H. DISPUTE SETTLEMENT UNDERSTANDING.....	54
I. TRADE POLICY REVIEW BODY .....	96
J. OTHER GENERAL COUNCIL BODIES/ACTIVITIES .....	98
1. <i>Committee on Trade and Environment</i> .....	98
2. <i>Committee on Trade and Development</i> .....	99
3. <i>Committee on Balance-of-Payments Restrictions</i> .....	102
4. <i>Committee on Budget, Finance and Administration</i> .....	103
5. <i>Committee on Regional Trade Agreements</i> .....	104

6. <i>Accessions to the World Trade Organization</i> .....	105
K. PLURILATERAL AGREEMENTS.....	111
1. <i>Committee on Trade in Civil Aircraft</i> .....	111
2. <i>Committee on Government Procurement</i> .....	112
3. <i>Committee of Participants on the Expansion of Trade in Information Technology Products</i> .....	115
<b>III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS.....</b>	<b>117</b>
A. FREE TRADE AGREEMENTS.....	117
1. <i>Australia</i> .....	117
2. <i>Bahrain</i> .....	117
3. <i>Central America and the Dominican Republic</i> .....	118
4. <i>Chile</i> .....	122
5. <i>Colombia</i> .....	123
6. <i>Israel</i> .....	125
7. <i>Jordan</i> .....	126
8. <i>Republic of Korea</i> .....	127
9. <i>Morocco</i> .....	129
10. <i>North American Free Trade Agreement</i> .....	130
11. <i>Oman</i> .....	132
12. <i>Panama</i> .....	132
13. <i>Peru</i> .....	134
14. <i>Singapore</i> .....	135
B. OTHER BILATERAL AND REGIONAL INITIATIVES.....	136
1. <i>The Americas</i> .....	136
2. <i>Europe and the Middle East</i> .....	138
3. <i>Japan, Republic of Korea, and the Asia-Pacific Economic Cooperation Forum</i> .....	141
4. <i>China, Hong Kong, and Taiwan</i> .....	146
5. <i>Southeast Asia and the Pacific</i> .....	149
6. <i>Sub-Saharan Africa</i> .....	151
7. <i>South and Central Asia</i> .....	152
<b>IV. OTHER TRADE ACTIVITIES .....</b>	<b>157</b>
A. TRADE AND THE ENVIRONMENT .....	157
1. <i>Multilateral Fora</i> .....	157
2. <i>Bilateral and Regional Activities</i> .....	157
B. TRADE AND LABOR.....	159
1. <i>Multilateral and Regional Fora</i> .....	159
2. <i>Bilateral Agreements and Preference Programs</i> .....	160
C. SMALL AND MEDIUM SIZED BUSINESS INITIATIVE.....	163
1. <i>USTR SME-Related Trade Policy Activities</i> .....	163
2. <i>USTR Interagency SME Activities</i> .....	165
3. <i>USTR's SME Outreach and Consultations</i> .....	165
D. IMPORT FOOD SAFETY .....	166
1. <i>APEC Food Safety Cooperation Forum and Partnership Training Institute Network</i> .....	166
E. ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.....	167
1. <i>Trade Committee Work Program</i> .....	168
2. <i>Trade Committee Dialogue with Non-OECD Members</i> .....	169
3. <i>Other OECD Work Related to Trade</i> .....	170
F. LOCALIZATION BARRIERS TO TRADE .....	170
G. TRADE IN SERVICES AGREEMENT.....	171

<b>V. TRADE ENFORCEMENT ACTIVITIES.....</b>	<b>173</b>
A. ENFORCING U.S. TRADE AGREEMENTS .....	173
1. <i>Overview</i> .....	173
2. <i>WTO Dispute Settlement</i> .....	175
3. <i>Other Monitoring and Enforcement Activities</i> .....	176
4. <i>Monitoring Foreign Standards-related Measures and SPS Barriers</i> .....	178
B. U.S. TRADE LAWS .....	179
1. <i>Section 301</i> .....	179
2. <i>Special 301</i> .....	182
3. <i>Section 1377 Review of Telecommunications Agreements</i> .....	184
4. <i>Antidumping Actions</i> .....	184
5. <i>Countervailing Duty Actions</i> .....	185
6. <i>Other Import Practices</i> .....	185
7. <i>Trade Adjustment Assistance</i> .....	188
8. <i>United States Preference Programs</i> .....	190
<b>VI. TRADE POLICY DEVELOPMENT .....</b>	<b>197</b>
A. TRADE CAPACITY BUILDING (“AID FOR TRADE”).....	197
1. <i>The Enhanced Integrated Framework</i> .....	198
2. <i>World Trade Organization-Related U.S. Trade-Related Assistance</i> .....	198
3. <i>TCB Initiatives for Africa</i> .....	200
4. <i>Free Trade Agreement Negotiations</i> .....	201
5. <i>Standards Alliance</i> .....	202
B. PUBLIC INPUT AND TRANSPARENCY .....	203
1. <i>Public Outreach</i> .....	203
2. <i>The Trade Advisory Committee System</i> .....	205
3. <i>State and Local Government Relations</i> .....	208
C. POLICY COORDINATION AND FREEDOM OF INFORMATION ACT .....	209

**ANNEX 1**

**ANNEX 2**

**ANNEX 3**



**THE PRESIDENT'S 2014 TRADE POLICY  
AGENDA**



# **I. THE PRESIDENT'S TRADE POLICY AGENDA: Supporting Jobs and Economic Growth through Trade**

Trade and investment play a critical role in the Obama Administration's overarching strategy to create jobs, promote growth and strengthen the middle class. They do so by opening markets and leveling the playing field for American producers, and fully enforcing our trade rights. This, in turn, builds ladders of opportunity and higher living standards for families, farmers, ranchers, manufacturers, services suppliers, workers, and consumers. As the world shifts to a global innovation economy, the United States must be well-positioned to prosper from and sustain the jobs of the 21st century that will support our growth and strengthen America's middle class. To complement our national strengths and capitalize on America's comparative advantage in innovation, President Obama has put forward an ambitious trade policy agenda that aims to strategically position American businesses, workers, and consumers at the center of a 21st century global trading system that reflects U.S. values and goals. We seek to enhance the global competitiveness of U.S. goods and services and strengthen our economy by continuing American leadership in negotiating high standard agreements that help U.S. exporters gain access to billions of customers beyond our borders.

With low or no tariffs on the vast majority of products, a transparent and sensible regulatory environment, and an open investment regime, U.S. barriers to imports and investment from abroad are among the lowest in the world. With partners across the Federal government, the Office of the United States Trade Representative (USTR) is focused on creating and maintaining open markets for U.S. exports and ensuring a level playing field for U.S. producers and workers to compete. We constantly engage with our many trading partners to remove specific barriers and expand trade. We work with developing nations to alleviate poverty and foster economic growth that simultaneously creates better market opportunities for U.S. exporters. We believe in using trade's potential to drive higher standards for labor rights and for environmental protection. We vigorously fight to ensure that hard-working Americans are able to fully reap the benefits of trade by robustly monitoring and enforcing our rights. And we advance all of these objectives with broad input from a wide range of stakeholders to craft U.S. trade policy in a transparent way so that it reflects the values and aspirations of the American people and our global leadership role.

The President's Trade Agenda for 2014 describes how the Administration will continue to use every available policy tool over the next year – and continue to develop new tools to pursue the most efficient and productive pathways to expand trade and support economic growth. Our efforts in 2014 will build on many successful 2013 initiatives. Last year the United States launched two groundbreaking trade negotiations – the Transatlantic Trade and Investment Partnership (T-TIP) and the Trade in Services Agreement (TiSA). We also made substantial progress towards concluding the Trans-Pacific Partnership (TPP) negotiations, and secured the first major multilateral agreement in two decades. This year we expect to conclude negotiations with TPP countries to secure a next-generation, high-standard trade agreement in the world's fastest growing region. We expect to make significant progress with the European Union (EU) toward a T-TIP agreement to further strengthen the world's largest trade relationship. We will advance negotiations on the TiSA. And in Geneva, we will continue to strengthen the multilateral trading system and advance promising pathways for 21st century trade liberalization by maintaining America's leadership role at the World Trade Organization (WTO), expanding the Information Technology Agreement (ITA), and launching negotiations on an Environmental Goods Agreement (EGA). These are just some of the many pathways the Administration will pursue to increase U.S. exports to the world while supporting job growth here at home.

To facilitate the conclusion, approval, and implementation of our market-opening negotiating initiatives, we are working with Congress to support broad bipartisan passage of Trade Promotion Authority (TPA).

TPA is a critical tool for Congress to update and assert its role in trade policy, to guide current and future negotiations, and to ensure the completion of market-opening, job-supporting agreements. TPA is an important part of the Administration's larger strategy of increasing U.S. exports and global economic competitiveness.

In 2014, the Obama Administration will continue to advance trade policies that promote open markets to enable additional job-supporting U.S. exports and sustained economic growth.

## **Our Trade Policy Priorities**

### **I. Expand Job-Supporting U.S. Trade**

International trade supports millions of jobs here in the United States, sustaining American families and businesses alike. Trade links American workers and their high-quality "Made in America" products with customers around the world. Data from 2013 showed that every \$1 billion in U.S. goods exports supported an estimated 5,400 American jobs, and every \$1 billion of U.S. services exports supported nearly 5,900 U.S. jobs. Many export-related jobs are in some of the United States' fastest-growing and most globally competitive sectors, from manufacturing to agriculture to services.

More than half of U.S. imports provide inputs to value-added production here in the United States. In the 21st century, supply chains for many U.S. businesses are truly global, and inputs may cross borders multiple times before a finished product is completed. Thus it is critical that the United States work to improve the efficiency of global trade with our key trading partners, in terms of both exports and imports, to support job growth here at home.

With a trade weighted applied tariff of 1.3 percent, U.S. barriers to imports are already among the lowest in the world. By contrast, we face high tariff and nontariff barriers in many foreign markets that constrain our ability to achieve export-led growth. That's why it's critical for the United States to continue to pursue an ambitious trade agenda in 2014 that eliminates trade barriers, increasing our exports to the world, supporting jobs, and strengthening our economy.

#### *Conclude the Ambitious Trans-Pacific Partnership Negotiations*

In pursuit of job-supporting trade opportunities, the Administration will work to conclude negotiations of the Trans-Pacific Partnership (TPP) in 2014, producing a high-standard, comprehensive, 21st-century agreement that provides new export opportunities for U.S. industry and agriculture, opens markets for U.S. services and investment, protects worker rights, and enhances environmental protection.

TPP will expand U.S. trade with dynamic economies throughout the rapidly growing Asia-Pacific region. Experts estimate that economies around the Pacific Rim will continue to grow faster than the world average, elevating income levels and creating increased market opportunities. Along with the United States, TPP partners now include Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The twelve TPP countries now represent nearly 40 percent of global GDP and a third of global trade. These large and growing markets of the Asia-Pacific already are key destinations for U.S. manufactured goods, agricultural products, and services suppliers, and the TPP will further deepen this trade and investment relationship while addressing new and emerging 21st century issues of concern to U.S. stakeholders – including trade in a growing digital economy. According to an analysis supported by the Peterson Institute for International Economics, a successful TPP agreement would provide global income benefits of an estimated \$223 billion per year, by 2025, while potentially expanding annual U.S. exports by \$124 billion. TPP countries also account for 28 percent of

global marine catch and over a third of global timber production, thus providing a meaningful opportunity to advance environmental stewardship efforts in the region.

The entry of Japan, the world's third-largest economy, into TPP negotiations in July 2013 has further expanded the commercial impact of the TPP agreement. Building upon this expansion, we will continue to conduct robust bilateral negotiations with Japan in parallel to the TPP negotiations to address issues related to automotive trade, insurance, and other nontariff measures. In addition, the United States continues to engage with potential candidate countries regarding their interest in joining the TPP negotiations, and has welcomed public expressions of interest by a number of economies in Asia and Latin America. TPP is a promising platform for the development of a global trading system based on U.S. values and rules that enhance public health and consumer safety. Along with other existing TPP member countries, the United States continues to stress to all potential new entrants that they must be able to meet the high standards agreed to by the TPP negotiating partners.

#### *Advance Negotiations with the European Union in the Transatlantic Trade and Investment Partnership*

On June 17, 2013 President Obama and EU leaders announced that the United States and the EU would launch negotiations on a comprehensive trade and investment agreement to strengthen a partnership that already supports \$1 trillion in annual two-way trade, nearly \$4 trillion in investment, and roughly 13 million direct jobs – the Transatlantic Trade and Investment Partnership (T-TIP) agreement.

This year, we expect to make significant progress in the T-TIP negotiations. After three negotiating rounds in the latter half of 2013, the Administration plans to maintain a similar pace for the talks in 2014. Negotiators will seek ambitious market openings in goods, services, and investment. T-TIP offers an historic opportunity to modernize trade rules and to bridge divergences in our respective regulatory and standards systems – which can constitute the most significant obstacles to transatlantic trade – without compromising the health, safety, and environmental protection our citizens expect. It also offers significant opportunities to set high standards with respect to global issues of common concern, beyond the bilateral U.S.-EU relationship. A successful T-TIP agreement could generate new business and employment by expanding trade and investment opportunities, and pioneering new trade rules and disciplines. As we pursue these goals, we will maintain the high standards for public health, public safety, worker rights, and environmental and consumer protection that people on both sides of the Atlantic expect. We also will continue to seek constructive input from Congress and stakeholders as the T-TIP negotiations progress.

#### *Tackle 21st Century Trade Issues by Moving Negotiations in Services and Information Technology Towards Conclusion*

As the U.S. knowledge and innovation economy continues to grow in the 21st century, we have become the world's largest trader in services. U.S. exports of private services were nearly \$700 billion in 2013, and three out of every four American jobs are already in the services sector. And with every \$1 billion in services exports supporting nearly 5,900 U.S. jobs, promoting the expansion of services trade globally will pay dividends for the United States. Despite the increasing prominence of services trade, the Peterson Institute estimates that tradable business services remain five times less likely to be exported than manufactured products.

That is why in 2013, the Administration launched negotiations for a Trade in Services Agreement (TiSA) to open foreign markets, create new opportunities for U.S. exporters, and encourage the adoption of policies that promote fair and open competition in international markets for services. Focused exclusively on services, TiSA will encompass state-of-the-art trade rules aimed at promoting fair and open competition across a broad spectrum of service sectors. Currently, there are nearly two dozen countries

participating in the TiSA negotiations, representing roughly two-thirds of world trade in services and a combined services market exceeding \$30 trillion – or approximately half of the global economy.

This year we will work vigorously to advance negotiations on TiSA. A key U.S. priority is to enable service suppliers to compete on the basis of quality and competence rather than nationality. We are also seeking an agreement that will permit greater transparency and predictability from our trading partners regarding policies that present barriers to trade in services and hinder U.S. exports. And to remain relevant in a digitally-connected, constantly innovating global economy, TiSA will also need to address issues affecting services trade through electronic channels and include appropriate new provisions to support such trade.

The United States will also continue to play a leading role in negotiations to expand the scope of products covered by the WTO Information Technology Agreement (ITA). The ITA entered into force in 1997 and now covers over \$4 trillion in annual global trade. The Obama Administration is seeking to expand the scope of the ITA's product coverage in order to keep pace with the tremendous technological advances that have taken place in recent years. As a result of persistent and targeted outreach by the United States, the number of Members participating in the ITA negotiations has increased from six at the launch of negotiations in May 2012, to 28 by September 2013. This expansion represents a critical mass of global Information and Communication Technology (ICT) trade – approximately 90 percent.

In 2014, U.S. negotiators will work to conclude negotiations on a balanced and commercially meaningful expansion of the ITA. Eliminating duties on newer information technology products would provide a significant boost for U.S. technology exports, and enable all countries to benefit from increased trade of cutting edge products. The Information Technology and Innovation Foundation estimates that the liberalization of duties on additional technology products could increase U.S. exports by \$2.8 billion, and support up to 60,000 new American jobs.

#### *Lead Creative and Effective Efforts at the World Trade Organization to Open Markets, Enforce Rules, and Combat Protectionism*

The World Trade Organization remains the critical forum for liberalizing multilateral trade, strengthening the multilateral rules-based trading system, and enforcing global trade rules, and serves as an important bulwark against protectionism. In 2014, the United States will build on recent multilateral trade negotiating successes by continuing to play a leading role in the multilateral trading system. This leadership role reflects our commitment to preserving, enhancing, and strengthening the WTO.

At the 9th WTO Ministerial Conference in Bali (MC9), Indonesia last December, the United States led WTO Members in concluding its first new multilateral trade agreement since the creation of the WTO in 1995. The Trade Facilitation Agreement, with binding commitments on all WTO Members to expedite movement, release and clearance of goods, improve cooperation on customs matters, and help developing countries fully implement the obligations, will contribute to opening new markets for U.S. exporters by significantly reducing customs barriers they face worldwide. The agreement will increase customs efficiency and effective collection of revenue, and will help small businesses access new export opportunities through measures like transparency in customs practices, reduction of documentary requirements, and processing of documents before goods arrive. Additional work at the MC9 also produced important steps to address key issues with regard to food security and agricultural trade, and to alleviate poverty and improve economic opportunities through trade policy and development assistance.

In 2014, the United States will seize upon this forward momentum by implementing these new decisions while also identifying future opportunities for progress such as new negotiations on a plurilateral agreement to eliminate tariffs on environmental goods. The United States also looks forward to

completing negotiations on the accession of Kazakhstan to the WTO, and will continue to provide technical and other assistance to other WTO accession candidates. This assistance includes developing countries and least developed countries that undertake trade commitments that meet Administration priorities and are supported by the Congress.

While supporting the expansion of WTO membership and playing a proactive role in market-opening negotiations, the United States will continue to promote and strengthen the WTO's existing core functions. This includes the day-to-day activities of the WTO committees, working groups, and dispute settlement mechanism. These institutional structures are critical to promoting transparency in WTO Member trade policies, as well as monitoring and resisting protectionist pressures during a challenging time for the global economy. By working together, WTO Members can continue to build upon 2013's successful efforts to revitalize the WTO and ensure that the institution remains well-equipped to drive future economic growth and development.

#### *Promote and Protect Job-Supporting Innovation and Creativity for Producers and Consumers Alike*

As the 21st century global economy evolves, the Obama Administration will continue to work towards strengthening America's competitive advantage in innovation. Intellectual property (IP) is a key source of American jobs, and serves the essential purpose of encouraging innovation and creativity. To sustain these vital economic benefits, the United States in 2014 will continue to seek greater market access for IP-intensive U.S. products, and to promote job-supporting innovation and creativity with balanced policies informed by diverse views that benefit both producers and users of innovative products and services.

In the TPP negotiations, we will continue to work with the negotiating partners and stakeholders to advance state-of-the-art, high-standard IP provisions that will protect and promote the spread of IP-intensive products and services throughout the entire region, to the benefit of producers and consumers in all TPP countries. We will also seek to advance our IP interests in the T-TIP, and will advance positive discussions of trade-related innovation and related issues at the WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) in Geneva.

And as we endeavor to open new markets to innovations of American firms, the United States will aggressively defend millions of American jobs threatened by the wholesale theft of U.S. intellectual property. From the directors and actors who make our movies to the carpenters and engineers who make and run the sets, our people deserve to reap the benefits of their work. We will use all appropriate trade policy tools to address key trade-related IP issues and resolve specific intellectual property rights issues that undermine the rights of Americans. We seek to actively combat global counterfeiting that both threatens American jobs and often endangers the health and safety of global consumers. The United States will continue to use the "Special 301" process and annual report to Congress both to drive continued improvements to the IPR protection and enforcement system and to spotlight challenges. We will also use the Special 301 process, the TPP negotiations, and other trade policy tools to further implement the Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets. To promote U.S. exports of IP-intensive products, we will closely monitor compliance with IP-related commitments secured in U.S. trade agreements.

We will continue to seek constructive input from Congress and stakeholders on a wide range of trade issues related to the protection and enforcement of copyrights, trademarks, patents, trade secrets, and other forms of intellectual property. In the area of public health, the Administration continues to welcome diverse stakeholder input to shape the development of proposals to promote access to high-quality innovative and generic medical products.

### *Support American Jobs through Increased Manufacturing and Agricultural Trade*

In 2014, the Administration's efforts to support globally competitive U.S. exports will cover the spectrum of U.S. sectors, notably including manufacturing and agriculture. We will promote measures to facilitate trade and job-supporting exports in both key sectors worldwide.

U.S. manufacturing will play a key role in the future of our economy. As American manufacturers increase our capacity to produce more advanced and value-added goods, consumers around the world continue to place a high value on products made in America. In 2012, the United States exported nearly \$1.4 trillion of manufactured goods, which accounted for 87 percent of all U.S. goods exports and 61 percent of U.S. total exports. To support the growth of advanced manufacturing and associated high-quality jobs here at home, in 2014 the Obama Administration will continue to pursue trade policies aimed at keeping American manufacturers competitive with their global peers. Throughout our trade negotiations, we aim to level the playing field between state-owned enterprises (SOEs) and private firms. We also seek to ensure that the rules of origin and the global supply chain provisions create incentives for manufacturers to locate in the United States. In addition to concluding ITA expansion negotiations, we will seek to negotiate and implement Telecommunications Mutual Recognition Agreements (MRAs) with select countries to facilitate U.S. exports of telecommunications equipment.

Since the beginning of the Obama Administration the agricultural sector has been a bright spot for exports, supporting nearly one million American jobs throughout the U.S. agricultural supply chain. In 2013, U.S. farmers and ranchers exported a record \$148.4 billion of food and agricultural goods to consumers around the world. In 2014, the Administration will focus on opening and maintaining export markets for food and agriculture, and continue to advocate for science-based standards in support of additional exports of U.S. agricultural products. To realize the full benefits of our existing trade agreements, including those that entered into force in 2012, we will continue to use the consultative mechanisms established in each agreement to ensure that all relevant commitments are upheld, including commitments related to agricultural market access and to applying science-based sanitary and phytosanitary (SPS) standards to U.S. agricultural exports. We will also work with other key trading partners such as Russia, China, and Japan using a full range of trade tools, to secure market access for U.S. food and agricultural exports that is consistent with science-based SPS standards. Our efforts in agriculture also will include an ongoing push in plurilateral discussions on aligning regulatory approaches affecting trade in products derived from modern biotechnology in order to both grow U.S. agricultural exports and improve global food security. Additionally, in the course of the TPP and T-TIP negotiations, and in parallel with those negotiations, we will engage with our key trading partners to resolve specific and challenging agricultural bilateral trade concerns, and will ensure that we secure market access consistent with science-based SPS standards.

### *Combat Emerging Nontariff Barriers to Trade and Investment*

The Administration is engaging in an ongoing effort to tackle emerging issues that increasingly affect trade in the 21st century. In the TPP and T-TIP trade negotiations, for example, the United States is seeking new disciplines to address trade distortions and unfair competition associated with the increasing participation of large SOEs in international trade. We are also actively combating "localization barriers to trade," which are measures designed to protect, favor, or stimulate domestic industries, service providers, and/or intellectual property at the expense of the industries, service providers, and IP rights holders of other countries. The use of these localization barriers has increased in the last few years, especially in some of the world's largest and fastest growing markets. Such measures distort trade, create an uneven playing field for exporters, and limit or deny domestic businesses' and consumers' open access to a wide range of goods and services. In 2014, we will seek to reduce their distortionary effects with key trading partners around the world, and particularly throughout Asia.

Many high-wage, high-skill American jobs depend on the ability of multinational firms to invest both in the United States and abroad. According to the latest data available from the U.S. Department of Commerce, U.S.-based multinational firms employ 23 million Americans and pay compensation an estimated 33 percent higher than the U.S. private sector average. The United States in 2014 will seek to advance trade-enhancing investment measures with key trading partners in order to continue attracting the best jobs and industries to U.S. shores. Building on successful past efforts, we will seek to secure high-standard Bilateral Investment Treaties (BITs) with trading partners such as China, India, and Mauritius; explore BIT discussions with Cambodia, Gabon, Ghana, and Russia, and a regional investment agreement with the East African countries; and launch new BIT negotiations with appropriate partners around the world.

### *Advance Trade Policy that Reflects Our Values*

The United States is a strong supporter of internationally recognized worker rights as a matter of both human rights and trade policy. Countries that fail to adequately address substandard labor conditions do not just harm their own citizens. Poor labor standards in one country can significantly affect workers everywhere else by incentivizing a global race to the bottom, thus unfairly distorting global markets. The Obama Administration believes that by improving labor rights through our trade initiatives abroad we can simultaneously uphold and promote U.S. values, strengthen the ability of American workers here at home to have a fair shot at competing on a level playing field in the global marketplace, and help grow a larger middle class in our trading partners that will fuel demand for U.S. goods and services.

That is why we seek to negotiate high standard labor provisions in all of our comprehensive trade agreements, and to ensure that U.S. trading partners meet their obligations related to worker rights. In the coming year, we will seek to strengthen the respect for and protection of labor rights through our major trade negotiations. This includes finalizing the labor chapter of the TPP while also working with our TPP negotiating partners to identify any of those countries' labor laws and related practices that may be inconsistent with the TPP obligations and ensure that they are brought into compliance. Similarly, we will use the unique opportunity afforded to us in the T-TIP to negotiate obligations that protect worker rights and set a high bar for other trade negotiations in the rest of the world. More broadly, we will focus on the effectiveness of rule of law, implementation of the numerous agreements we have entered into, and our work with key trading partners around the world to address specific labor issues. In all these cases, USTR will continue to insist that commitments we negotiate to protect labor rights are subject to the same dispute settlement procedures and enforcement mechanisms as commercial obligations in our trade agreements.

In 2014, we will continue to work with the U.S. Department of Labor, the U.S. Department of State and the Government of Colombia to advance the implementation of the Colombia Action Plan Related to Labor Rights, a critical complement to the United States-Colombia Trade Promotion Agreement. We will continue to consult with Bangladesh on implementation of the Generalized System of Preferences (GSP) Action Plan developed after the President suspended GSP benefits in June 2013. This Action Plan lists specific actions that Bangladesh should take to provide a basis for reinstatement of GSP benefits.

Following the first dispute settlement case filed under the labor provisions of a U.S. trade agreement, the Administration will continue to engage with the Government of Guatemala, as well as our partners in the labor movement, on the Enforcement Plan signed in April 2013 by the United States and Guatemala. Our goal is to ensure that the Enforcement Plan is fully implemented to address significant concerns about the enforcement of Guatemala's labor laws. We will also follow through on consultations invoked under the United States-Bahrain Free Trade Agreement to improve respect for labor rights in that country. In addition, we will aim to strengthen cooperation and engagement on labor protections with a number of

trading partners. This includes engagement with the Dominican Republic as part of our follow-up to the report issued by the U.S. Department of Labor related to labor law enforcement in the sugar sector. As part of the U.S. Labor Department's review of the submission received from the AFL-CIO and 26 Honduran unions and non-governmental organizations, we will continue to engage with the Honduran government and stakeholders. USTR will also continue our worker rights reviews under GSP and the African Growth and Opportunity Act (AGOA). In each of these cases, our goal is to assist countries to resolve the labor matters raised so that workers are able to exercise their rights and working conditions are improved.

The Obama Administration also recognizes that our trade agenda must include strong provisions on trade-related environmental issues and has taken the lead to ensure that our trade agreements are part of the solution to pressing international environmental challenges. In 2014, we will continue to pursue trade policies to open markets and advance environmental goals at the same time. We will seek strong environmental protection commitments in ongoing trade negotiations like the TPP and T-TIP, in particular in ground-breaking new areas such as fisheries and conservation. We will also continue to ensure that our trading partners commit to effectively enforce environmental laws, including laws implementing Multilateral Environmental Agreements (MEAs), and not to derogate from such laws or reduce environmental protections in order to encourage trade or investment. Much like our efforts to protect labor rights, USTR will continue to press for environmental protection commitments to be subject to the same dispute settlement procedures and enforcement mechanisms as commercial obligations in our trade agreements.

In addition, we will work with the world's largest traders of environmental goods to eliminate tariffs on these products through a WTO negotiation we commenced on January 24, 2014, initially involving countries representing nearly 90 percent of this \$1.4 trillion market. Eliminating tariffs on goods that help us protect our environment, such as renewable and clean energy technologies, reduces prices and increases their availability. This, in turn, enhances our efforts to combat climate change. USTR will also continue to work in APEC to further open markets for environmental goods, including by working to address nontariff barriers.

In 2014, we will continue to closely monitor the implementation of environmental obligations under existing trade agreements as well. For example, we will work with the Government of Peru, the Interagency Committee on Trade in Timber Products, and stakeholders to monitor implementation of the United States-Peru Trade Promotion Agreement forestry annex and 2013 bilateral action plan, and increase efforts to combat illegal logging in Peru and support forestry reform efforts there. We will also continue to engage with the Governments of Colombia and Panama regarding ongoing implementation of their obligations under the Environment Chapters of the Colombia and Panama FTAs, including the establishment of independent secretariats to receive public submissions regarding effective enforcement of environmental laws.

Furthermore, the United States is a leading voice for access to medicines for the world's poor in developing countries, and strongly believes that our trade agreements should reflect this principle. For example, we believe the best approach to addressing pharmaceutical intellectual property in the TPP negotiations involves offering countries flexibility based on their individual circumstances. We will continue to work with TPP partners in 2014 to strike the right balance to make life-saving medicines more widely available, while maintaining incentives for the development of new treatments and cures.

Meanwhile, here at home, the Administration is committed to working with the Congress to renew the Trade Adjustment Assistance (TAA) programs, which expired on December 31, 2013, to provide critical support for Americans facing short-term trade-related transitions. Without TAA, we risk allowing hard working American families to slide down the economic scale and out of the middle class. TAA provides

resources to eligible workers to develop new skills that are essential for employment in vital growth industries of the 21st century economy. As the Obama Administration works hard to create and maintain open markets and support jobs through trade, we must also be mindful of our responsibility to ensure that trade policy reflects our values and keeps faith with American workers impacted by global competition.

These goals are critical to the Administration's broader efforts to ensure a balanced, growing global economy in which workers in the United States and abroad share in the benefits of trade and globalization, while also advancing our collective commitment to environmental stewardship and the protection of public health.

## **II. Enforce U.S. Trade Rights Around the World**

A robust international trading system offers the greatest economic benefits when all trading partners abide by their commitments and play by the same rules. The Administration recognizes that vigilant monitoring and rigorous enforcement of U.S. trade rights is absolutely essential to growing our economy and defending the livelihoods of hard-working Americans. It is for this reason that President Obama has placed trade enforcement on a par with opening markets for U.S. exports. Consequently, the United States will use every appropriate tool at our disposal, including dialogue, negotiation, and dispute settlement, to fight a variety of unjust trade barriers until the rights of America's working families are fully realized.

In 2014, the Obama Administration will continue to monitor and enforce WTO obligations, along with those in our bilateral, plurilateral, and regional trade agreements. As we continue to defend and enforce U.S. trade rights, our goal remains to ensure that Americans can compete successfully in world markets where intellectual property is protected, labor and environmental standards are enforced, agricultural and industrial regulations are based on science, and transparent rules and regulations are applied without discrimination.

### *Challenge WTO-Inconsistent Trade Practices in Markets Worldwide*

The WTO's dispute settlement system plays an indispensable role as the preeminent forum for the discussion and adjudication of disputes with our trading partners. In 2014, we will continue to use dialogue when possible and WTO dispute settlement when necessary to help preserve and support American jobs threatened by WTO-inconsistent practices. We will continue to pursue cases currently pending in various stages of dispute settlement. Additional cases may also be brought as appropriate to enforce WTO commitments and to remove potentially WTO-inconsistent practices identified through our investigations.

As a top priority for the United States in 2014, we will continue to hold China accountable to its WTO obligations to ensure that U.S. producers and workers have a level playing field to compete in a wide range of industries. We secured key legal victories last year through the WTO dispute resolution process, such as the WTO's 2013 findings that China's antidumping and countervailing duties on chicken broiler products breached WTO rules. This successful outcome is a clear example of our winning strategy of fighting back against China's misuse of its trade remedies laws to ensure that China does not unfairly block U.S. exports.

Going forward, we will continue to work cooperatively with the EU and Japan as we prosecute a dispute involving China's unfair export restraints on rare earths, tungsten, and molybdenum. This action is a prime example of our ongoing efforts to fight for U.S. manufacturing jobs and to defend manufacturers' trade rights to access key industrial inputs on a non-discriminatory basis.

At the same time, we will vigilantly monitor China's current and future actions involving cases where the United States prevailed at the WTO to ensure that the fruits of America's hard-earned trade rights can be fully harvested. This includes taking all available and appropriate actions to encourage China's compliance with WTO rulings against its distortionary trade measures on electronic payment services and its unfair duties levied against exports of U.S. steel.

The United States remains prepared, as it has been over the last several years, to engage in any meaningful efforts that will advance the goal of ending WTO-inconsistent subsidies for aircraft at the earliest possible date. Tens of thousands of jobs for U.S. aerospace engineers, electricians, and related suppliers depend on U.S. aircraft manufacturers being able to compete globally on a level playing field. That is why we continue to pursue a compliance panel proceeding launched in April 2012 due to the EU's failure to comply with the WTO's 2011 findings that \$18 billion in subsidies conferred on Airbus by the EU and member countries were WTO-inconsistent. At the same time, the United States is vigorously defending U.S. interests in the compliance challenge brought by the EU.

Restrictions on agricultural trade must be consistent with WTO rules requiring sanitary and phytosanitary measures to be based on science. Therefore, in 2014, the United States will continue to pursue its WTO challenge to India's prohibition on the importation of certain U.S. agricultural products, including poultry meat and chicken eggs. Although India's measure purports to be concerned with preventing avian influenza, the measure does not have a scientific basis and is not in line with international standards. A decision is expected this year.

The United States will also continue to pursue its dispute settlement proceedings with Indonesia regarding its import restrictions that seriously impede trade in horticultural products animals and animal products. In 2013, the United States held two rounds of consultations with Indonesia to discuss those regulations that appear to be inconsistent with Indonesia's WTO obligations. In the second set of consultations, the United States was joined by New Zealand, which appears similarly to be harmed by Indonesia's restrictions.

The United States will continue to defend vigorously its right to utilize trade remedies, including antidumping and countervailing duties, consistent with WTO rules. We will also work to combat the misuse of such trade remedies by our trading partners. In addition to actions mentioned above in disputes on Chinese duties on steel and chicken broiler products, in 2014, we will continue our challenge through the WTO dispute settlement panel proceedings of China's imposition of antidumping and countervailing duties on more than \$3 billion in exports of American automobiles. Following our initiation of the dispute, China withdrew the antidumping and countervailing duties. Nonetheless, we continue to seek through WTO dispute settlement confirmation that the measures never should have been imposed in the first place.

#### *Deploy a "Whole-of-Government" Coordinated Approach to Maximizing the United States' Trade Enforcement and Monitoring Efforts*

In 2014, the Interagency Trade Enforcement Center (ITEC) will continue to play a critical role in the Obama Administration's enforcement efforts. ITEC brings together resources and expertise from across the Federal government into one organization reporting to the USTR. ITEC includes staff from a variety of agencies with a diverse set of language skills and expertise, including intellectual property rights, subsidy analysis, economics, agriculture, and animal health science. This collaborative structure provides the Administration with increased capabilities to investigate unfair trading practices. ITEC is significantly enhancing the Administration's capacity to proactively enforce U.S. trade rights.

For example, through ITEC the United States will continue to push further and dig deeper into the complex web of industrial policies and bureaucratic systems of key trading partners like China. This increased base of knowledge provides our negotiators and litigators with improved information that enables a more effective and efficient deployment of resources, thus enhancing our ability to prevail in key disputes. ITEC will also continue to research, with assistance from U.S. industry, support provided by China and other governments to various industries with a view to assessing compliance with WTO obligations. Furthermore, ITEC will continually monitor compliance of other key trading partners, such as Russia, Brazil, and India, with their WTO commitments in coordination with trade experts from across the U.S. Government.

#### *Monitor New Trade Agreement Implementation to Maximize Benefits for American Exporters*

Building on the achievements of the last four years, in 2014 we will work with Korea, Colombia, and Panama to ensure that the bilateral trade agreements that went into effect in 2012 are fully implemented and continue to operate smoothly. On January 1, 2014, both the United States and Korea implemented the third annual tariff reductions under the United States-Korea Free Trade Agreement. Moving forward in 2014, the United States and Korea will jointly convene relevant committees and working groups established under the agreement as necessary to ensure continuing implementation of its provisions. We will also continue to work with the governments of Colombia and Panama to ensure that both countries adhere to their commitments under their bilateral agreements with the United States. At the same time, the Administration will undertake comprehensive efforts to help U.S. exporters of all sizes take full advantage of the job-supporting trade opportunities that these agreements make possible.

#### *Intensify WTO Committee Work to Increase Accountability Among Members*

The day-to-day work of the WTO's standing committees and other bodies provide opportunities for the United States to monitor implementation of WTO commitments and raise specific trade concerns. The United States has successfully reenergized the daily work of the WTO, from pushing for strong results in the Triennial Review in the Committee on Technical Barriers to Trade, to raising concerns with new trade-restrictive measures in the Import Licensing Committee, Committee on Sanitary and Phytosanitary Measures, and Council for Trade in Goods. In 2014, we will continue to utilize WTO committees and other WTO bodies to challenge new protectionist measures and consider approaches that can improve implementation of WTO commitments and build on these commitments.

### **III. Enhance Trade and Investment Relationships with Partners Worldwide**

The United States continues to promote mutual accountability and shared ambition as we work to strengthen our international trade relationships and support U.S. jobs through a variety of trade and investment avenues. In addition to our ongoing trade negotiations with partners in Asia, Europe, and around the world, in 2014 the United States will maintain steady engagement with trading partners to maintain open markets and create additional bilateral and regional trade and investment opportunities to help increase U.S. exports and grow our economy.

#### *China*

President Obama is committed to ensuring that U.S. engagement with China focuses on providing American exporters with a level playing field to compete in China's large and growing market. Moving forward, the Obama Administration will seek to enhance cooperation toward common objectives on the basis of our shared responsibility to sustain global economic growth and stability.

Our efforts to promote healthy and equitable trade with China will build on recent progress in several areas. Bilateral engagement in 2013 – through the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue, as well as the Innovation Dialogue and other key working groups and bilateral fora – was productive, though there is more work ahead of us. In 2014, we will pursue our trade objectives with China using all available tools, including dialogue, negotiation, and enforcement when appropriate as we seek to eliminate market access barriers and increase transparency across all sectors. We will work to substantially advance BIT negotiations with China to secure improved market access and important protections, consistent with our negative list approach and a commitment to national treatment in the pre-establishment phase. We will seek to make real progress on China’s Government Procurement Agreement accession negotiations, including by deepening engagement on difficult systemic issues such as SOEs and sub-central coverage and China’s domestic procurement regimes. We will work with China to improve intellectual property protection and enforcement through a number of avenues, recognizing that a strong rule of law is essential to encourage and support continued innovation.

In 2014, we will also seek timely and thorough implementation of China’s past commitments, including those relating to various measures impeding imports of U.S. goods, such as food and agricultural products, information technology and telecommunications equipment, medical devices, and an array of other manufactured products.

#### *Russia*

In 2014, the United States will seek to improve the United States-Russian trade and investment relationship by urging Russia to implement fully its WTO commitments, while also continuing our bilateral dialogue to address stakeholders’ other important concerns. Last year, we inaugurated two annual reports on Russia in the WTO – one on WTO Enforcement and one on WTO Implementation. We believe that Russia has taken many important steps to implement the WTO Agreement in most areas, but at the same time there are several areas where more progress is needed. We will monitor Russia’s implementation of its WTO obligations in 2014 and take any actions necessary to ensure that U.S. exports are treated consistently with those commitments. We will also seek to make progress on systemic issues aimed at bolstering bilateral trade and investment.

#### *India*

Increasing trade and investment between the United States and India is critical to enhancing the dynamism of this important economic relationship. Two-way U.S.-India trade in goods and services in 1980 was only \$4.8 billion; since then, it has skyrocketed to an estimated \$105 billion in 2013. India’s economic growth and development could support significantly more U.S. exports in the future, particularly if India avoids adopting trade-restrictive measures and opens its market at a level commensurate with its increasing role in global trade. In 2014 we will engage with India in a variety of ways to increase opportunities for U.S. investment in and exports to India’s large and growing market. To enable U.S. investors to do business with greater certainty and predictability in India, we will continue to pursue negotiations for a high-standard BIT. We will also continue to utilize the U.S.-India Trade Policy Forum to establish a regular, productive trade policy dialogue, address concerns, and engage with the Government of India on a wide range of trade and investment issues, including concerns related to intellectual property rights protection and potentially trade-restrictive localization policies.

#### *The Americas*

The United States maintains strong economic ties with its trading partners throughout the Western Hemisphere. Boasting a combined goods and services trade totaling nearly \$2 trillion, we seek to build

upon an extensive web of existing bilateral and regional trade agreements to further enhance U.S. export opportunities in the region. In 2014, the United States will work closely with Canada and Mexico, bilaterally and as TPP partners, to deepen our partnerships, enhance North American competitiveness, and address barriers to U.S. exports. In addition, we will develop a strategy to foster fair trade in the North American lumber market in the lead-up to the expiration of the U.S.-Canada Softwood Lumber Agreement in 2015.

Strong growth in trade and investment flows between the United States and Brazil continue to promote job-supporting, two way trade and investment with Brazil through the U.S.-Brazil Agreement on Trade and Economic Cooperation. In 2014, we will work to continue to grow our exports and deepen our trade and investment policy engagement with Brazil. In addition, we will continue to work with Brazil to negotiate a long-term mutually agreeable solution to the ongoing WTO dispute on cotton, preventing costly retaliatory countermeasures from damaging American consumers and exports.

Trade between the United States and Central America and the Caribbean remains strong. Consequently, the United States will continue to work with our partners in Central America and the Dominican Republic, both bilaterally and through the CAFTA-DR, to promote job-supporting, mutually beneficial trade and investment. In 2014, the United States will work to deepen trade its relationships with CAFTA-DR partners to strengthen implementation of the trade agreement, facilitate trade, and address outstanding issues related to IP, SPS measures, worker rights, and customs and border measures, among others.

In 2014, we intend to hold our second meeting under the updated U.S.-CARICOM Trade and Investment Framework Agreement signed by Vice President Biden and President Martelly of Haiti in 2013 as we continue to deepen engagement and expand opportunities for trade with these key neighboring countries.

#### *Sub-Saharan Africa*

The United States will also intensify engagement with trading partners in sub-Saharan Africa to advance key trade and investment initiatives. In 2014, President Obama will hold the first United States-Africa Leaders Summit to build stronger economic ties with the continent. We will conclude a comprehensive review of the AGOA program, develop recommendations on revisions to the program, and work with Congress on a timely renewal of the AGOA program, which is scheduled to expire in September 2015. We will also work to significantly advance President Obama's Trade Africa Initiative, including exploration of launching an investment treaty with the East African Community (EAC); working with the EAC to implement trade facilitation measures; developing a U.S.-EAC commercial dialogue work plan, and establishing trade capacity building priorities with the EAC; and enhancing cooperation on trade facilitation (including effective implementation of the related WTO multilateral decision), sanitary and phytosanitary (SPS) and technical barriers to trade (TBT). We also aim to complete negotiations of a U.S.-ECOWAS Trade and Investment Framework Agreement with the West African Economic Community. Further, we will use bilateral mechanisms such as Trade and Investment Framework Agreements (TIFAs) and BITs to strengthen trade and investment relationships with key African partners.

#### *The Middle East and North Africa*

This year, the United States will work with regional partners through various forms of engagement (including free trade agreement Joint Committees, TIFA Councils, and other arrangements) to continue developing the President's Middle East and North Africa Trade and Investment Partnership (MENA TIP) initiative. We will aim in particular to advance with MENA countries several proposals, including agreements on trade facilitation, joint principles on foreign investment, and joint principles on information and communication technology services trade. In addition, we will engage governments on a further range of issues identified by stakeholders as important to better trade relations, such as intellectual

property rights, services, government procurement, small and medium enterprise support and labor practices. We will also seek where possible to craft and pursue initiatives that can help lay the groundwork for the greater economic integration among MENA countries which will be critical to the future prosperity of the region.

In our interactions with another important partner, Turkey, we will utilize the senior-level Framework for Strategic Economic and Commercial Cooperation consultative mechanism, as well as policy initiatives under the bilateral High Level Committee, established in 2013, to enhance U.S. trade and investment with one of the strongest economies in the region.

#### *Regional Engagement to Expand Trade Opportunities*

More broadly, the Obama Administration seeks to strengthen our economy by negotiating high-standard regional agreements that complement our bilateral trade policy efforts. Advancing regional economic integration remains a key objective of the Asia-Pacific Economic Cooperation (APEC) forum. This year, the United States will continue to play an active leadership role in APEC, working closely with China, the host country, and APEC partner economies to achieve concrete and meaningful trade and investment outcomes by the APEC Leaders' and Minister's Meeting in late 2014. In particular, we seek to advance initiatives on supply chain performance, good regulatory practices, global value chains, intellectual property, environmental goods and services, and innovation and trade policy.

In 2014, the United States also will intensify work to enhance regional trade and investment with partners in the Association of Southeast Asian Nations (ASEAN). We aim to conclude agreements with ASEAN under the Expanded Economic Engagement (E3) Initiative and the U.S.-ASEAN Trade and Investment Framework Arrangement. To complement robust engagement through ASEAN and other regional fora, the United States will work bilaterally with trading partners across Southeast Asia to address trade and investment barriers and enhance mutual economic growth and development.

In May of last year, the United States and Burma signed a Trade and Investment Framework Agreement, creating a platform for ongoing dialogue and cooperation on trade and investment issues between the two governments. In 2014, a priority for the United States will be to work with the government of Burma to achieve further improvements in the protection of worker rights, a longstanding area of concern to U.S. stakeholders and the international community.

Additionally, USTR looks to build upon the work conducted last year under our innovative plurilateral Trade and Investment Framework Agreement with the five countries comprising Central Asia. In 2014, we will continue our dialogue and capacity building efforts to promote trade, investment, and regional cooperation throughout Central Asia to encourage countries to adopt rules-based market reforms and further integrate into the global economy. Furthermore, we will seek to normalize our trade dialogue with Iraq.

## **IV. Fight Poverty and Foster Global Economic Growth through Trade and Development**

The United States will continue to work with poor countries to lift people out of poverty and foster opportunity through expanded trade and stronger economic growth. Whether through preference programs or new initiatives to increase trade and trade capacity in developing countries, promoting economic development by creating trade opportunities for some of the world's least-advantaged countries today can help to reduce corruption and violence, and increase the likelihood of societal change through peaceful, democratic means. Many regions of the developing world hold considerable potential for

economic growth. The Obama Administration's efforts to help developing countries to build capacity to harness the power of trade also helps U.S. producers and exporters by enhancing their opportunities to connect with billions of new customers abroad. Expanding our trade with the developing world supports jobs and economic growth here at home.

The Administration is seeking to build upon recent trade and investment initiatives in developing countries. In June 2013, President Obama announced the launch of Power Africa, a new initiative to help Africa leverage its vast resources to meet its energy needs and increase its global competitiveness. Through Power Africa the United States will work with African governments to reform their energy and power sectors to attract private investment and ensure that energy resources are responsibly developed and effectively deployed.

U.S. trade preference programs provide opportunities for the world's poorest people to climb out of poverty. In support of this goal, the Administration will work with Congress this year to renew authorization of the Generalized System of Preferences (GSP) program. The oldest and most widely used U.S. trade preference program, GSP helps beneficiary developing countries to expand their economies by allowing many goods from these countries to be imported to the United States duty-free. The GSP program also aids American manufacturing by lowering the cost of imported goods used as inputs in U.S. production. In 2014, the Administration will continue to administer our U.S. trade preference programs in a manner that contributes to economic development in beneficiary countries while also addressing relevant statutory eligibility criteria, such as progress on worker rights and enforcement of intellectual property rights. We will also work with Congress to consider possible reforms to the GSP program to take into account evolving global trade relations, including the growing competitiveness of many emerging market GSP beneficiaries.

Our efforts to renew and reform AGOA are also an important part of our development strategy. Created in 2001, AGOA has increased and diversified two-way U.S.-sub-Saharan African trade, helping to facilitate a three-fold increase in non-oil exports from AGOA beneficiary countries to the United States, which totaled nearly \$4.8 billion in 2012. The United States will also conduct a comprehensive review of AGOA to ensure that any future AGOA program works effectively to benefit both Africa and the United States. We will utilize the results of this review to inform consultations with Congress on renewal options for the AGOA program beyond 2015.

The United States will also continue to lead multilateral efforts to assist least developed countries (LDCs) to become better integrated into the global trading system. This commitment was evidenced last December at the 9th Ministerial Conference of the WTO, where the United States helped lead like-minded Member countries to establish a new package of development outcomes that align with our goals of alleviating poverty and improving economic opportunities through trade policy. Recognizing the importance of LDCs achieving their development objectives, WTO Members have in the past agreed on four LDC-specific elements, namely a political commitment on duty-free and quota-free market access, preferential rules of origin, waivers for LDC services suppliers, and enhanced transparency and monitoring in relation to exports of African cotton. In 2014, we will advance work at the WTO to monitor these commitments so that LDC exporters are able to benefit from these preferential trade provisions, grow their economies, and thereby increase two-way trade with the United States.

The United States also strongly supports efforts to expand opportunities for women and women entrepreneurs throughout the global economy. This work stems from the recognition that trade and the financial independence it fosters can be a powerful instrument for empowering women and raising their status within traditional societies. In 2014, the United States will continue efforts to strengthen women's entrepreneurship through the APEC Women and the Economy initiative, and in other fora such as the WTO, to improve women's ability to participate in and reap the benefits of trade. In particular, we will

seek to build upon a Memorandum of Understanding (MOU) with Afghanistan that sets out how we will work together to encourage greater involvement of women in trade and investment. MOUs on women's empowerment with other regional trading partners are being considered, and women's issues have been an important agenda item in all of our TIFA meetings throughout the South and Central Asia region.

## **V. Inform the Public and Develop Balanced Trade Policy from Diverse Perspectives**

In 2014, while Congress considers new legislation to assert its role in trade policy through a renewal of trade promotion authority, the Obama Administration will continue to consult with Congress and seek input from a wide range of advisors, stakeholders, and the public at large to develop and sustain U.S. trade policies that support American jobs and strengthen the global trading system. This dialogue is critical at every stage of the negotiating process, and for our efforts to ensure implementation and robust enforcement of trade rules. Throughout these processes, we seek to craft trade policy solutions that are balanced and responsive to a diverse array of American voices.

In the TPP negotiations, for example, the Administration has already held consultations with Congress on more than 1,150 separate occasions and will continue to schedule such consultations into 2014. We have continued to share texts of U.S. proposals with Members and to solicit specific input, both as to policy and as to text, at every stage of the negotiation.

The Administration has also been working with a series of advisory committees established by Congress. These include the President's Advisory Committee on Trade Policy Negotiations (ACTPN), the Agricultural Policy Advisory Committee (APAC), the Intergovernmental Policy Advisory Committee (IGPAC), the Labor Advisory Committee (LAC), the Trade Advisory Committee on Africa (TACA), the Trade and Environment Policy Advisory Committee (TEPAC), as well as six Agricultural Technical Advisory Committees (ATACs) and sixteen Industry Trade Advisory Committees (ITACs). Among the advisory committee members are industry representatives, labor unions, environmental groups, consumer groups, health groups, state and local governments, and academia. These committees are provided and have an opportunity to comment on all draft U.S. proposals before they are shared with other countries, and have been encouraged to provide other input throughout the negotiations.

Further, the Administration has cast a wider net to draw in the views of stakeholders and the public more generally, and to share information with them. These efforts have included solicitation of public comments regarding negotiating aims and objective through notices in the *Federal Register*, open invitations to stakeholders to meet with U.S. and foreign officials from the early stages of the TPP talks to the present round, dissemination of trade policy materials such as press releases, factsheets and statements on the website of the United States Trade Representative, and direct and constant outreach by U.S. trade officials to solicit, obtain, and incorporate public input in the course of their daily work.

These efforts will continue and intensify this year. In February 2014, the Administration announced the creation of a new Public Interest Trade Advisory Committee (PITAC). All eligible stakeholders – including NGOs, academics, and other public interest groups – are encouraged to submit their candidates to serve as founding members of the PITAC. Additionally, consistent with the statute, the Administration is soliciting qualified candidates to serve on the ITACs during the 2014 – 2018 charter term that are representative of industry, agriculture, services, and labor interests.

In a variety of other areas, we will continue to engage with stakeholders from non-governmental organizations, academia, labor unions, trade associations, environmental and consumer groups, the business community, including small businesses, and a variety of other perspectives that will collectively

help to inform and guide our trade policy decisions. We will strengthen our relationships with states and localities through enhanced engagement with the National Governors Association, the National Conference of State Legislatures, the U.S. Conference of Mayors, and outreach to state and local elected officials.

## **Conclusion**

The Obama Administration is pursuing an ambitious trade policy that supports jobs, promotes growth and strengthens the middle class. We are opening markets and raising standards, consistent with our values. Thanks to these efforts, U.S. producers and exporters are selling more goods and services around the world than ever before, and we are steadily raising environmental and labor standards in our partner countries. In 2014, we look forward to engaging with our global trading partners, with Congress, and with the American public to ensure that trade continues to move the country forward toward President Obama's goal of an economy that will sustain and grow a thriving American middle class in the 21st century.

**Ambassador Michael Froman**  
**United States Trade Representative**  
**March 3, 2014**



**2013 ANNUAL REPORT  
OF THE  
PRESIDENT OF THE UNITED STATES  
ON THE  
TRADE AGREEMENTS PROGRAM**



## II. THE WORLD TRADE ORGANIZATION

### A. Introduction

This chapter outlines the work of the World Trade Organization (WTO) in 2013, including the historic results of the 9th Ministerial Conference in Bali, Indonesia, and the work anticipated for 2014 to continue to find new, credible approaches to advancing negotiations in the WTO, including under the Doha Development Agenda (DDA). This chapter also details work of WTO Standing Committees and their subsidiary bodies, provides an overview of the implementation and enforcement of the WTO Agreement, and discusses accessions of new members to this rules-based organization.

The United States maintains an abiding commitment to the rules-based multilateral trading system, which advances the well-being of the people of the United States and of our trading partners. The WTO represents the multilateral bedrock of U.S. trade policy, playing a vital role in securing new economic opportunities for American workers, farmers, ranchers, manufacturers, and service providers and promoting global growth and development with widely shared benefits. The United States continues to take a leadership role at the WTO, working to ensure that trade makes a powerful contribution in expanding the global economy. The WTO provides a forum for enforcing U.S. rights under the various WTO agreements to ensure that the United States receives the full benefits of WTO membership. The WTO agreements also provide a foundation for high-standard U.S. bilateral and regional agreements that make a positive contribution to a dynamic and open global trading system based on the rule of law. On a day-to-day basis, the WTO provides opportunities for advancing U.S. interests through its more than 20 standing committees (not including numerous additional working groups, working parties, and negotiating bodies). These groups meet regularly to permit WTO Members to exchange views, work to resolve questions of Members' compliance with commitments, and develop initiatives aimed at systemic improvements.

The DDA is the ninth round of multilateral trade negotiations to be carried out since the end of World War II. At the WTO's Eighth Ministerial Conference in Geneva, Switzerland in December 2011, there was a consensus among Ministers that the DDA was at an impasse, with "significantly different perspectives on . . . possible results." The agreed summary for the Ministerial Conference noted that "Members need to more fully explore different negotiating approaches," and reiterated previous ministerial guidance that, where progress can be achieved on specific elements of the DDA, provisional or definitive agreements might be reached before all elements of the negotiating agenda are fully resolved. During the course of 2012 and 2013, Members took this guidance to heart in working collectively to complete a "Bali Package," which included, in the form of the groundbreaking Trade Facilitation Agreement (TFA), the first new multilateral agreement in the nearly 20 year history of the WTO. The TFA, when fully implemented, will ensure that all WTO Members apply a variety of trade-facilitating customs and related measures that promise to substantially decrease the costs associated with trading and increase the value and volume of global trade. The Bali package also included important results on agriculture, such as decisions on food security, tariff-rate quota administration, export competition, and development, including a new Monitoring Mechanism to allow experience-based reviews of the implementation and operation of special and differential treatment provisions in WTO agreements.

In parallel, the United States and other WTO Members have generated renewed focus on the day-to-day work of the WTO's standing committees and other bodies, which remained instrumental in promoting transparency of WTO Member trade policies and providing critical fora for monitoring and resisting protectionist pressures during a time of global economic challenges. Through discussions in these fora,

Members sought detailed information on individual Members' trade policy actions and collectively considered them in light of WTO rules and their impact on individual Members and the trading system as a whole. The discussions enabled Members to assess their trade-related actions and policies in light of concerns that other Members raised and to consider and address those concerns in domestic policymaking. The United States also took advantage of opportunities in standing committees to consider how implementation of existing WTO provisions can be enhanced and to discuss areas that may hold potential for developing future rules.

## **B. The Doha Development Agenda under the Trade Negotiations Committee and Other Priority WTO Activities**

The DDA was launched in Doha, Qatar, in November 2001, at the 4th WTO Ministerial Conference, where Ministers provided a mandate for negotiations on a range of subjects and work in WTO Committees. In addition, the mandate gives further direction on the WTO's existing work program and implementation of the WTO Agreement. The goal of the DDA is to reduce trade barriers in order to expand global economic growth, development, and opportunity. The main focus of the negotiations under the DDA is in the following areas: agriculture; industrial goods market access; services; trade facilitation; WTO rules (*i.e.*, trade remedies, fisheries subsidies, and regional trade agreements); and development.

The Trade Negotiations Committee (TNC), established at the WTO's Fourth Ministerial Conference in Doha, oversees the agenda and negotiations under the DDA in cooperation with the WTO General Council. The WTO Director General serves as Chairman of the TNC (*Annex II identifies the various negotiating groups and special bodies responsible for the negotiations, some of which are the responsibility of the WTO General Council*).

In 2013, WTO Members worked collectively to follow through on the guidance from the 8th Ministerial Conference in order to make progress on discreet areas of the DDA with the possibility of early results. Broadly, the United States joined others in validating that the WTO had "turned the page" in the DDA negotiations and that only new, creative approaches could offer opportunities for delivering results. In this regard, the Membership focused on a select number of specific areas identified by Members for inclusion in the Bali Package, with the core result being the new TFA, supplemented by additional decisions on agriculture and development, particularly measures in favor of least developed countries. At the 9th Ministerial Conference in Bali in December 2013, Members hailed the completion of the Bali Package, which the new WTO Director General, Roberto Azevêdo, described as a much-needed vote of confidence in the WTO's ability to complete multilateral trade negotiations. The Bali Package included a Ministerial Declaration directing Members to take up other parts of the Doha Agenda, including priority areas of the Round and those on which legally binding results were not included in the Package.

Beyond the DDA negotiations, Parties to the WTO Government Procurement Agreement (GPA), a plurilateral agreement within the WTO framework, announced in Bali their expectation that the revised GPA should enter into force by March of 2014, and the United States presented its instrument of acceptance in Bali.

The WTO is much more than a negotiating forum and venue for filing dispute settlement cases. The United States believes that the WTO demonstrates its value every day through the work of the standing committees and other WTO bodies. In 2013, the United States made effective use of the Council on Trade in Goods, the Committee on Import Licensing, and the Committee on Agriculture to raise the profile of trade protectionist actions by other Members. In the Committee on Technical Barriers to Trade,

the United States and other Members began follow up work to the Sixth Triennial Review of that WTO agreement, including substantial progress in completing recommendations on good regulatory practices.

Overall the United States noted the new energy in the operations of the WTO during the course of 2013, including areas outside the DDA, such as negotiations on a new Information Technology Agreement. This greater appreciation for the broad spectrum of WTO work, from the DDA to other areas, may be the critical factor in sustaining the relevance of the WTO in international trade in years to come.

## **Prospects for 2014**

The United States will continue to play a leadership role across the range of WTO activities. It is particularly important to sustain and enhance the WTO's critical work in monitoring and providing a forum for resisting protectionism. Accordingly, the United States will be devoting additional attention to making the best possible use of the WTO's existing committees and other structures, using them both to advance specific U.S. trade policy objectives as well as to ensure the ongoing strength and credibility of the multilateral trading system. Additionally, the United States will take up a leadership role in the follow up to the Bali Ministerial, seeking to inject new direction and creative approaches in other areas of the DDA that have been dormant in recent years.

## **1. Committee on Agriculture, Special Session**

### **Status**

Negotiations in the Special Session of the Committee on Agriculture are conducted under the mandate agreed upon at the Fourth WTO Ministerial Conference in Doha, Qatar that calls for: "substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support." This mandate, calling for ambitious results in three areas (so called "pillars"), was augmented with specific provisions for agriculture in the framework agreed by the General Council on August 1, 2004, and at the Hong Kong Ministerial Conference in December 2005.

### **Major Issues in 2013**

In 2013, the United States continued to lead the effort to approach the Doha negotiations with a focus on how countries might realistically work together to advance the negotiations.

Ambassador John Adank, the Chair of the Agriculture Negotiations, held negotiations in formal and informal settings to assess Members' views on substantive issues. Members focused on proposals introduced in 2012, notably a proposal on tariff-rate quota (TRQ) administration from the G20 developing country group led by Brazil, and a proposal on public stockholding from the G33 developing country group, led by India. In addition, the G20 group introduced a new proposal in 2013 on export competition.

Deputy U.S. Trade Representative and U.S. Permanent Representative to the WTO Ambassador Michael Punke continued to urge Members to approach the overall Doha negotiations on the basis of a realistic assessment of possibilities for progress. Throughout 2013, U.S. negotiators undertook discussions at various levels (technical and political) and in various formats (bilateral and small group) to determine Members' views and look for ways to move the negotiations forward, in line with U.S. interests and priorities.

At the WTO's 9th Ministerial Conference, Members adopted results on several areas of agriculture. First, WTO Members reached a decision on the administration of tariff-rate quotas (TRQs), which will facilitate increased opportunities for U.S. farmers, ranchers, workers, and food processors to enhance exports to a number of WTO Member countries, including the European Union, Japan, Norway, and Switzerland. This decision provides American agricultural producers more market access by addressing the issue of chronically low fill rates in Members' WTO bound TRQs. Further, the decision provides an increased level of transparency regarding how Members are filling their TRQs. Second, Members agreed to a new Ministerial declaration on export competition to help Members understand how their trading partners are proceeding toward their commitments. This also includes new transparency measures to ensure a balanced approach across all forms of export competition, including export subsidies, export credits, food aid, and notably state trading enterprises (STEs), where transparency is currently limited. Third, Members agreed to provide limited protection from legal challenge to developing country Members, who may be in danger of breaching their domestic support limits for public stockholding programs for food security purposes, to give them time to bring their policies in line with their WTO commitments. The United States worked to ensure that this protection from challenge is only available to Members if their programs do not distort trade, and if they meet certain transparency conditions to share the details of their support mechanisms. Lastly, Members agreed to transparency requirements on cotton trade.

### **Prospects for 2014**

After the successful completion of the WTO's 9th Ministerial Conference, Members in 2014 will resume negotiations and continue to look at fresh approaches to achieve results. A key to the negotiations will be securing meaningful market access commitments in agriculture. The advanced developing countries – which have been the fastest growing economies and are increasingly major exporters and importers – will play an important role. The challenge in 2014 will be to make continual progress towards fair, balanced results in agriculture.

## **2. Council for Trade in Services, Special Session**

### **Status**

The Special Session of the Council for Trade in Services (CTS-SS) was formed in 2000 pursuant to the Uruguay Round mandate of the General Agreement on Trade in Services (GATS) to undertake new multi-sectoral services negotiations. The Doha Declaration of November 2001 recognized the work already undertaken in the services negotiations and set deadlines for initial market access requests and offers. The services negotiations thus became one of the core market access pillars of the Doha Round, along with agriculture and nonagricultural goods.

The 2005 Hong Kong Ministerial Declaration called for the negotiations to proceed to conclusion with a view to promoting the economic growth of all trading partners, with due respect for the right of Members to regulate in their domestic markets. The Hong Kong Declaration provided a framework for intensifying the negotiations, with the goal of encouraging Members to improve their commitments by removing significant limitations and covering a broader range of service sectors and supply channels (*i.e.*, cross border supply, consumption abroad, commercial presence, and presence of natural persons). To complement the existing bilateral request/offer process, the Hong Kong Declaration also encouraged negotiations to proceed on a plurilateral basis. Members subsequently developed a “plurilateral request process,” through which like-minded Members joined together to develop collective market access requests for more than 20 sectors and issues of interest.

### **Major Issues in 2013**

The CTS-SS did not meet during 2013, as the lack of general progress under the DDA affected negotiations on services.

### **Prospects for 2014**

The United States continues to believe that a high level of ambition for services liberalization is a key to economic growth and prosperity. To that end, the United States will continue to pursue new ideas and approaches to create new trade and investment opportunities for service providers.

## **3. Negotiating Group on Non-Agricultural Market Access**

### **Status**

The U.S. Government's longstanding objective in the Non-Agricultural Market Access (NAMA) negotiations – which cover manufactures, mining, fuels, and fish products – has been to obtain a balanced market access package that provides new export opportunities for U.S. businesses through liberalization of global tariffs and non-tariff barriers. Trade in industrial goods accounts for more than 90 percent of world merchandise trade<sup>1</sup> and more than 95 percent of total U.S. goods exports. In developing countries, industrial goods comprise 94 percent of goods exports, more than 65 percent of which corresponds to manufactures – an increasing share of which is exported to other developing countries.<sup>2</sup> Therefore, there is a substantial interest in improving market access conditions among developing countries. Yet, many emerging economies still charge very high tariffs on imported industrial goods, with ceiling tariff rates exceeding 150 percent in some cases. Thus, achieving a market-opening outcome is critical to stimulating trade and driving economic development in the wake of the global economic downturn.

The NAMA negotiations, however, remained at an impasse when they were last actively underway, prior to the 8th Ministerial Conference at the end of 2011. Without significant market opening commitments from advanced developing economies, there is little prospect for achieving robust trade liberalization for industrial goods on a multilateral basis. Given the changing global economic landscape, namely the emergence of certain new economic powers, securing broad-based liberalization that ensures that major industrial producers and traders compete on a level playing field is necessary and fundamental.

### **Major Issues in 2013**

There were no substantive meetings or other activities related to either the tariff or non-tariff elements of the NAMA negotiations. Proposals that had been under negotiation remain on the table until such time as the Doha negotiations resume.

### **Prospects for 2014**

In 2014, the United States intends to work with other WTO Members to pursue fresh and credible approaches to meaningful multilateral trade liberalization.

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<sup>1</sup> WTO, International Trade Statistics 2013.

<sup>2</sup> WTO document WT/COMTD/W/143/Rev.5.

## 4. Negotiating Group on Rules

### Status

At the Doha Ministerial Conference in 2001, Ministers agreed to negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (the SCM Agreement), while preserving the basic concepts, principles, and effectiveness of these Agreements and their instruments and objectives. Ministers directed that the negotiations take into account the needs of developing and least-developed country Members. The Doha Round mandate also calls for clarified and improved WTO disciplines on fisheries subsidies.

The Negotiating Group on Rules (the Rules Group) has based its work primarily on written submissions from Members, organizing its work in the following categories: (1) the antidumping remedy, often including procedural and domestic industry injury issues potentially applicable to the countervailing duty remedy; (2) subsidies and the countervailing duty remedy, including fisheries subsidies; and (3) regional trade agreements. In November 2007, the Chairman of the Rules Group issued draft consolidated texts on the antidumping remedy, subsidies, the countervailing duty remedy, and fisheries subsidies.

In December 2008, the Chairman issued revised texts on antidumping, subsidies, and the countervailing duty remedy, as well as a roadmap for fisheries subsidies that identified key questions that need to be addressed in order to advance the negotiations towards a new fisheries text. In keeping with the Rules Chairman's earlier pronouncements, the draft texts on antidumping and subsidies/countervailing duties reflected a "bottom up" approach, identifying the most contentious issues contained in brackets with no legal text provided. Following an intensification of work at the end of 2010 and beginning of 2011, the Chairman issued a report in April 2011 reflecting the work to date in the Rules Group on antidumping, subsidies and fisheries subsidies, and regional trade agreements.<sup>3</sup> Included in this report was a slightly revised text on antidumping reflecting several technical changes. There were no changes made to the 2008 draft text on subsidies and countervailing measures or the 2007 draft text on fisheries subsidies.

The Doha Declaration also directed the Rules Group to clarify and improve disciplines and procedures governing Regional Trade Agreements (RTAs) under the existing WTO provisions. To that end, the General Council in December 2006 adopted a decision for the provisional application of the "Transparency Mechanism for Regional Trade Agreements" to improve the transparency of RTAs. A total of 139 RTAs have been considered under the Transparency Mechanism since then. Pursuant to its mandate, in the past, the Rules Group has explored the establishment of further standards governing the relationship of RTAs to the global trading system. However, such discussions have failed to produce common ground on how to clarify or improve existing RTA rules.

### Major Issues in 2013

There were no meetings of the Rules Group in 2013. The United States, however, worked with other like-minded WTO Members to coordinate informal events on fisheries subsidies, including a launch event for the Food and Agriculture Organization's biannual report on the *State of World Fisheries and Aquaculture* and a seminar on transparency in fisheries subsidies. During the 9th WTO Ministerial Conference in Bali, Indonesia, the United States and other Friends of Fish (FoF) Ministers released a Ministerial Statement that affirmed their commitment to ambitious disciplines on fisheries subsidies in the WTO and pledged to improve transparency and efforts to reform current fisheries subsidy programs.

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<sup>3</sup> TN/RL/W/252, TN/RL/253, TN/RL/W/254, all dated April 21, 2011.

Through this Statement, the FoF Members also pledged not to introduce new fisheries subsidies, or enhance or extend existing programs, which contribute to overfishing and overcapacity.

### **Prospects for 2014**

In 2014, the United States will continue to focus on, *inter alia*, preserving the effectiveness of trade remedy rules, improving transparency and due process in trade remedy proceedings, and strengthening existing subsidies rules. Concerning fisheries subsidies, the United States will continue to press for an ambitious outcome in the WTO, and at the same time continue to pursue disciplines on fisheries subsidies through other fora such as the Trans-Pacific Partnership and Trans-Atlantic Trade and Investment Partnership negotiations, which will assist our efforts to reach eventual agreement on fisheries subsidies in the WTO.

On RTAs, the United States will continue to advocate for increased transparency and strong substantive standards for RTAs that support and advance the multilateral trading system. The Transparency Mechanism<sup>4</sup> will continue to be applied in the consideration of additional RTAs.

## **5. Negotiating Group on Trade Facilitation**

### **Status**

WTO negotiations on Trade Facilitation were formally launched under the August 1, 2004 Decision by the General Council on the Doha Work Program. Opaque border procedures and unwarranted delays faced at the borders can add costs that are the equivalent of a significant tariff and are the non-tariff barriers that are most frequently cited by U.S. and other exporters. A major U.S. Doha Round priority was met when negotiations concluded on December 6, 2013, at the 9th WTO Ministerial Conference, with an agreement that will reduce these barriers through transparent and predictable multilateral trade rules under the WTO. The Negotiating Group on Trade Facilitation has now been subsumed by the Preparatory Committee established by the Ministerial Conference that will oversee the implementation of the Trade Facilitation Agreement (TFA).

### **Major Issues in 2013**

The work of the Negotiating Group on Trade Facilitation (NGTF) continued to have as its hallmark in 2013 broad-based and constructive participation by Members at all levels of development – a positive negotiating environment that was seen as offering “win-win” opportunities for all. There continued to be

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<sup>4</sup> At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism (TM) for all regional trade agreements (WT/L/671), which was agreed upon in the Negotiating Group on Rules and implemented in 2007. In December 2010, the Rules Group initiated a review of the operation of the RTA TM, and the Chair invited Members to submit any proposals to modify the TM in light of the experience gained under its operation. While the TM has on the whole significantly improved transparency with respect to RTAs, some of its operational aspects could be improved. Most notably, while there is no doubt that the TM applies to all RTAs – whether negotiated under GATT 1994, the GATS, or the GATT Enabling Clause – practical questions of the venue of consideration have arisen when parties to an agreement differ among themselves in their view of the relevant WTO provision for concluding a particular preferential agreement. While such underlying differences go beyond the scope of the review of the TM, the United States in January 2011 submitted a proposal to help ensure the consideration of RTAs that have been “dually notified” under such circumstances, so as to eliminate, or at least reduce, disagreement and procedural challenges in a way that is without prejudice to any underlying rights. The U.S. submission (TN/RL/W/248, dated January 24, 2011) proposes a specific solution, in the form of a proposed change to paragraph 18 of the TM, to consolidate the consideration of all RTAs in a single committee, the Committee on Regional Trade Agreements.

active leadership within the NGTF from individual developing country Members and from regional groupings including the landlocked developing countries (LLDCs), least developed countries (LDCs), the African Group (AG), and the African, Caribbean and Pacific (ACP). These groups worked with the United States and other Members to steer the negotiations toward conclusion in a practical, problem-solving manner. The United States also worked in various bilateral and plurilateral configurations of countries to advance work on specific textual proposals.

As recent U.S. Free Trade Agreements (FTAs) with other countries were implemented, positive synergy developed in the WTO negotiations with partners as diverse as Chile, Singapore, Australia, South Korea, Peru, Panama, Costa Rica, and Colombia. Each FTA negotiated by the United States has included a separate, stand-alone chapter that contains significant commitments on customs administration, most of which were reflected in proposals at the NGTF.

For many developing country Members, the TFA will bring improved transparency and an enhanced rules-based approach to border regimes, and will be an important element of broader ongoing domestic strategies to increase economic output and attract greater investment. There is also a growing understanding that the TFA will squarely address factors holding back increased regional integration and south-south trade. Most Members see the concluded TFA as a means to bring particular benefits to small and medium-sized businesses, enabling them to increase participation in the global trading system.

The modalities for the trade facilitation negotiations, set forth as part of the August 1, 2004 General Council decision launching the negotiations, included the following: “Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII, and X of the GATT 1994 with a view to further expediting the movement, release, and clearance of goods, including goods in transit. Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.” The modalities also included references that underscored the importance of addressing implementation issues such as costs, potential implications with regard to infrastructure, capacity building, the status of LDC Members, and the work of other international organizations.

The Member-driven proposals in the negotiating text covered each of the areas provided for in the NGTF modalities. This resulted in a final TFA that includes commitments that promote transparent rules and procedures, such as detailed publication requirements, a U.S.-driven provision on Internet publication, provisions to clarify appeal procedures and enquiry points, and provisions on advance administrative rulings. There are also several commitments to expedite release and clearance of goods, including through pre-arrival processing, separation of release and clearance, and expedited shipment procedures, and to simplify and reduce fees and formalities. Likewise, the final text includes provisions on transit procedures and customs cooperation. It also establishes disciplines on customs penalties, based on a proposal by the United States.

The work of the NGTF during 2013 was characterized by intensive, Member-driven, text-based negotiations. Significantly, the draft consolidated negotiating text was not a “Chair’s text,” based on the Chair’s perception of Members’ desired outcomes. Rather, the text reflected all proposals on the table and modifications to those proposals that Members suggested. Consistent with the Member driven, “bottom up” approach that characterized the NGTF from the outset, the NGTF’s work required continued engagement of Members with each other to resolve differences. During 2013, that engagement occurred in various formats, both formal and informal, as proponents and Chair-appointed facilitators for various sections of the text stepped forward to lead efforts to close gaps. The Ambassadors from Chile, Nigeria, Switzerland, and the Permanent Representative of Hong Kong, China, also played increased roles in the

negotiations, serving as “Friends of the Chair” (FOC) to facilitate informal meetings on specific sections of the text.

The NGTF met in plenary sessions in March, May, July, and October to capture progress achieved through the intervening small group and FOC-led work and to further refine the text. New revisions of the draft negotiating text that successively reduced the number of open issues were released following each meeting. Work intensified in the fall, with a Senior Officials meeting focused on all areas of a Ministerial package, including trade facilitation, taking place in September. At that time, the new WTO Director General, Roberto Azevêdo, began chairing informal meetings on trade facilitation and other issues. While the bottom-up Member-driven process continued, the Director General began to elevate work to Ambassadors and Senior Officials in areas where the text was ripe for such engagement. Following the October NGTF meeting, the Director General began holding more intensive meetings in various configurations, most commonly in open-ended sessions including all WTO Members. After a final session of negotiations in Geneva failed to produce a bracket-free text, the Director General presented a compromise text at the Ministerial Conference in Bali. Members agreed to the text without changes on the final day of the Ministerial Conference.

During 2013, while finalizing the commitments of the TFA, the NGTF continued its work on preparing for the challenge of implementing the results of the negotiations that will face many developing country Members. The TFA includes transition periods for developing and least developed country Members, intended to provide these Members with the flexibility necessary for them to fully implement all provisions of the Agreement, as well as the assurance that they will have the time and assistance to do so. The negotiating sessions in 2013 resulted in a final text that will focus appropriate discussion on these “special and differential treatment” provisions and allow for full implementation of the TFA by all Members.

As part of the substantial assistance already being provided for trade facilitation, the WTO and assistance organizations like the U.S. Agency for International Development have, over the course of the negotiations, provided training programs with developing country Members to help them undertake assessments of their individual situations regarding capacity and make progress in implementing the proposals under negotiation. The Member assessments, which are currently being updated, have made it apparent that many of the developing country Members have implemented – or are taking steps to do so – a number of the provisions contained in the TFA. At the same time, it is also clear that many developing country Members openly recognize that they have an “offensive” interest in seeking implementation by their neighbors of the TFA commitments. The WTO’s training efforts also included regional workshops for senior customs and trade officials of developing country Members to help them gain a deeper understanding of TFA measures and of issues relating to future implementation.

### **Prospects for 2014**

In 2014, the newly-established Preparatory Committee on Trade Facilitation will work to fulfill the mandate established by the Ministerial Conference for this body to oversee the implementation of the TFA. This will include a legal review of the Agreement, acceptance of Category A notifications from developing country Members (that is, commitments that will be implemented without a transition period), and drafting a Protocol of Amendment to insert the Agreement into Annex 1A of the WTO Agreement. The 2013 Ministerial Decision on Trade Facilitation also calls for the General Council to meet no later than July 31, 2014 to annex the Category A notifications from developing countries to the Agreement and to adopt the Protocol drawn up by the Preparatory Committee. The Protocol will then be open for acceptance by a target date of July 31, 2015, and could then enter into force if ratified by two-thirds of the Membership by that date. If two-thirds of the Membership does not ratify the Agreement by this date, the General Council will need to review and take appropriate action. There will also be a focus on ensuring

that developing country Members seeking to obtain technical assistance to fully implement provisions contained in the TFA are matched with donors and that technical assistance projects are prioritized and funded.

## **6. Committee on Trade and Environment, Special Session**

### **Status**

Following the 2001 WTO Ministerial Conference at Doha, the TNC established a Special Session of the Committee on Trade and Environment (CTESS) to implement the mandate in paragraph 31 of the Doha Declaration. Paragraph 31 of the Doha Declaration includes a mandate to pursue negotiations, without prejudging their outcome, in three areas:

- i. the relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs) (with the negotiations limited to the applicability of existing WTO rules among parties to such MEAs and without prejudice to the WTO rights of Members that are not parties to the MEAs in question);
- ii. procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting observer status; and
- iii. the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade in environmental goods and services.

### **Major Issues in 2013**

The CTESS did not meet in 2013.

### **Prospects for 2014**

The United States remains fully committed to a positive WTO trade and environment agenda; however, given the deep substantive divergences that have proven difficult to resolve in the CTESS, the United States will approach these negotiations with fresh thinking. This year, the United States is committed to exploring creative and innovative trade and environment solutions that can yield meaningful outcomes. In particular, the United States will consider ways to build on the results achieved in APEC on environmental goods liberalization (*see Chapter III.B.3.*).

## **7. Dispute Settlement Body, Special Session**

### **Status**

Following the Doha Ministerial Conference in 2001, the TNC established the Special Session of the Dispute Settlement Body (DSB-SS) to fulfill the Ministerial mandate found in paragraph 30 of the Doha Declaration which provides: “We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far, as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.” In July 2003, the General Council decided that: (1) the timeframe for conclusion of the negotiations on clarifications and improvements of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) be extended by one year (*i.e.*, to aim to conclude the work

by May 2004 at the latest); (2) this continued work will build on the work done to date, and take into account proposals put forward by Members as well as the text put forward by the Chair of the DSB-SS; and (3) the first meeting of the DSB-SS when it resumed its work be devoted to a discussion of conceptual ideas. Due to complexities in negotiations, deadlines were not met. In August 2004, the General Council decided that Members should continue work toward clarification and improvement of the DSU, without establishing a deadline, and these negotiations have continued since.

### **Major Issues in 2013**

The DSB-SS met two times during 2013. In previous phases of the review of the DSU, Members had engaged in a general discussion of the issues. Following that general discussion, Members tabled proposals to clarify or improve the DSU. Members then reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals. The Chair of the review issued a Chair's text in July 2008 "to take stock of" the work to date and to provide a basis for its continuation. In 2013, delegations continued to engage on the basis of the comments received in the previous phase, seeking to advance the work on their proposals.

The United States has advocated two proposals, both of which are reflected in the Chair's text. One would expand transparency and public access to dispute settlement proceedings. The proposal would open WTO dispute settlement proceedings to the public as the norm and give greater public access to submissions and panel reports. In addition to open hearings, public submissions and early public release of panel reports, the U.S. proposal calls on WTO Members to consider rules for "*amicus curiae*" submissions – submissions by nonparties to a dispute. WTO rules currently allow such submissions but do not provide guidelines on how they are to be considered. Guidelines would provide a clearer roadmap for handling such submissions.

In addition, the United States and Chile submitted a proposal to help improve the effectiveness of the WTO dispute settlement system in resolving trade disputes among Members. The joint proposal contained specifications aimed at giving parties to a dispute more control over the process and greater flexibility to settle disputes. Under the present dispute settlement system, parties are encouraged to resolve their disputes, but do not always have all the tools with which to do so. As part of this proposal, the United States has also proposed guidance for WTO Members to provide to WTO adjudicative bodies in three particular areas where important questions have arisen in the course of various disputes.

### **Prospects for 2014**

In 2014, Members will continue to work to complete the review of the DSU. Members will be meeting a number of times over the course of 2014.

## **8. Council for Trade-Related Aspects of Intellectual Property Rights, Special Session**

### **Status**

The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), Special Session did not meet in 2013. In 2012, the work of the TRIPS Council Special Session was limited. With a view to completing the work started in the TRIPS Council on the implementation of Article 23.4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Ministers agreed at the 2001 Doha Ministerial Conference to negotiate the establishment of a multilateral system of

notification and registration of geographical indications (GIs) for wines and spirits. At the 2005 Hong Kong Ministerial Conference, Ministers agreed to intensify their work in order to complete these negotiations within the overall timeframe for the conclusion of the Doha negotiations. This matter is the only one before the Special Session of the TRIPS Council.

### **Major Issues in 2013**

While the TRIPS Council Special Session did not meet in 2013, the United States and its allies continued to maintain their common position, *i.e.*, the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits must: be voluntary; have no legal effects for non-participating members; be simple and transparent; respect different systems of protection of GIs; respect the principle of territoriality; preserve the balance of the Uruguay Round; and, consistent with the mandate, be limited to the protection of wines and spirits. The Joint Proposal group continued to maintain that the mandate of the TRIPS Council Special Session is clearly limited to the establishment of a system of notification and registration of GIs for wines and spirits and that discussions cannot move forward on any other basis.

Members' views continue to diverge sharply on several core issues. Key positions are reflected in a 2005 WTO Secretariat document (TN/IP/W/12), which contains a side-by-side presentation of the three proposals that are before the Special Session. The Secretariat expanded this document in May 2007, with an addendum that describes the various arguments and that presents questions raised by proponents of the proposals (TN/IP/W/12/Add. 1). In an April 2011 report to the TNC (TN/IP/21), the Chair of the TRIPS Council Special Session highlighted, in particular, ongoing divergences with respect to participation in the multilateral register system (*i.e.*, whether the system would apply to all Members or only to those opting to participate in it), the nature of the legal obligations provided for in the system (*i.e.*, the extent to which legal effects at the domestic level determine the effect of registration of a GI for a wine or spirit in the system), and to the mandate of the Special Session (*i.e.*, whether the Special Session has the authority to address GIs for goods other than wines and spirits). In 2011, the Chair led meetings of a drafting group made up of representatives of the sponsors of the three competing proposals to negotiate a text covering six elements, namely: (1) notification; (2) registration; (3) legal effects/consequence of registration; (4) fees and costs; (5) Special and Differential (S&D) treatment; and (6) participation. The April 2011 report includes an annex with the Draft Composite Text (JOB/IP/3/Rev. 1), reflecting the current status of the discussions.

The United States, together with: Argentina; Australia; Canada; Chile; Costa Rica; the Dominican Republic; Ecuador; El Salvador; Guatemala; Honduras; Israel; Japan; Korea; Mexico; New Zealand; Nicaragua; Paraguay; the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu; and South Africa, support the Joint Proposal under which Members would voluntarily notify the WTO of their GIs for wines and spirits for incorporation into a registration system. During 2011, Israel formally became a cosponsor of the Joint Proposal. The Joint Proposal cosponsors submitted a revised Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits to the Special Session to set out clearly in draft legal form, a means by which Members could implement the mandate from paragraph 18 of the Doha Ministerial Declaration and Article 23.4 of the TRIPS Agreement, and to reflect changes that Joint Proposal proponents had made during the informal drafting process. Members choosing to use the system would agree to consult the system when making any decisions under their domestic laws related to GIs, or in some cases, trademarks. Implementation of this proposal would not impose any additional obligations – with regard to GIs – on Members that chose not to participate, nor would it place undue burdens on the WTO Secretariat.

The EU, together with a number of other Members, continued to support their alternative proposal for a binding, multilateral system for the notification and registration of GIs for all products, not only wines and spirits, which all Members would be required to use. The current EU position on GIs combines two proposals: the multilateral GI register for wines and spirits and an amendment to the TRIPS Agreement to extend Article 23-level GI protection to products other than wines and spirits. The effect of this proposal would be to expand the scope of the negotiations to all GI products and to propose that any GI notified to the EU's proposed register would benefit from a presumption of eligibility for protection as a GI in other WTO Members. In addition, the notified GI would be presumed valid against a competing rights holder, including a prior rights holder. Essentially, the system proposed by the EU could, as a practical matter, enable one Member to mandate GI protection in another Member simply by notifying that GI to the system. Such a proposal would negatively affect preexisting trademark rights, as well as investments in generic food terms, and would directly contradict the principle of territoriality with respect to intellectual property in favor of a system based upon the unilateral and extraterritorial application of domestic law and national intellectual property regimes. Although a third proposal, from Hong Kong, China remains on the table, this proposal has received little support.

In 2011, the proponents of the Joint Proposal made important gains, advancing support for substantive provisions of the Proposal. In addition, cosponsors were added to the Joint Proposal, and certain proponents of the EU proposal expressed support for key Joint Proposal provisions. The Draft Consolidated Text reflects these developments. For example, that text shows India and Brazil's support for several key components of the Joint Proposal (*e.g.*, participation). Sponsors of the Joint Proposal emphasized, repeatedly, that the Special Session's mandate is limited to GIs for wines and spirits. There was limited discussion of the Joint Proposal in 2012 and no progress in resolving divergent views with Members instead continuing to adhere to entrenched positions.

#### **Prospects for 2014**

If discussions resume, WTO Members will continue to debate the Special Session's mandate. In particular, Members will discuss whether negotiations are limited to GIs for wines and spirits (the position of the Joint Proposal proponents, based on the unambiguous text of Article 23.4 of the TRIPS Agreement) or whether these negotiations should be extended to cover GIs for goods other than wines and spirits (the position of the EU and certain other WTO members). The United States will continue to aggressively oppose extending the Special Session mandate, will continue to pursue additional support for the Joint Proposal in the coming year, and will seek a more flexible and pragmatic approach from supporters of the EU proposal.

## **9. Committee on Trade and Development, Special Session**

### **Status**

The Special Session of the Committee on Trade and Development (CTD-SS) was established by the TNC in February 2002, to fulfill the Doha Round mandate to review all S&D provisions "with a view to strengthening them and making them more precise, effective, and operational." Under existing S&D provisions, Members provide developing country Members with technical assistance and transitional arrangements toward implementation of WTO agreements. S&D provisions also enable Members to provide developing country Members with better-than-MFN access to markets.

As part of the S&D review, developing country Members submitted a total of 88 Agreement-Specific Proposals (ASPs) in 2002 and 2003, to augment existing S&D provisions in the WTO Agreement. Thirty-eight of these proposals were referred to other negotiating groups and WTO bodies for consideration (Category II proposals). Of the proposals remaining for consideration in the CTD-SS,

Members reached an “in principle” agreement on draft decisions for 28 proposals at the 2003 Cancun Ministerial Conference (Cancun 28), following intensive negotiations in 2002 and 2003. Due to the breakdown of the DDA negotiations, these proposals were not adopted at Cancun.

At the 2005 Hong Kong Ministerial Conference, Members reached agreement on five ASPs: access to WTO waivers; coherence; duty-free and quota-free treatment (DFQF) for LDC Members; Trade-Related Investment Measures (TRIMS); and flexibility for LDC Members that have difficulty implementing their WTO obligations. The decisions on these proposals are contained in Annex F of the Hong Kong Ministerial Declaration.

Ministers at Hong Kong instructed the CTD-SS to expeditiously complete the review of all the outstanding ASPs and report to the General Council, with clear recommendations for a decision. With respect to the 38 Category II proposals, the CTD-SS was instructed to continue to coordinate its efforts with relevant bodies to ensure that work on those proposals was concluded and recommendations for a decision made to the General Council. Ministers at Hong Kong also mandated the CTD-SS to resume work on all outstanding issues, including a proposal submitted in 2002 by the African Group to negotiate a Monitoring Mechanism (“the Mechanism”) for effective monitoring of S&D provisions.

Following the Hong Kong Ministerial, the CTD-SS conducted a thorough “accounting” of the remaining ASPs. Though the number of proposals had been reduced considerably since their introduction, divergences among Members’ positions on the remaining proposals were quite wide. The Chair of the CTD-SS worked closely with the Chairs of the other negotiating groups and committees to which the proposals had been referred due to their technical complexity. The Chairs reported that there had been very little development on these proposals. However, some of the Chairs of the negotiating bodies indicated that a number of the issues raised in the proposals form an integral part of the ongoing negotiations. In addition, there are a number of bodies in which discussions on the proposals are continuing on the basis of revised language tabled by the proponents.

At the 8th Ministerial Conference in December 2011, Ministers agreed to expedite work to finalize the Mechanism and to take stock of the Cancun 28 proposals with a view to formal adoption of those agreed. With respect to the remaining proposals still under consideration in the CTD-SS, Members have focused their text-based discussions on six of the 16 remaining (non-Cancun 28) ASPs. These proposals cover issues relating to Articles 10.2 and 10.3 of the Agreement on Sanitary and Phytosanitary Measures (SPS) and Article 3.5 of the Agreement on Import Licensing Procedures.

### **Major Issues in 2013**

The bulk of the CTD-SS work in 2013 was dedicated to informal, open-ended meetings to make progress on the Monitoring Mechanism and the Cancun 28 proposals. The Chair set up an ambitious schedule of informal meetings involving intensive negotiations on the Chair’s text for the Monitoring Mechanism, and discussions on the individual Cancun 28 proposals.

Following these negotiations, Members reached agreement on proposed text for the ministerial decision establishing the Monitoring Mechanism, which was adopted by a Ministerial Decision as part of the “Bali package” at the 9th Ministerial Conference, in Bali, Indonesia in December of 2013. The Mechanism will provide a regular opportunity for Members to engage in practical, evidence-based discussions that will highlight challenges and promote sharing of best practices with regard to S&D provisions, to make sure the provisions are properly encouraging trade and economic growth for developing country Members. The Decision (WT/MIN(13)/45, WT/L/920) indicates that the Mechanism shall act as a focal point within the WTO to analyze and review all aspects of implementation of existing S&D provisions, and where the review identifies a problem, recommendations may be made, including if necessary, for initiation of

negotiations, to the relevant WTO body with purview over the provision at issue. It was also agreed that the recommendations emanating from reviews under the Mechanism will inform the work of the relevant WTO body, but not define or limit its final determination. The Monitoring Mechanism will convene twice a year pursuant to the Mechanism in dedicated sessions of the CTD (as opposed to meeting in a special session of the CTD), with the possibility of additional meetings as appropriate. The status of recommendations emerging from the Mechanism shall be included in the annual report of the CTD to the General Council.

During 2013, Members discussed the Cancun 28 in regular informal meetings of the CTD-SS. Members initially continued discussions on the six proposals that the Secretariat identified as having been affected by the passage of time since the 2003 Cancun Ministerial and expanded to discussions about all the remaining Cancun 28 proposals. Despite intensive engagement, convergence could not be reached on whether to harvest a subset of ASPs at the 9th Ministerial Conference, in line with the 8th Ministerial Conference guidance. While the Africa Group maintained that all of the Cancun 28 should be agreed and adopted, other Members expressed a contrary view, noting, in particular, that considerable time has passed since the Cancun Ministerial, such that certain proposals have been overtaken by events or require updates. As a result, the Cancun 28 proposals were not included in the Bali package.

Members also discussed, early in 2013, the ASP related to Article 10.3 of the SPS Agreement. Members were unable to agree on what constitutes “strengthening” this ASP. Considerable gaps remain, and while proponents indicated they would consult on how to move forward, there was no progress in 2013 on this or the other non-Cancun 28 ASPs (including the ASPs related to Article 10.2 of the SPS Agreement and Article 3.4 of the Agreement on Import Licensing Procedures).

#### **Prospects for 2014**

In 2014, the CTD-SS is likely to consider possible paths forward on the Cancun 28 proposals and other remaining ASPs, as part of the effort to define the post-Bali work program, as called for in the Bali Ministerial Declaration. In addition, Members will begin meeting under the Monitoring Mechanism in dedicated sessions of the CTD.

## **C. Work Programs Established in the Doha Development Agenda**

### **1. Working Group on Trade, Debt, and Finance**

#### **Status**

Ministers at the 2001 Doha Ministerial Conference established the mandate for the Working Group on Trade, Debt, and Finance (WGTDF). Ministers instructed the WGTDF to examine the relationship between trade, debt, and finance and to examine and make recommendations on possible steps, within the mandate and competence of the WTO, to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed country Members. Ministers further instructed the WGTDF to consider possible steps to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability.

## **Major Issues in 2013**

The WGTDF met twice in 2013, on May 7 and October 8. Both meetings were intended to follow up on the WGTDF's work in 2012 regarding the direct and indirect economic relationships between exchange rates and trade.

At the May 7, 2013 meeting, Members reverted to a discussion of the substance of Brazil's 2012 submission on exchange rate misalignment and trade remedies. The meeting also included a helpful presentation from the International Monetary Fund (IMF). In summarizing the discussion, the Chair noted that there was general interest among Members for continuing the analytical discussion on the relationship between exchange rates and trade. He further noted, however, that before Members could consider any specific WTO work in this area, including rule-making, more detailed discussions were needed, particularly with regard to the WTO's role in this issue area. In this regard, he noted the need to build a stronger relationship between the IMF and the WTO on the topic, in the context of the existing WTO coherence mandate.

At the October 8 meeting, Members adopted the Working Group's annual report for submission to the General Council.

## **Prospects for 2014**

In 2014, the WGTDF will continue to discuss issues relating to the relationship between exchange rates and trade. The WGTDF will also continue to be a forum for discussing trade finance issues. Additionally, the WGTDF will continue its work under the 2001 mandate.

## **2. Working Group on Trade and Transfer of Technology**

### **Status**

During the 2001 Doha Ministerial Conference, WTO Ministers agreed to an "examination . . . of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries." To fulfill that mandate, the TNC established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, and tasked the WGTTT to report on its progress to the 2003 Ministerial Conference at Cancun. At that meeting, Ministers extended the time period for the WGTTT's examination. WTO Ministers further continued this work during the 2005 Hong Kong Ministerial Conference. During the 2013 Ministerial Conference in Bali, WTO Ministers noted that the working group "has covered a number of issues and has helped to enhance Members' understanding of the complex issues that encompass the nexus between trade and transfer of technology." However, they also observed that more work remains to be done, and directed "that the Working Group should continue its work in order to fully achieve the mandate of the Doha Ministerial Declaration."

### **Major Issues in 2013**

During 2013, WTO Members continued their consideration of the relationship between trade and transfer of technology on the basis of submissions by WTO Members and presentations by intergovernmental organizations. Members continued to discuss the work of the OECD and the WTO Secretariat on global value chains, first presented to the working group during 2012. The OECD highlighted its work in categorizing types of global value chains and its conclusion that the extent of knowledge depended on the choice of model. The WTO Secretariat highlighted its view that services and manufacturing firms

operated increasingly across regions and that Members' engagement in global value chains through foreign direct investment resulted in technology transfer and increased exports. The working group also continued to discuss a 2012 UNCTAD report on the effects of non-equity relationships, such as closely integrated customer and supplier relationships, on technology transfer. UNCTAD reported that such integrated supplier relationships often involve a significant level of non-equity investment in local producers, and that such non-equity relationships played a crucial role in diffusion of technology and skills to local partners.

Concerning any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries, the working group has focused on a 2008 submission by India, Pakistan, and the Philippines. Those Members reported that they intended to revise this submission in the near future. Consequently, discussion of this topic was limited in 2013.

Members also considered a revised proposal from Colombia, Costa Rica, Mexico, and Peru, initially presented during 2012, for a workshop on developments in trade and transfer of technology. According to proponents, such a workshop would provide an opportunity to hear from outside speakers and to present the subject of the working group to a wider audience. Although Members continue to discuss the agenda, scope, and format of such a workshop, they agreed, in principle, to hold such a workshop during 2014.

#### **Prospects for 2014**

No WGTTT meetings have been scheduled yet for 2014. During 2014, Members will hold a workshop on trade and transfer of technology. The working group will also welcome presentations by Members on their national experience with technology transfer and additional presentations by intergovernmental organizations.

### **3. Work Program on Electronic Commerce**

#### **Status**

Pursuant to the 2005 Hong Kong Ministerial Declaration, Members continue to work on ways to advance the Work Program on Electronic Commerce. At the 2013 9th Ministerial Conference in Bali, Ministers agreed to extend once again, until the next Ministerial Conference, the current practice of not imposing customs duties on electronic transmissions. In addition, they agreed to continue the Work Program, with a specific focus on addressing developmental issues, as well as a number of issues related to electronically delivered software and cloud computing.

#### **Major Issues in 2013**

Two workshops on electronic commerce were held at the WTO in 2013. The Committee on Trade in Development held a workshop focused on developing countries and small and medium sized enterprises. The Council for Trade in Services, at the initiation of the United States, held a second workshop focused on commercial, technological, and regulatory developments in global e-trade. Both workshops identified important policy objectives in expanding electronic commerce.

#### **Prospects for 2014**

The United States will continue to work with other Members to maintain a liberal trade environment for electronically traded goods and services, seeking to ensure that trade rules remain relevant to electronic

commerce. It is likely that the WTO will continue to build upon the two successful workshops held in 2013. As in the past, the General Council will assess the Work Program's progress and consider any recommendations, including the status of the customs duties moratorium on electronic transmissions.

## **D. General Council Activities**

### **Status**

The WTO General Council is the highest level decision-making body in the WTO that meets on a regular basis during the year. It exercises all of the authority of the Ministerial Conference, which is required to meet no less than once every two years.

Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the WTO Agreement for consideration by Members, and grant waivers of obligations. The General Council or the Ministerial Conference must approve the terms for all accessions to the WTO. Technically, both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are General Council meetings that are convened for the purpose of discharging the responsibilities of the DSB and TPRB, respectively.

Four major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, the Council for Trade-Related Aspects of Intellectual Property Rights, and the Trade Negotiations Committee. In addition, the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trade Agreements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore in 1996 to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council, although these groups have been inactive since the Cancun Ministerial Conference in 2003. A number of subsidiary bodies report to the General Council through the Council for Trade in Goods or the Council for Trade in Services. The Doha Ministerial Declaration approved a number of new work programs and working groups with mandates to report to the General Council, such as the Working Group on Trade, Debt, and Finance and the Working Group on Trade and Transfer of Technology. These mandates are part of the DDA set out in the Doha Ministerial Declaration, and this report reviews these groups' work in subsections of Section C.

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus-building. Throughout 2013, the Chairman of the General Council, together with the WTO Director General, conducted informal consultations with large groupings comprising the Heads of Delegation of the entire WTO Membership and as well as a wide variety of smaller groupings of WTO Members at various levels. The Chairman and Director General convened these consultations with a view to resolving outstanding issues on the General Council's agenda.

### **Major Issues in 2013**

Activities of the General Council in 2013 included:

*9th Ministerial Conference:* The General Council had detailed discussions throughout the year to plan for the 9th Ministerial Conference, held from December 3-7, 2013, in Bali, Indonesia. Details on the outcome of that Conference are set out elsewhere in this Report.

*Appointment of the new WTO Director General:* The General Council played a key role in appointing Roberto Azevêdo as the new Director General of the WTO. The term of office of the previous Director General, Pascal Lamy, ended on August 31, 2013.

*Work under the Doha Work Program:* Under the auspices of the DDA, the General Council continued its discussions related to small economies, LDCs, Aid for Trade, and the development assistance aspects of cotton and e-commerce.

*WTO Accessions:* Yemen, an LDC, was invited by the Membership to become the 160th Member of the WTO at the 9th Ministerial Conference in Bali in December 2013. The General Council also agreed in 2013 to new chairmen for the Working Parties for Belarus, Uzbekistan, and the Comoros.

*Waivers of Obligations:* The General Council adopted three draft decisions concerning the introduction of Harmonized System 2002, 2007, and 2012 nomenclature changes into WTO schedules of tariff concessions as well as a waiver for the European Union to extend additional autonomous trade preferences to Moldova. The General Council also reviewed a number of previously agreed waivers, including U.S. waivers related to the Former Territory of the Pacific Islands, the Caribbean Basin Economic Recovery Act, the African Growth and Opportunity Act, and the Andean Trade Preference Act. Annex II of this report contains a detailed list of Article IX waivers currently in force.

*Ukraine's request to renegotiate concessions under Article XXVIII of the GATT 1994:* At both the February and July General Council meetings, a large group of WTO Members, including the United States, continued to press Ukraine to abandon its proposed action to renegotiate its tariff bindings on over 350 key agricultural and non-agricultural products.

## **Prospects for 2014**

In addition to its management of the WTO and oversight of implementation of the WTO Agreement, the General Council will have detailed discussions throughout the year to implement the decisions taken at the 9th Ministerial Conference in December 2013.

## **E. Council for Trade in Goods**

### **Status**

The WTO Council for Trade in Goods (CTG) oversees the activities of 12 committees (Agriculture, Antidumping Practices, Customs Valuation, Import Licensing, Information Technology, Market Access, Rules of Origin, Safeguards, Sanitary and Phytosanitary Measures, Subsidies and Countervailing Measures, Technical Barriers to Trade, and Trade-Related Investment Measures) and the Working Party on State Trading Enterprises.

The CTG is the central oversight body in the WTO for all agreements related to trade in goods and the forum for discussing issues and decisions which may ultimately require the attention of the General Council for resolution or a higher-level discussion, and for putting issues in a broader context of the rules and disciplines that apply to trade in goods. For example, the CTG considers the use of the GATT 1994 Article IX waiver provisions and has given initial approval to waivers for trade preferences that the United States and the EU granted to ACP countries and the Caribbean Basin Initiative countries, respectively.

## Major Issues in 2013

In 2013, the CTG held four formal meetings, in March, July, September, and October. The CTG devoted its attention primarily to providing formal approval of decisions and recommendations proposed by its subsidiary bodies. The CTG also served as a forum for raising concerns regarding actions that individual Members had taken with respect to the operation of goods-related WTO agreements. In addition, three major issues were discussed in the CTG in 2013:

*Waivers:* In light of the introduction of HS 2007 and HS 2012 changes to the Schedules of Tariff Concessions, the CTG approved two collective requests for extensions of waivers related to the implementation of the Harmonized Tariff System. The CTG forwarded these approvals to the General Council for adoption. The CTG also considered and approved an EU request for an extension of the Waiver for the Application of Autonomous Preferential Treatment to Moldova. In addition, the Philippines informed the Council of the results of further consultations and discussions it held with interested delegations, including the United States, relating to special treatment for rice. The CTG decided to revert to this issue at its next meeting in the spring of 2014.

*EU Enlargement:* In accordance with procedures under Article XXVIII:3 of GATT 1994, the CTG met on November 26, 2013 to consider the EU's requests to extend the time period for the withdrawal of concessions regarding the EU's 2007 and 2013 enlargements (i.e., the Republic of Bulgaria and Romania in 2007 and Croatia in 2013).

*Market Access Complaints:* The CTG also discussed concerns raised by individual Members, including concerns the United States raised, *inter alia*, regarding Indonesia's import licensing regime, Ukraine's notification under Article XXVIII of the GATT 1994, Ukraine's Coking-Coal import quota, and the Russian Federation's implementation of its WTO accession commitments. The United States also raised concerns with respect to Japan's wood use points program and Nigeria's local content measures in oil and gas.

## Prospects for 2014

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. Waiver requests and goods-specific market access concerns are likely to continue to be prominent issues on the CTG agenda.

## 1. Committee on Agriculture

### Status

The WTO Committee on Agriculture oversees the implementation of the Agreement on Agriculture (the Agriculture Agreement) and provides a forum for Members to consult on matters related to provisions of the Agreement. In many cases, the Agriculture Committee resolves problems on implementation, permitting Members to avoid invoking lengthy dispute settlement procedures. The Agriculture Committee also has responsibility for monitoring the possible negative effects of agricultural reform on LDCs and net food importing developing country (NFIDC) Members.

Since its inception, the Agriculture Committee has proven to be a vital instrument for the United States to monitor and enforce the agricultural trade commitments undertaken by Members in the Uruguay Round. Under the Agriculture Agreement, Members agreed to provide annual notifications of progress in meeting

their commitments in agriculture, and the Agriculture Committee has met frequently to review the notifications and monitor activities of Members to ensure that trading partners honor their commitments.

Under the watchful eye of the Agriculture Committee, Members have, for the most part, complied with the agricultural commitments that they undertook as WTO Members. However, there have been important exceptions where certain Members' agricultural policies have adversely affected U.S. agricultural trade interests. In these situations, the Agriculture Committee has frequently served as an indispensable tool for resolving conflicts before they became formal WTO disputes.

### **Major Issues in 2013**

The Agriculture Committee held three formal meetings, in March, June, and September 2013, to review progress on the implementation of commitments negotiated in the Uruguay Round. At the meetings, Members undertook reviews based on notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments.

In total, 142 notifications were subject to review during 2013. The United States participated actively in the review process and raised specific issues concerning the operation of Members' agricultural policies. For example, the United States regularly raised points with respect to domestic support in many countries, including Brazil, Chile, China, the EU, Indonesia, and Thailand. The United States continued to raise concerns regarding Costa Rica exceeding its bound Aggregate Measurement of Support (AMS) limits. The United States also encouraged countries, including China, India, and Vietnam to bring their domestic support notifications up to date. The United States used the review process to question Brazil's Program for Product Flow (PEP – *Prêmio para Escoamento do Produto*) for rice, wheat, and corn, Thailand's rice support program, and China's cotton reserves purchasing program. In addition, the United States used the review process to seek information regarding St. Lucia's domestic purchase requirements for poultry and pork; Indonesia's revised Food Act; the Philippines' use of reference prices applied to imports; and Turkey's wheat export policy. The United States raised questions with respect to Japan's notifications on special safeguards, and raised concerns regarding the administration of tariff-rate quotas with Brazil, Korea, and Thailand, and trade-distorting practices, such as Venezuela's import licensing policies. The United States also asked about Indonesia's and Brazil's policies on public stockholding for food security.

During 2013, the Agriculture Committee addressed a number of other issues related to the implementation of the Agriculture Agreement, such as: (1) enhanced transparency in export subsidy notifications by "significant exporters;" (2) improving the implementation of notifications on export prohibitions/restrictions; (3) assessing transparency and consistency in domestic support notifications; (4) excessive inflation rates vis-à-vis domestic support; (5) annual monitoring of the follow up to the Marrakesh NFIDC Decision on food aid of April 15, 1994; and (6) annual consultations, under Article 18.5 of the Agriculture Agreement, concerning Members' participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies.

In 2013, the Agriculture Committee introduced an electronic archiving system for formal questions and responses raised in the Committee. The United States submitted a document with ideas to improve the transparency of export restrictions.

### **Prospects for 2014**

The United States will continue to make full use of the Agriculture Committee to ensure transparency through timely notification by Members and to enhance enforcement of Uruguay Round commitments as

they relate to export subsidies, market access, domestic support, and trade distorting practices of WTO Members. The United States will also work with other Members as the Agriculture Committee begins implementation of the new transparency provisions that were agreed at the 9th WTO Ministerial Conference in December 2013. In addition, the United States will continue to work closely with the Agriculture Committee Chair and Secretariat to find ways to improve the timeliness and completeness of notifications and to increase the effectiveness of the Committee overall. In addition, the Agriculture Committee will continue to monitor and analyze the impact of the possible negative effects of the reform process on LDCs and NFIDCs in accordance with the Agriculture Agreement.

## **2. Committee on Market Access**

### **Status**

In January 1995, WTO Members established the Committee on Market Access (MA Committee), which is responsible for the implementation of concessions related to tariffs and non-tariff measures that are not explicitly covered by another WTO body, as well as for verification of new concessions on market access in the goods area.

### **Major Issues in 2013**

The MA Committee held two formal meetings in May and October 2013, and four informal sessions or consultations, to discuss the following topics: (1) ongoing and future work on WTO Members' tariff schedules to reflect changes to the HS tariff nomenclature and any other tariff modifications; (2) the WTO Integrated Data Base (IDB) and Consolidated Tariff Schedules (CTS) database; (3) Member notifications of quantitative restrictions; and (4) other market access issues as raised by Members.

*Updates to the HS nomenclature:* The MA Committee examines issues related to the transposition and renegotiation of the schedules of Members that adopted the HS in the years following its introduction on January 1, 1988. Since then, the World Customs Organization has amended the HS tariff classification system relating to tariff nomenclature in 1996, 2002, 2007, and 2012. Using agreed examination procedures, WTO Members have the right to object to modifications in another Member's tariff schedule that result from changes in the HS nomenclature, if such modifications affect the Member's bound tariff commitments. Members may pursue unresolved objections under Article XXVIII of GATT 1994.

The MA Committee continued its work concerning the introduction and verification of HS2002 changes to Members' WTO tariff schedules. Throughout the year, the United States worked closely with other Members and the WTO Secretariat to ensure that all Members' bound tariff commitments are properly reflected in their updated schedules. To date, the HS2002 files for 109 Members – including the United States – have been certified, with only 9 files outstanding.

In 2011, the MA Committee agreed to commence work on the introduction and verification of HS2007 changes to tariff schedules. Multilateral review of tariff schedules under the HS2007 procedures continued at informal Committee meetings throughout 2013. The multilateral verification process in the Committee will be ongoing through 2014.

Concerning the HS2012 nomenclature changes, the General Council approved procedures (WT/L/831) to introduce those changes to schedules of concessions using the CTS database. However, that work will not commence for some time, as the Committee is in the midst of updating Members' bound commitments into HS2007 nomenclature. This lag can create difficulties in determining whether Members' MFN duties – which were applied in HS2012 nomenclature beginning January 1, 2012 – are

consistent with their WTO bound commitments. The United States was the first WTO Member to submit its tariff schedule in HS2012 nomenclature to the WTO Secretariat in September 2012.

*Integrated Data Base (IDB):* Members are required to notify information on annual tariffs and trade data, linked at the level of tariff lines, to the IDB as a result of a General Council Decision adopted in July 1997. On the tariff side, the IDB contains MFN current bound duties and MFN current applied duties. Additional information covering preferential duties is also included if provided by Members. On the trade side, it contains value and quantity data on imports by country of origin by tariff line. The WTO Secretariat periodically reports on the status of Member submissions to the IDB, the most recent of which can be found in WTO document G/MA/IDB/2/Rev.37 and 38. The United States notifies this data in a timely fashion every year. However, several Members are not up to date in their submissions. The public can access tariff and trade data notified to the IDB through the WTO's Tariff Online Analysis (TAO) facility at <https://tariffanalysis.wto.org>. The WTO Secretariat is also currently working to integrate into the IDB historical tariff and import information for 29 Members covering years 1988 to 1995.

*Consolidated Tariff Schedules (CTS) database:* The MA Committee continued work on implementing an electronic structure for tariff and trade data. The CTS database includes tariff bindings for each WTO Member that reflect its Uruguay Round tariff concessions, HS1996 and HS2002 amendments to tariff nomenclature and bindings, and any other Member rectifications/modifications to its WTO schedule (e.g., participation in the Information Technology Agreement). The database also includes agricultural support tables. The CTS database has been linked to the IDB and serves as the vehicle for conducting the DDA negotiations in agriculture and non-agricultural market access.

*Notification Procedures for Quantitative Restrictions (QRs):* On December 1, 1995, the Council for Trade in Goods adopted a Decision on Notification Procedures for Quantitative Restrictions, which provides that WTO Members should make complete notifications of the quantitative restrictions (QRs), which they maintain at two-year intervals thereafter, and shall notify changes to their QRs when these changes occur.

Under the revised notification procedures for QRs, the MA Committee continued to examine the QR notifications submitted by Members (G/MA/QR/1). Several Members have submitted notifications on QRs, including the United States, the Russian Federation, Hong Kong, Costa Rica, Turkey, Ukraine, Thailand, Korea, Australia, New Zealand, Macao China, and Canada.

*Other Market Access Issues:* The MA Committee also approved procedures for the de-restriction of negotiating material of the Dillon Round and some negotiating material of the four earlier GATT rounds. The procedures are almost identical to those used by the WTO General Council to derestrict GATT 1947 restricted documents.

## **Prospects for 2014**

The ongoing work program of the MA Committee, while highly technical, aims to ensure that all WTO Members' schedules of tariff commitments are up to date and available in electronic spreadsheet format. The Committee will continue to explore technical assistance needs related to data submissions, work to finalize Members' amended schedules based on the HS2002 amendments, continue work on the transposition of Members' tariff schedules to HS2007 nomenclature, and begin work on 2012 schedules.

### 3. Committee on the Application of Sanitary and Phytosanitary Measures

#### Status

The Committee on the Application of Sanitary and Phytosanitary Measures (the SPS Committee) provides a forum for the implementation and administration of the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), consultation on Members' existing and proposed SPS measures, technical assistance, other informational exchanges, and the participation of the international standard setting bodies recognized in the SPS Agreement. These international standard setting bodies are: for food safety, the Codex Alimentarius Commission (Codex); for animal health, the World Organization for Animal Health (OIE); and for plant health, the International Plant Protection Convention (IPPC).

The SPS Committee also discusses specific provisions of the SPS Agreement. These discussions provide an opportunity to develop procedures to assist Members in meeting specific SPS obligations. For example, the SPS Committee has issued procedures or guidelines regarding: notification of SPS measures; the "consistency" provisions under Article 5.5 of the SPS Agreement; equivalence; transparency regarding the provisions for S&D; and regionalization. Participation in the SPS Committee, which operates by consensus, is open to all WTO Members. Governments negotiating accession to the WTO may attend Committee meetings as observers. In addition, representatives from a number of international organizations attend Committee meetings as observers on an *ad hoc* meeting by meeting basis, including: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); Codex; the IPPC; the OIE; the International Trade Center; the Inter-American Institute for Cooperation on Agriculture (IICA); and the World Bank.

#### Major Issues in 2013

In 2013, the SPS Committee held meetings in March, June, and October. In these meetings, Members exchanged views regarding the implementation of SPS Agreement provisions with respect to transparency, equivalence, and regionalization, including their efforts to declare areas of their country free from specified pests and diseases.

The United States views these exchanges as positive developments, as they demonstrate a growing familiarity with the provisions of the SPS Agreement and increased recognition of the value of the SPS Committee as a forum for Members to discuss SPS-related trade issues. Many Members, including the United States, utilized these meetings to raise concerns regarding new and existing SPS measures of other Members. In 2013, the United States raised a number of concerns with measures imposed by other Members, including Vietnam's restriction on offals, France's ban and labeling requirements on food packaging made with Bisphenol A, China's limits for methanol content in alcoholic beverages, Indonesia's restrictions on meat, and bans imposed by several Members on the use of a growth additive in cattle and swine. Further, the United States, with a view to transparency, informed the SPS Committee of U.S. measures, both new and proposed. A special information session was held on the margins of the June Committee meeting. The special information session allowed WTO Members an opportunity to informally discuss implementation of the Food Safety Modernization Act with senior officials from the U.S. Food and Drug Administration.

The Committee also continued work on the issuance of guidance regarding *ad hoc* consultations under Article 12.2 of the Agreement, as well as the use and development of international standards, guidelines, and recommendations by Codex, OIE, and IPPC. In October 2013, the WTO SPS Committee held a workshop on transparency for all Members.

Other important issues before the SPS Committee included private and commercial standards, along with various specific trade concerns and notifications.

*Private and Commercial Standards:* In 2013, the SPS Committee finalized a series of possible recommended actions related to the issue of private and commercial standards. The possible actions discussed include supporting the work of the three international standard-setting bodies referenced in the SPS Agreement (Codex, OIE, and IPPC), various avenues for promoting the exchange of information among Members and these bodies, and defining private and commercial standards. The Committee will only take action if all Members agree to do so. While work is currently underway in the Committee to prepare a working group definition of a SPS-related private standard, the United States remains quite concerned about whether defining private and commercial standards is an appropriate issue to which the SPS Committee should be devoting resources and continues to work with the Committee and other Members to address that concern.

*Notifications:* Because it is critical for trading partners to know and understand each other's laws and regulations, the SPS notification process, with the Committee's consistent encouragement, is becoming an increasingly important mechanism in the facilitation of international trade. The process also provides a means for Members to report on determinations of equivalence and S&D. The United States made 145 SPS notifications to the WTO Secretariat in 2013, and submitted comments on 78 SPS measures notified by other Members.

#### **Prospects for 2014**

The SPS Committee will hold three meetings in 2014 with informal sessions anticipated to be held in advance of each meeting. The Committee has a standing agenda for meetings that can be amended to accommodate new or special issues. The SPS Committee will continue to monitor Members' implementation activities, and the discussion of specific trade concerns will continue to be an important part of the Committee's activities, including exchanges on bovine spongiform encephalopathy (BSE), avian influenza, food safety measures, and technical assistance.

In 2014, the SPS Committee will work on priorities identified during its Fourth Review, as well as those identified during the Second and Third Reviews of the Operation and Implementation of the SPS Agreement. The United States anticipates that the SPS Committee will complete discussions and issue guidelines regarding *ad hoc* consultations under Article 12.2 of the Agreement, as well as on how to improve cooperation and coordination with Codex, OIE, and IPPC. In addition, the SPS Committee will continue to monitor the use and development of international standards, guidelines, and recommendations by those three bodies.

## **4. Committee on Trade-Related Investment Measures**

### **Status**

The Agreement on Trade-Related Investment Measures (the TRIMS Agreement), which entered into force with the establishment of the WTO in 1995, prohibits investment measures that are inconsistent with national treatment obligations under Article III:4 of the GATT 1994 and reinforces the prohibitions on quantitative restrictions set out in Article XI:1 of the GATT 1994. The TRIMS Agreement requires the elimination of certain measures imposing requirements on, or linking advantages to, certain actions of foreign investors, such as measures that require, or provide benefits for, the use of local inputs ("local content requirements") or measures that restrict a firm's imports to an amount related to the quantity of its

exports or of its foreign exchange earnings (“trade balancing requirements”). The Agreement includes an illustrative list of measures that are inconsistent with Articles III:4 and XI:1 of the GATT 1994.

Developments relating to the TRIMS Agreement are monitored and discussed both in the Council for Trade in Goods and in the Committee on Trade-Related Investment Measures (the “TRIMS Committee”). Since its establishment in 1995, the TRIMS Committee has been a forum for the United States and other Members to address concerns, gather information, and raise questions about the maintenance, introduction, or modification of trade-related investment measures by Members.

### **Major Issues in 2013**

The TRIMS Committee held two formal meetings during 2013, in April and October, during which the United States and other Members continued to discuss particular local content measures of concern to the United States. The United States explored these concerns through written questions to certain countries to seek a better understanding of a variety of potentially trade-distortive local content requirements. The United States made progress on some of these measures. In 2012 and again in 2013, the United States raised the issue of preferences to domestically manufactured electronic goods in India, under a February 10, 2012, policy notice published by India’s Department of Information Technology (DIT). In October 2013, India announced that it intends to revise the measure, including by removing local manufacturing requirements.

This success notwithstanding, some local content measures before the Committee remain in place after several years. For example, the United States, joined by Japan and the European Union, continued to raise questions about possible local content requirements in Indonesia’s measures pertaining to mineral and coal mining and oil and gas exploration, noting that it had raised these concerns every year since 2009. The United States also asked Indonesia in this context about announced plans to ban the export of unprocessed and unrefined mining products by 2014. The United States, the European Union, Japan, and Canada also continued to press Nigeria to respond to questions from 2011 on possible local content requirements in measures pertaining to the oil and gas industry. The questions from the United States are contained in WTO document G/TRIMS/W/89. The United States also raised this issue at the Council for Trade in Goods, as discussed above, emphasizing in particular Nigeria’s failure to respond to written questions. In addition, the United States, the European Union, and Japan posed questions to Indonesia regarding potential TRIMS concerns in the telecommunications sector, an issue that was raised in the Committee in 2009, 2010, and 2012.

The Committee also addressed new local content requirements during 2013. In prior years, the United States and Japan pointed to certain local content measures imposed by Brazil in connection with a bidding process on rights to use specific radio frequencies to provide commercial mobile radio services. During 2013, the United States drew the Committee’s attention to indications that a newly announced proposal to auction off spectrum in the 700 MHz band might also contain such local content measures. The United States also joined the European Union and Australia in expressing concern about newly-introduced tax preferences in Brazil based upon fulfillment of local content requirements in a wide variety of sectors including automobiles and telecommunications equipment. The United States also joined the EU and Japan in asking Ukraine about a requirement that raw materials, supplies, fixed assets, workers, and services to be used in the development of energy power plants must be at least 50 percent locally sourced. Finally, the United States raised concerns about a 20 percent local content requirement for all energy uptake contracts entered into by the government of Uruguay in connection with construction of wind farm projects.

During 2013, the United States provided responses to questions from India concerning certain measures in the renewable energy sector taken by California, Michigan, and by public utilities in the cities of

Austin, Texas and Los Angeles, California. The U.S. responses are contained in WTO document G/TRIMS/W/129/Rev.1.

Having acceded to the WTO in August of 2012, the Russian Federation filed its required notification under Article 6.2 of the TRIMS Agreement identifying the names of publications in which TRIMs might be found, and a notification of measures inconsistent with the TRIMS agreement under Article 5.1 and pursuant to the "Timeline for Submission of Notifications" contained in Table 38 of the Report on the Working Party on the Accession of the Russian Federation. The United States informed the Committee that it remains keenly interested in how the Russian Federation will bring its automotive investment regimes into compliance with its WTO commitments, as required by its protocol of accession.

### **Prospects for 2014**

The United States will continue to engage other Members in efforts to promote compliance with the TRIMS Agreement.

## **5. Committee on Subsidies and Countervailing Measures**

### **Status**

The Agreement on Subsidies and Countervailing Measures (the SCM Agreement) provides rules and disciplines for the use of government subsidies and the application of remedies – through either WTO dispute settlement or countervailing duty (CVD) action taken by individual WTO Members – to address subsidized trade that causes harmful commercial effects. Subsidies contingent upon export performance or the use of domestic over imported goods are prohibited. All other subsidies are permitted but are actionable (through CVD or WTO dispute settlement actions) if they are (i) “specific”, *i.e.*, limited to a firm, industry, or group thereof within the territory of a WTO Member, and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another Member.

### **Major Issues in 2013**

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two regular meetings and two special meetings in 2013, in April and October. The SCM Committee continued to review the consistency of Members’ domestic laws, regulations, and actions with the SCM Agreement’s requirements, as well as Members’ notifications of their subsidy programs to the SCM Committee. Other items addressed in the course of the year included: the U.S. “counter notification” of unreported subsidy programs in China and India; submission by the United States of questions to China under Article 25.8 of the SCM Agreement; examination of ways to improve the timeliness and completeness of subsidy notifications; the “export competitiveness” of India’s textile and apparel sector; review of the export subsidy program extension mechanism for certain small economy developing country Members; filling the opening on the five-member Permanent Group of Experts; and updating the eligibility threshold for developing countries to provide export subsidies under Annex VII(b) of the SCM Agreement. Further information on these various activities is provided below.

*Review and Discussion of Notifications:* Throughout the year, Members submitted notifications of: (1) new or amended CVD legislation and regulations; (2) CVD investigations initiated and decisions taken; and (3) Members’ subsidy programs. Notifications of CVD legislation and actions, as well as subsidy notifications, were reviewed and discussed by the SCM Committee at its April and October meetings.

In reviewing notified CVD legislation and subsidies, SCM Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the SCM Agreement. As of the end of 2013, 101 WTO Members (counting the European Union as a single Member) have notified their CVD legislation or lack thereof; 31 Members have so far failed to make a legislative notification.<sup>5</sup> In 2013, the SCM Committee reviewed notifications of new or amended CVD laws and regulations from the United States, Australia, Cameroon, Chile, Mali, Morocco, New Zealand, the Russian Federation, and Ukraine.<sup>6</sup>

As for CVD measures, nine Members notified CVD actions they took during the latter half of 2012, and eight Members notified actions they took in the first half of 2013. Specifically, the SCM Committee reviewed actions taken by: Australia, Brazil, Canada, China, the EU, Mexico, Pakistan, Peru, South Africa, Turkey, and the United States.

In 2013, the SCM Committee examined 36 new and full subsidy notifications covering various time periods. Unfortunately, numerous Members have yet to make even an initial subsidy notification to the WTO, although many of them are least-developed country Members.

*Counter notifications:* Under Article 25.1 of the SCM Agreement, Members are obligated to regularly provide a subsidy notification to the SCM Committee. Prior to October 2011, China had only submitted a single subsidy notification in 2006 (covering the years 2001 – 2004). India submitted a subsidies notification in 2010 – that only included three programs – after not providing any notification for 10 years. The United States and other Members have repeatedly expressed deep concern about the notification record of China and India (among others). During the 2010 fall meeting of the SCM Committee, the United States foreshadowed potential resort to the counter notification mechanism under Article 25.10 of the SCM Agreement. This provision states that when a Member fails to notify a subsidy, any other Member may bring the matter to the attention of the Member failing to notify.

Pursuant to Article 25.10, the United States filed counter notifications in October 2011 with respect to over 200 unreported subsidy programs in China and 50 unreported subsidy programs in India – the first counter notifications ever filed by the United States. While China submitted its second subsidy notification (covering 2005 – 2008) shortly after the U.S. counter notification, it covered very few of the subsidy programs referenced in the U.S. counter notification. At the April 2012 meeting of the Committee, the United States brought these matters to the notice of the SCM Committee under the provisions of Article 25.10. In May 2012, India submitted a supplemental subsidy notification covering certain fishery programs, including programs at the sub-central level. However, none of the programs in the supplemental notification were those referenced by the U.S. counter notification of programs in India. At both meetings of the SCM Committee in 2013, the United States continued to press China and India to notify the outstanding programs identified in the U.S. counter notifications.

*Submission of Article 25.8 questions:* Article 25.8 of the Agreement provides: "Any Member may, at any time, make a written request for information on the nature and extent of any subsidy granted or maintained by another Member (including any subsidy referred to in Part IV), or for an explanation of the reasons for which a specific measure has been considered as not subject to the requirement of notification." Because China's two notifications to date have been significantly incomplete (*e.g.*, only central government-level programs have been notified) and late (*e.g.*, the notification filed in 2011 only

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<sup>5</sup> These 99 notifications do not include notifications submitted by Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic and Slovenia before these Members acceded to the European Communities.

<sup>6</sup> In keeping with WTO practice, the review of legislative provisions which pertain or apply to both antidumping and CVD actions by a Member generally took place in the Antidumping Committee.

covered up through 2008), the United States submitted extensive, detailed questions to China in October 2012, covering a wide range of possible subsidy programs in numerous sectors that appear should have been notified. Under Article 25.9, China is obligated to provide a response “as quickly as possible and in a comprehensive manner.” To date, China has not responded to the United States’ questions submitted under Article 25.8; the United States continued to press China in both meetings of the SCM Committee in 2013 to provide answers.

*Notification Improvements:* In March 2009, the Chairman of the Trade Policy Review Body, acting through the Chairman of the General Council, requested that all committees discuss “ways to improve the timeliness and completeness of notifications and other information flows on trade measures.” The United States fully supported the continuation of this initiative in 2013 in light of Members’ poor record in meeting their subsidy notification obligations. In 2010, the United States took the initiative under this agenda item to review the subsidy notification record of several large exporters in failing to provide complete and timely subsidy notifications. Of primary concern in this regard was China. The United States continues to devote significant time and resources to researching, monitoring, and analyzing China’s subsidy practices. These efforts helped to identify the very significant omissions in the two subsidy notifications submitted by China to date and lay the groundwork for the further pursuit of these issues in the context of the SCM Committee’s work and other fora.

In 2011, the United States submitted a specific proposal under Article 25.8 of the SCM Agreement to strengthen and improve the notification procedures of the SCM Committee. As noted above, under Article 25.8, any Member may make a written request for information on the nature and extent of a subsidy subject to the requirement of notification. Unfortunately, many requests under Article 25.8 have not been answered or are only partially answered orally after significant delay. To address this problem, the United States proposed that the SCM Committee establish deadlines for the submission of written answers to Article 25.8 questions and include all unanswered Article 25.8 questions on the bi-annual agendas of the SCM Committee until the questions are answered.<sup>7</sup> In 2013, the Committee continued to examine the U.S. proposal. Many countries supported the proposal; several other countries, such as China, India and South Africa, voiced concerns. Work will continue on the U.S. proposal in 2014.

*The “export competitiveness” of India’s textile and apparel sector:* Under the SCM Agreement, developing countries receive special and differential treatment with respect to certain subsidy disciplines under Article 27. For developing countries listed in Annex VII of the SCM Agreement, which includes India, the general prohibition on export subsidies does not apply until: (1) per capita GNP reaches a designated threshold of \$1,000 per annum or (2) 8 years after the country achieves “export competitiveness” for a particular product. Article 27.6 of the SCM Agreement defines export competitiveness as the point when an exported product reaches a share of 3.25 percent of world trade for two consecutive calendar years. Export competitiveness is determined to exist either via notification by the Annex VII developing country having reached export competitiveness or on the basis of a computation undertaken by the WTO SCM Committee Secretariat at the request of any Member.

In February 2010, the United States formally requested the Secretariat, pursuant to Article 27.6 of the SCM Agreement, to compute the export competitiveness of India’s textile and apparel sector. The Secretariat submitted its results to the Committee in March 2010. The calculations appear to support the conclusion that India has reached export competitiveness in the textile and apparel sector. In light of the Secretariat’s calculations, the United States has pressed India to identify the current export subsidy programs that benefit the textile and apparel sector and commit to a phase-out schedule to end all such programs to the extent they benefit the textile and apparel sector. In response, India has raised certain

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<sup>7</sup> G/SCM/W/555; 21 October 2011.

technical questions as to the appropriate definition of “product” and the precise starting point of the phase-out period under Articles 27.5 and 27.6. The United States will continue to pursue this issue.

*Extension of the transition period for the phase out of export subsidies:* Under the SCM Agreement, most developing country Members were obligated to eliminate their export subsidies by December 31, 2002. To address the concerns of certain small economies, a special procedure within the context of Article 27.4 of the SCM Agreement was adopted at the 2001 Doha Ministerial Conference to provide for facilitated annual extensions of the time available to eliminate certain notified export subsidies.<sup>8</sup> In 2007, the General Council, acting on an SCM Committee recommendation, decided to extend the application of the special procedure. An important outcome of these negotiations, upon which the United States and other developed and developing countries insisted, was that the beneficiaries must eliminate all export subsidy programs no later than 2015 and that they will have no recourse to further extensions beyond 2015. The final two-year phase-out period (2014-2015) is provided for in Article 27.4 of the SCM Agreement and shall end no later than December 31, 2015.

*Permanent Group of Experts:* Article 24 of the SCM Agreement directs the SCM Committee to establish a Permanent Group of Experts (PGE), “composed of five independent persons, highly qualified in the fields of subsidies and trade relations” and that “[t]he experts will be elected by the Committee and one of them will be replaced every year.” The SCM Agreement articulates three possible roles for the PGE: (i) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy within the meaning of Article 3 of the SCM Agreement; (ii) to provide, at the request of the SCM Committee, an advisory opinion on the existence and nature of any subsidy; and (iii) to provide, at the request of a Member, a “confidential” advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. To date, the PGE has not yet been called upon to perform any of the aforementioned duties.

At the beginning of 2013, the members of the Permanent Group of Experts were: Mr. Jeffrey A. May (United States); Mr. Gérard Depayre (EU); Mr. Akio Shimizu (Japan); Mr. Zhang Yuqing (China); and, Mr. Welber Barral (Brazil). Mr. Jeffrey A. May’s term expired in 2013. Two candidates were nominated to replace him – one from the United States and one from Chile. At the regular April 2013 meeting, Mr. Chris Parlin of the United States was elected to replace Mr. Jeffrey A. May. Therefore, at the end of 2013, the five members of the PGE were: Mr. Gérard Depayre (until Spring 2014); Mr. Akio Shimizu (until Spring 2015); Mr. Zhang Yuqing (until Spring 2016); Mr. Welber Barral (until Spring 2017); and Mr. Chris Parlin (until Spring 2018).

*The Methodology for Annex VII (b) of the SCM Agreement:* Annex VII of the SCM Agreement identifies certain lesser developed country Members that are eligible for particular special and differential treatment. Specifically, the export subsidies of these Members are not prohibited, and therefore, are not actionable as prohibited subsidies under the dispute settlement process. The Members identified in Annex VII include those WTO Members designated by the United Nations as “least-developed countries” (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under \$1,000 per annum and are specifically listed in Annex VII(b).<sup>9</sup> A country automatically “graduates” from Annex VII (b) status when its per capita GNP rises above the \$1,000 threshold. At the

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<sup>8</sup> Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Uruguay have made yearly requests since 2002 under these special procedures.

<sup>9</sup> Members identified in Annex VII(b) are: Bolivia, Cameroon, Congo, Cote d’Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka, and Zimbabwe. In recognition of the technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

Fourth Ministerial Conference, decisions were made, which, *inter alia*, led to the adoption of an approach to calculate the \$1,000 threshold in constant 1990 dollars and to require that a Member be above this threshold for three consecutive years before graduation. The WTO Secretariat updated these calculations in 2013.<sup>10</sup>

### **Prospects for 2014**

In 2014, the United States expects to review China's answers to the United States' outstanding questions submitted under Article 25.8 and will focus on other possible subsidy programs in China not notified, particularly those that may be prohibited under the SCM Agreement and those administered at the provincial and local levels. The United States will press China and India to notify the outstanding programs included in the U.S. counter notifications. Furthermore, the United States will continue to seek to engage India bilaterally to commit to a phase out of its export subsidy programs to the extent that they benefit the textile and apparel sector. More generally, the SCM Committee will continue to work in 2014 to improve the timeliness and completeness of Members' subsidy notifications and, in particular, will continue to discuss the proposal made by the United States to improve and strengthen the SCM Committee's procedures under Article 25.8 of the SCM Agreement. Finally, the United States will likely submit its next subsidies notification to the SCM Committee in 2014, covering fiscal years 2011 and 2012.

## **6. Committee on Customs Valuation**

### **Status**

The purpose of the Agreement on the Implementation of GATT Article VII (known as the WTO Agreement on Customs Valuation, referred to herein as the "Valuation Agreement") is to ensure that determinations of the customs value for the application of duty rates to imported goods are conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Adherence to the Agreement is important for U.S. exporters, particularly to ensure that market access opportunities achieved through tariff reductions are not negated by unwarranted and unreasonable "uplifts" in the customs value of goods to which tariffs are applied. The use of arbitrary and inappropriate "uplifts" in the valuation of goods by importing countries when applying tariffs can result in an unwarranted doubling or tripling of effective duties.

### **Major Issues in 2013**

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2013. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO), with a view to ensuring, at the technical level, uniformity in interpretation and application of the Valuation Agreement. The Technical Committee also held two meetings in 2013.

In accordance with a 1999 recommendation of the WTO Working Party on Preshipment Inspection that was adopted by the General Council, the Customs Valuation Committee continued to provide a forum for reviewing the operation of various Members' preshipment inspection regimes and the implementation of the WTO Agreement on Preshipment Inspection.

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<sup>10</sup> See G/SCM/110/Add.10.

The use of minimum import prices, a practice inconsistent with the provisions of the Agreement, continues to diminish, and no Members currently maintain the S&D reservation concerning the use of minimum values. The United States has used the Customs Valuation Committee as an important forum for addressing concerns on behalf of U.S. exporters across all sectors – including agriculture, automotive, textile, steel, and information technology – that have experienced difficulties related to the conduct of customs valuation regimes, as well as preshipment inspection regimes, outside of the disciplines set forth under the Agreements.

Achieving universal adherence to the Valuation Agreement in the Uruguay Round was an important objective of the United States. The Agreement was initially negotiated in the Tokyo Round, but its acceptance was voluntary until mandated as part of membership in the WTO. A proper valuation methodology under the Agreement, avoiding arbitrary determinations or officially established minimum import prices, is essential for the realization of market access commitments. Just as important, the implementation of the Agreement also often represents the first concrete and meaningful steps taken by developing country Members toward reforming their customs administrations and diminishing corruption and ultimately moving to a rules-based trade facilitation environment.

An important part of the Customs Valuation Committee's work is the examination of implementing customs valuation legislation. As of December 2013, 90 Members had notified their national legislation on customs valuation (these figures do not include the 27 individual EU Members). In addition, 60 Members have notified the checklist of issues. Some 39 Members have not yet made any notification of their national legislation on customs valuation. At the Committee's May and September 2013 meetings, the Committee undertook its examination of the customs valuation legislation of Bahrain, Belize, Cambodia, Cape Verde, China, Costa Rica, Ecuador, Nicaragua, Nigeria, Rwanda, Russian Federation, St. Vincent and the Grenadines, Thailand, Tunisia, Uruguay, and Ukraine. The Committee also looked at first time notifications by Lao PDR, Macau (China), Mali, Nicaragua, and the Russian Federation. With the exception of Cambodia whose review the Committee agreed to conclude, the Committee's examination of these Members' customs valuation legislation will continue in 2014.

Working with information provided by U.S. exporters, the United States played a leading role in these examinations, submitting in some cases a series of detailed questions as well as suggestions toward improved implementation. In addition to raising questions for Members whose customs valuation legislation is under examination, the United States also submitted a detailed request for information to Indonesia requesting notification of its preshipment inspection program to the Committee.

The Customs Valuation Committee's work throughout 2013 continued to reflect a cooperative focus among all Members to ensure appropriate implementation of the Valuation Agreement. The Committee took note of technical assistance activities carried out by the Secretariat of the WCO and its Members, related to customs valuation. The Committee also noted that technical assistance in the area of customs valuation is now incorporated into the WTO-wide technical assistance program, which encompasses regional activities on market access issues, including customs valuation.

### **Prospects for 2014**

The Customs Valuation Committee's work in 2014 will include reviewing the relevant implementing legislation and regulations notified by Members, along with addressing any further requests by other Members concerning implementation deadlines. The Committee will monitor progress by Members with regard to their respective work programs that were included in the decisions granting transitional reservations or extensions of time for implementation. In this regard, the Committee will continue to provide a forum for sustained focus on issues arising from practices of all Members that have implemented the Valuation Agreement, to ensure that such Members' customs valuation regimes do not

utilize arbitrary or fictitious values, such as through the use of minimum import prices. In addition the United States, along with a number of co-sponsors, proposed that the Committee agree to sponsor an informal workshop inviting the International Chamber of Commerce (ICC) to discuss the use of databases to set reference prices. In addition to the ICC other representatives from the WTO Secretariat, WCO, and Technical Committee on Customs Valuation will be invited to present their work on this issue. It is hoped that the presentations will encourage discussions between Members, and encourage the participation of capital-based experts about the use of reference price databases. Finally, the Committee will continue to address technical assistance issues as a matter of high priority.

## **7. Committee on Rules of Origin**

### **Status**

The objective of the Agreement on Rules of Origin (the ROO Agreement) is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. The ROO Agreement provides important disciplines for conducting preferential and nonpreferential origin regimes, such as the obligation to provide binding origin rulings upon request to traders within 150 days of that request. In addition to setting forth disciplines related to the administration of rules of origin, the ROO Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for nonpreferential trade. The Harmonization Work Program (HWP) is more complex than initially envisioned under the Agreement, which provided for the work to be completed within three years after its commencement in July 1995. This HWP continued throughout 2013 and will continue into 2014.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which held meetings in April and September of 2013. The Committee also serves as a forum to exchange views on notifications by Members concerning their national rules of origin along with relevant judicial decisions and administrative rulings of general application. The ROO Agreement also established a Technical Committee on Rules of Origin with the WCO to assist in the HWP.

### **Major Issues in 2013**

As of December 2013, 85 Members have notified the WTO concerning nonpreferential rules of origin. In these notifications, 41 Members notified that they apply nonpreferential rules of origin, and 44 Members notified that they did not have a nonpreferential rule of origin regime. Forty-six Members have not notified nonpreferential rules of origin.

Virtually all WTO Members have notified the WTO, either through the ROO Committee or other WTO bodies, that they apply preferential rules of origin. Six Members have notified that they do not have preferential rules of origin.

The ROO Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the ROO Committee has been active in its review of the Agreement's implementation. Virtually all issues and concerns cited by U.S. exporters as arising under the origin regimes of U.S. trading partners arise from administrative practices that are not transparent, allow discrimination, and lack predictability. Substantial attention has been given to the implementation of the ROO Agreement's important disciplines related to transparency, which constitute internationally-recognized "best customs practices."

The ongoing HWP leading to the multilateral harmonization of nonpreferential product specific rules of origin has attracted a great deal of attention and resources. Progress has been made toward completion of

this effort, despite the large volume and magnitude of complex issues, which must be addressed for hundreds of specific products.

The ROO Committee continued to focus on the HWP to achieve multilateral harmonization of nonpreferential rules of origin. U.S. proposals for the HWP have been developed based on a Section 332 study, which was conducted by the U.S. International Trade Commission pursuant to a request by USTR. The U.S. proposals reflect input received from ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the ROO Committee. Representatives from several U.S. Government agencies continue to be involved in the HWP, including USTR, Customs and Border Protection (formerly the U.S. Customs Service), the U.S. Department of Commerce, and the U.S. Department of Agriculture.

In 2006, the General Council agreed that following resolution of the core policy issues, the Committee would complete its remaining work on the HWP by December 2007. Notwithstanding this deadline, the HWP has not been completed.

While the ROO Committee made some progress towards fulfilling the mandate of the ROO Agreement to establish harmonized nonpreferential rules of origin, a number of fundamental issues, including many product-specific rules for agricultural and industrial goods, and the scope of the prospective obligation to apply the harmonized nonpreferential rules of origin equally for all purposes, remained to be resolved.

Because of the impasse among Members on: (i) the product specific rules related to the 94 core policy issues; (ii) the absence of a common understanding of the scope of the prospective obligation to apply the harmonized nonpreferential rules of origin equally for all purposes; and (iii) the growing concern among Members that the final result of the HWP negotiations would not be consistent with the objectives of the HWP set forth in Article 9 of the ROO Agreement, the General Council recognized that its guidance was needed on how to resolve these issues. In 2007, the General Council endorsed the recommendation of the ROO Committee that substantive work on these issues be suspended until the ROO Committee receives the necessary guidance from the General Council on how to reconcile the differences among Members on the aforementioned issues. The General Council also agreed with the recommendation of the Chair of the ROO Committee that the Committee would continue its work with a view to resolving all technical issues and report periodically to the General Council on its efforts in this regard.

During the two ROO Committee meetings in 2013, the Members continued to work on technical issues, including the technical aspects of the overall architecture that would be used for applying the rules of origin, and the transposition of draft harmonized rules of origin (originally negotiated in the 1996 version of the Harmonized System or HS) into more recent versions of the HS nomenclature. In addition, Members discussed the future organization of the ROO Committee's work. Some Members hold the view that the harmonization of nonpreferential rules of origin remains an important trade policy objective while other Members feel that conclusion of this work is no longer a priority since the WTO now covers virtually all major trading nations.

### **Prospects for 2014**

Further progress in the HWP will remain contingent on achieving appropriate resolution of the “core policy issues,” reaching a consensus on the scope of the prospective obligation to the harmonized nonpreferential rules of origin apply equally for all purposes and achieving a result that is consistent with the objectives set forth in Article 9 of the ROO Agreement. The Committee will also continue to discuss the future organization of the Committee's work and divergences in Members' views of how to continue discussions of the HWP. In accordance with the decision taken by the General Council in July 2007, and subject to future guidance from the General Council, the ROO Committee will continue to focus on

technical issues, including the technical aspects of the overall architecture of the HWP product specific rules, through informal consultations. The Committee will also continue to review the work done by the Secretariat on the transposition of the current HWP to more recent versions of the HS nomenclature. The ROO Committee will continue to report periodically to the General Council on its progress in resolving these issues.

## 8. Committee on Technical Barriers to Trade

### Status

The Agreement on Technical Barriers to Trade (the TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary standards and mandatory technical regulations for products and the procedures (such as testing or certification) used to determine whether a particular product meets such voluntary standards or technical regulations. One of the main objectives of the TBT Agreement is to prevent the use of regulations as unnecessary barriers to trade while ensuring that Members retain the right to regulate, *inter alia*, for the protection of health, safety, or the environment, at the levels they consider appropriate.

The TBT Agreement applies to industrial as well as agricultural products, although it does not apply to SPS measures or specifications for government procurement, which are covered under separate agreements. TBT Agreement rules help to distinguish legitimate standards, conformity assessment procedures, and technical regulations from protectionist measures and other measures that act as unnecessary obstacles to trade. For example, the TBT Agreement requires Members to apply standards, technical regulations, and conformity assessment procedures in a nondiscriminatory fashion and, in particular, requires that technical regulations be no more trade restrictive than necessary to meet a legitimate objective and be based on relevant international standards, except where international standards would be ineffective or inappropriate to meet a legitimate objective.

The Committee on Technical Barriers to Trade (the TBT Committee)<sup>11</sup> serves as a forum for consultation on issues associated with implementing and administering the TBT Agreement. The TBT Committee is composed of representatives of each WTO Member and provides an opportunity for Members to discuss concerns about specific standards, technical regulations, and conformity assessment procedures that a Member proposes or maintains. The TBT Committee also allows Members to discuss systemic issues affecting implementation of the TBT Agreement (*e.g.*, transparency, use of good regulatory practices, regulatory cooperation), and to exchange information on Members' practices related to implementing the TBT Agreement and relevant international developments.

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<sup>11</sup> Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed on by the General Council. Representatives of a number of organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF); the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the *Bureau International des Poids et Mesures* (BIPM), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA), the International Telecommunications Union (ITU), the Southern African Development Community (SADC), and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis.

*Transparency and Availability of WTO/TBT Documents:* The TBT Agreement requires each Member to establish a central contact point, known as an inquiry point, which is responsible for responding to requests for information on its standards, technical requirements, and conformity assessment procedures, or making the appropriate referral. The TBT Agreement also requires Members to notify proposed technical regulations and conformity assessment procedures and to take comments received from other Members into account. These obligations provide a key benefit to the public. Through the U.S. Government's implementation of these obligations, the public is able to obtain information on proposed technical regulations and conformity assessment procedures of other WTO Members and to provide written comments for consideration on those proposals before they are finalized.

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point for purposes of the TBT Agreement (NIST can be contacted via email at: [ncsci@nist.gov](mailto:ncsci@nist.gov) or [notifyus@nist.gov](mailto:notifyus@nist.gov) or via the Internet at: <http://www.nist.gov/ncsci> or <http://www.nist.gov/notifyus>). NIST maintains a reference collection of standards, specifications, test methods, codes, and recommended practices. This reference material includes U.S. Government agencies' technical regulations and conformity assessment procedures, and the standards of nongovernmental standardizing bodies. The inquiry point responds to requests for information concerning Federal and State standards, technical regulations, and conformity assessment procedures, as well as voluntary standards and conformity assessment procedures developed or adopted by nongovernmental bodies. Upon request, NIST will provide copies of notifications of proposed technical regulations and conformity assessment procedures that other Members have made under the TBT Agreement, as well as contact information for other Members' TBT inquiry points. NIST maintains the "Notify U.S. Service" through which U.S. entities receive, via e-mail, notifications of drafts or changes to domestic and foreign technical regulations and conformity assessment procedures for manufactured products. U.S. entities can access the services through the website: <https://tsapps.nist.gov/notifyus/data/index/index.cfm>. NIST refers requests for information concerning SPS measures to the U.S. Department of Agriculture, which is the U.S. inquiry point pursuant to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: <http://www.wto.org>. TBT Committee documents are indicated by the symbols, "G/TBT/..." Notifications by Members of proposed technical regulations and conformity assessment procedures that are available for comment are issued as: G/TBT/N (the "N" stands for "notification")/USA (which in this case stands for the United States of America; three letter symbols will be used to designate the WTO Member originating the notification)/X (where "x" will indicate the numerical sequence for that Member).<sup>12</sup> Parties in the United States interested in submitting comments to foreign governments on their proposals should contact the U.S. inquiry point, as discussed above. As a general rule, written information that the United States provides to the TBT Committee is submitted on an "unrestricted" basis and is available to the public on the WTO website. The WTO Secretariat has expanded the information it provides on its "technical barriers to trade" website that is available to the public, including summaries of meetings, agendas, workshops, technical assistance, and key documents.

The opportunity provided by the TBT Agreement for interested parties in the United States to influence the development of proposed technical regulations and conformity assessment procedures being developed by other Members by allowing them to provide written comments on drafts and submit them through the U.S. inquiry point helps to prevent the establishment of technical barriers to trade. The TBT Agreement has functioned well in this regard, although discussions on how to improve its operation occur as part of the triennial review process (*see below*). Disciplines and obligations, such as the prohibition on

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<sup>12</sup> Before 2000, the numbering of notifications of proposed technical regulations and conformity assessment procedures read: "G/TBT/Notif./..." (followed by a number).

discrimination and the requirement that technical regulations not be more trade restrictive than necessary to fulfill legitimate regulatory objectives, have been useful in evaluating potential trade barriers and in seeking ways to address them.

The TBT Committee also plays an important monitoring and oversight role. It has served as a constructive forum for discussing and resolving issues and avoiding disputes. Since its inception, an increasing number of Members, including developing countries, have used the Committee to highlight trade problems.

Article 15.4 of the TBT Agreement requires the Committee to review the operation and implementation of the TBT Agreement every three years. Six such reviews have now been completed (G/TBT/5, G/TBT/9, G/TBT/13, G/TBT/19, G/TBT/26, and G/TBT/32). From the U.S. perspective, a key benefit of these reviews is that they prompt WTO Members to review and discuss all of the provisions of the TBT Agreement, which facilitates a common understanding of Members' rights and obligations. The reviews have also prompted the Committee to host workshops on various topics of interest, including technical assistance, conformity assessment, labeling, good regulatory practice, international standards, and regulatory cooperation.

### **Major Issues in 2013**

The TBT Committee met three times in 2013, March (G/TBT/M/59), June (G/TBT/M/60), and October (G/TBT/M/61). At some of these meetings, Members made statements informing the Committee of measures they had taken to implement the TBT Agreement and to administer measures in compliance with the Agreement. Members also used Committee meetings to raise concerns about specific technical regulations, standards, or conformity assessment procedures that have been proposed or adopted by other Members. Measures garnering significant Committee attention included proposed labeling requirements for food from Chile, Peru, and Indonesia; tobacco-related measures from New Zealand, Ireland and the European Union; regulations on alcoholic beverages from Russia; and continued concern regarding regulations for EU REACH (Registration, Evaluation, Authorization, and Restriction of Chemicals); the development of China-specific standards in the information technology sphere; Korea's cosmetics measures; and India's testing and certification requirements for telecommunications products.

In 2013, the Committee continued its exchange of experiences on good regulatory practice, conformity assessment procedures, transparency, technical assistance, international standards, and S&D treatment. Pursuant to the recommendations agreed in November 2012 under the Sixth Triennial Review (G/TBT/32), the Committee expanded these exchanges to include informal thematic discussions at each of its meetings to provide the opportunity for TBT experts to consider, in a multilateral setting, how other Members have addressed challenges in their national efforts to strengthen implementation of the Agreement. Through these thematic discussions, the Committee is pressing for greater progress on these issues related to specific decisions and recommendations arising out of the triennial reviews (G/TBT/1/Rev.11), including on good regulatory practice and transparency. At its March 2013 meeting, the TBT Committee adopted the Eighteenth Annual Review of the Implementation and Operation of the TBT Agreement under Article 15.3 (G/TBT/33). The WTO Secretariat also updated the relevant lists of standardizing bodies that have accepted the Code of Good Practice for the Preparation, Adoption, and Application of Standards set out in Annex 3 of the Agreement (G/TBT/CS/1/Add.17 and G/TBT/CS/2/Rev.19).

During the 2013 meetings of the TBT Committee, representatives of observers to the Committee, including Codex, IEC, ISO, ITC, OECD, UNECE, and ITU, updated the Committee on their activities relevant to its work, including on technical assistance.

## Prospects for 2014

The TBT Committee will continue to monitor Members' implementation of the TBT Agreement. In 2014, U.S. priorities will continue to focus on resolving specific trade concerns, as well as furthering the outcomes generated by the Sixth Triennial Review of the Operation and Implementation of the TBT Agreement. In this regard, among the U.S. priorities for the Committee in 2014 will be to agree on a list of mechanisms and principles of good regulatory practices to guide Members in implementing the TBT Agreement more efficiently and effectively. In addition, the United States will focus on increasing transparency in standard setting through review of the implementation by Members of the Code of Good Practice (Annex 3 of the Agreement). Lastly, the United States will support the Committee's work to inform Members on the choice and design of conformity assessment procedures.

## 9. Committee on Antidumping Practices

### Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement) sets forth detailed rules and disciplines prescribing the manner and basis on which Members may take action to offset the injurious dumping of products imported from another Member. Implementation of the Antidumping Agreement is overseen by the Committee on Antidumping Practices (the Antidumping Committee), which operates in conjunction with two subsidiary bodies, the Working Group on Implementation (formerly the *Ad Hoc* Group on Implementation) and the Informal Group on Anticircumvention.

The Antidumping Committee is an important venue for reviewing Members' compliance with the detailed provisions in the Antidumping Agreement, improving mutual understanding of those provisions, and providing opportunities to exchange views and experiences with respect to Members' application of antidumping remedies.

The Working Group on Implementation (the Working Group) is an active body, which focuses on practical issues and concerns relating to implementation. The activities of the Working Group permit Members to develop a better understanding of their respective policies and practices for implementing the provisions of the Antidumping Agreement based on papers submitted by Members on specific topics. Where possible, the Working Group endeavors to develop draft recommendations on the topics it discusses, which it forwards to the Antidumping Committee for consideration. To date, the Antidumping Committee has adopted Working Group recommendations on the following five antidumping topics: (1) the period of data collection for antidumping investigations; (2) the timing of notifications under Article 5.5; (3) the contents of preliminary determinations; (4) the time period to be considered in making a determination of negligible imports for purposes of Article 5.8; and (5) an indicative list of elements relevant to a decision on a request for extension of time to provide information pursuant to Articles 6.1 and 6.1.1.

The Working Group has drawn a high level of participation by Members, and in particular, by capital-based experts and officials of antidumping administering authorities. Since the inception of the Working Group, the United States has submitted papers on most topics and has been an active participant at all meetings. While not a negotiating forum in either a technical or formal sense, the Working Group serves an important role in promoting improved understanding of the Antidumping Agreement's provisions and exploring options for improving practices among antidumping administrators.

At Marrakesh in 1994, Ministers adopted a Decision on Anticircumvention directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established the Informal Group on Anticircumvention (the Informal Group). Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision by Ministers.

### **Major Issues in 2013**

In 2013, the Antidumping Committee held meetings in April and October. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Antidumping Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken over the preceding six months.

The following is a list of the more significant activities that the Antidumping Committee, the Working Group, and the Informal Group undertook in 2013.

*Notification and Review of Antidumping Legislation:* To date, 76 Members have notified that they currently have antidumping legislation in place, and 36 Members have notified that they maintain no such legislation. In 2013, the Antidumping Committee reviewed new notifications of antidumping legislation and/or regulations submitted by Australia, Cameroon, Chile, the European Union, Lao PDR, Morocco, New Zealand, the Russian Federation, Ukraine, and the United States. In addition, Brazil and Montenegro have notified their respective antidumping legislation for review by Members and that review will be undertaken as part of the April 2014 Antidumping Committee meeting. Several Members, including the United States, were active in formulating written questions and in making follow up inquiries at the Antidumping Committee meetings.

*Notification and Review of Antidumping Actions:* In 2013, 30 Members notified that they had taken antidumping actions during the latter half of 2012, whereas 31 Members did so with respect to the first half of 2013. Members identified these actions, as well as outstanding antidumping measures currently maintained by Members, in semi-annual reports submitted for the Antidumping Committee's review and discussion. The semi-annual reports for the second half of 2012 were issued in document series "G/ADP/N/223/..." and the semi-annual reports for the first half of 2013 were issued in document series "G/ADP/N/230/..." At its April and October 2013 meetings, the Antidumping Committee reviewed Members' notifications of preliminary and final actions pursuant to Article 16.4 of the Antidumping Agreement.

*Working Group on Implementation:* The Working Group held meetings in April and October 2013. Beginning in 2003, the Working Group has held discussions on several agreed topics, including: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; (4) judicial, arbitral, or administrative reviews under Article 13; and (5) price undercutting by dumped imports. In 2009, the Working Group agreed to include the following additional topics for discussion: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset reviews. The discussions in the Working Group on all of these topics have focused on submissions by Members describing their own practices.

For the April 2013 meeting, two papers submitted by Jamaica were discussed: one on the accuracy and adequacy test and the other on export price to a third country or constructed normal value. Several Members, including the United States, posed questions on the papers discussed.

For the October 2013 meeting, two papers submitted by Brazil were discussed: one on significant price undercutting and the other on the accuracy and adequacy test. Several Members, including the United States, posed questions on the papers discussed.

*Informal Group on Anticircumvention:* In 2013, the Informal Group held meetings in April and October. There were no new papers submitted for discussion in 2013. Members did not actively engage in discussions on what constitutes circumvention, what is being done by Members confronted with what they consider to be circumvention, or to what extent circumvention can be dealt with under the relevant WTO rules. Nevertheless, it was agreed that the Informal Group should continue to meet in the future to provide a forum to discuss such topics, as Members deem appropriate.

## **Prospects for 2014**

Work will proceed in 2014 on the areas that the Antidumping Committee and the Working Group addressed this past year, and the Informal Group will continue to meet on relevant topics as the Members deem appropriate. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This ongoing review process in the Antidumping Committee is important for ensuring that Members' antidumping laws are properly drafted and implemented, thereby contributing to a well-functioning, rules-based trading system. Since notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other Members, which should assist them in better understanding the operation of such laws and in taking them into account in commercial planning.

The preparation by Members and review in the Antidumping Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2014. The semi-annual reports are accessible to the general public on the WTO website. This transparency promotes improved public knowledge and appreciation of the trends and focus of all WTO Members' antidumping actions.

Discussions in the Working Group on Implementation will continue to play an important role as more Members enact antidumping laws and begin to apply them. There has been a sharp and widespread interest in the technical issues related to understanding how Members implement these rules when administering their laws pursuant to the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Working Group, which is the forum that was established to discuss these technical and administrative issues. For these reasons, the United States will continue to use the Working Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss not only the laws as written, but also the operational practices that Members employ to implement them. In 2014, the Working Group will continue its discussion of topics that it has been discussing for several years and recently added topics, as described in the last section.

The work of the Informal Group on Anticircumvention will also continue in 2014 according to the framework for discussion on which Members have agreed.

## 10. Committee on Import Licensing

### Status

The Committee on Import Licensing (the Import Licensing Committee) was established to administer the Agreement on Import Licensing Procedures (Import Licensing Agreement) and to monitor compliance with the mutually-agreed rules for the application of these widely used measures. The Import Licensing Committee normally meets twice a year to review information on import licensing requirements submitted by WTO Members in accordance with the obligations set out in the Import Licensing Agreement. The Committee also receives questions from Members on the licensing regimes of other Members, whether or not those regimes have been notified to the Committee. The Committee meetings also address specific observations and complaints concerning Members' licensing systems. These reviews are not intended to substitute for dispute settlement procedures; rather, they offer Members an opportunity to focus multilateral attention on licensing measures and procedures that they find problematic, to receive information on specific issues and to clarify problems, and possibly to resolve issues before they become disputes.

### Major Issues in 2013

In 2013, the Import Licensing Committee held its meetings in April and October. In accordance with Articles 1.4(a), 5.4, and 8.2(b) of the Import Licensing Agreement and procedures agreed to by the Committee, all Members, upon joining the WTO, must notify the sources of the information pertaining to their laws, regulations, and administrative procedures relevant to import licensing. Any subsequent changes to these laws, regulations, and administrative procedures must also be published and notified. Since the entry into force of the WTO Agreement, 101 Members<sup>13</sup> have notified the Committee of their legislation and/or publications under these provisions (up to the last meeting of the year held on October 4, 2013). During 2013, the Committee received 22 notifications from the following 16 Members: Colombia; Ecuador; the European Union; Gabon; Malaysia; Moldova; Morocco; Peru; the Philippines; the Russian Federation; Saint Lucia; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Togo; Ukraine; the United States; and Vietnam (up to October 4, 2013).

With regard to notifications of new import licensing procedures or changes in such procedures (required by Articles 5.1-5.4 of the Agreement), the Committee received 18 notifications from eight Members (up to October 4, 2013): Argentina; Chad; Colombia; the European Union; Indonesia; New Zealand; Thailand; and Ukraine (Annex II). Since the entry into force of the WTO Agreement, 41 Members have submitted notifications under these provisions.

Article 7.3 of the Import Licensing Agreement requires all Members to provide prompt replies to the annual Questionnaire on Import Licensing Procedures; Committee procedures set a deadline of September 30 each year. While not all Members provide responses every year, since the entry into force of the WTO Agreement, 103 Members have made notifications under this provision (up to October 4, 2013). The number of Members submitting annual notifications has increased from 11 Members in 1995, when the WTO was established, to 35 Members in 2013. All of these notifications, including the U.S. responses to the Questionnaire on Import Licensing Procedures, may be found in document series G/LIC/N/3- ([http://www.wto.org/english/res\\_e/res\\_e.htm](http://www.wto.org/english/res_e/res_e.htm)).

The United States remained one of the most active members of the Import Licensing Committee in 2013, using the forum to gather information and to discuss import licensing measures applied to its trade by

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<sup>13</sup> The European Union and its Member States counted as one Member for purposes of this notification.

other Members. U.S. submissions to the Committee in 2013 included the response to the annual Questionnaire (G/LIC/N/3/USA/10) and the notification of the final rule (see *Federal Register*\_Vol. 78, No. 32, dated February 15, 2013) to extend the Steel Import Monitoring and Analysis System until March 21, 2017.

The United States also focused its presentations on continuing problems with Indonesia's import licensing policies and procedures, including those regarding horticultural products and animals and animal products. On August 30, 2013, the United States requested consultations under the Dispute Settlement Understanding regarding Indonesia's import licensing procedures with respect to these products.

The United States raised concerns about the Russian Federation's import licensing procedures and posed questions on the import licensing practices of Vietnam, Saint Lucia, Ukraine, Bangladesh, Ecuador, India, Colombia, and Malaysia. Through its interventions, the United States continued to question India, Ukraine, the Russian Federation, and Vietnam concerning the basis for and operation of their licensing practices and to press them for adequate responses to requests for information that had not yet been provided. The United States and other Members submitted written questions on these issues. Written questions and replies to and from Members submitted to the Committee concerning notifications and import licensing procedures may be found in document series G/LIC/Q/- on the WTO website ([http://www.wto.org/english/res\\_e/res\\_e.htm](http://www.wto.org/english/res_e/res_e.htm)).

*Notifications and Other Documentation:* The United States continues to work within the Committee to seek to enhance Members' efforts to comply with the Agreement's notification requirements. In so doing, transparency remains the primary goal.

## **Prospects for 2014**

The administration of import licensing procedures continues to be a significant topic of discussion in the day-to-day implementation of Members' WTO obligations. The use of such measures to monitor and to regulate imports has increased, especially in light of global economic circumstances. The United States will continue to advocate for increased efforts to provide transparency, proper use of import licensing procedures, and insurance that licensing procedures do not, in themselves, restrict imports in a manner not consistent with WTO provisions. Licensing continues to be a factor in the administration of tariff-rate quotas and the application of safeguard measures, technical regulations, and sanitary and phytosanitary requirements applied to imports as well. The proliferation of import licensing requirements raises additional concerns, as many such requirements appear to be administered in a manner that restricts trade.

## **11. Committee on Safeguards**

### **Status**

The Committee on Safeguards (the Safeguards Committee) was established to administer the WTO Agreement on Safeguards (the Safeguards Agreement). The Safeguards Agreement establishes rules for the application of safeguard measures as provided in Article XIX of GATT 1994. Effective rules on safeguards are important to the viability and integrity of the multilateral trading system. The availability of a safeguard mechanism gives WTO Members the assurance that they can act quickly to help industries adjust to import surges, providing them with flexibility they would not otherwise have to open their markets to international competition. At the same time, WTO rules on safeguards ensure that such actions are of limited duration and are gradually less restrictive over time.

The Safeguards Agreement incorporates into WTO rules many of the concepts embodied in U.S. safeguards law (section 201 of the Trade Act of 1974, as amended). Among its key provisions, the Safeguards Agreement: requires a transparent, public process for making injury determinations; sets out clearer definitions of the criteria for injury determinations; requires that safeguard measures be steadily liberalized over their duration; establishes maximum periods for safeguard actions; requires a review no later than the midterm of any measure with a duration exceeding three years; allows safeguard actions to be taken for three years, without the requirement of compensation or the possibility of retaliation; and prohibits so-called “grey area” measures, such as voluntary restraint agreements and orderly marketing agreements.

The Safeguards Agreement requires Members to notify the Safeguards Committee of their laws, regulations, and administrative procedures relating to safeguard measures. It also requires Members to notify the Safeguards Committee of various safeguards actions, such as: (1) the initiation of an investigatory process; (2) a finding by a Member’s investigating authority of serious injury or threat thereof caused by increased imports; (3) the taking of a decision to apply or extend a safeguard measure; and (4) the proposed application of a provisional safeguard measure.

### **Major Issues in 2013**

During its two regular meetings in April and October 2013, the Safeguards Committee continued its review of Members’ laws, regulations, and administrative procedures based on notifications required under Article 12.6 of the Safeguards Agreement. The Committee reviewed the national legislation of Cameroon, Chile, India, Indonesia, Lao PDR, Macao China, Mali, Morocco, Russia, Togo, and Ukraine. In addition, Montenegro notified its safeguard legislation for review by Members, the review of which will be undertaken as part of the April 2014 Safeguards Committee meeting.

The Safeguards Committee reviewed Article 12.1(a) notifications regarding the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it, or the initiation of a review process relating to the extension of an existing measure, from the following Members: Australia on Canned Tomatoes and Certain Processed Fruit Products; Chile on Maize and Frozen Pork; Colombia on Steel Wire Rod, Steel Angles, Bars of Iron or Non-Alloy Steel (rebar) and Wire Rods of Iron or Non-Alloy Steel, and Sections of Iron or Non-Alloy and Rods of Iron or Steel; Egypt on Raw and White Sugar, and Steel Rebar; India on Seamless Pipes, Tubes and Hollow Profiles of Iron or Non-alloy Steel, Sodium Nitrite, Methyl Acetoacetate, Phthalic Anhydride, and PX-13; Indonesia on Kilowatt Hour Meters, Dextrose Monohydrate, Sheath Contraceptive, Flat-Rolled Product of Iron or Non-alloy Steel; and D-Glutisol (Sorbitol); Kyrgyz Republic on Wheat Flour; Philippines on Newsprint and Galvanized Iron and Pre-Painted Sheets and Coils; Russia on Woven Fabrics; South Africa on Frozen Potato Chips; Thailand on Glass Block, Hot-Rolled Steel Flat Products, and Woven Fabric; Turkey on Terephthalic Acid and Certain Electrical Appliances; Ukraine on Tableware and Kitchenware of Porcelain; and Vietnam on Vegetable Oil.

The Safeguards Committee reviewed Article 12.1(b) notifications, regarding a finding of serious injury or threat thereof caused by increased imports from the following Members: Australia on Canned Tomatoes and Certain Processed Fruit Products; Chile on Maize; Egypt on Raw and White Sugar, and Steel Rebar; India on Dioctyl Phthalate (DOP); Indonesia on Wheat Flour, and Seamless Pipe Casing and Tubing; Morocco on Bars and Rods; Russian Federation on Harvesters and Modules Thereof, and Tableware and Kitchenware of Porcelain; South African on Frozen Potato Chips; Thailand on Hot-Rolled Steel Flat Products and Glass Block; and Vietnam on Vegetable Oil.

The Safeguards Committee reviewed Article 12.1(c) notifications regarding a decision to apply or extend a safeguard measure from the following Members: the Dominican Republic on Certain Sports and Dress

Socks; Indonesia on Articles of Iron or Steel Wire, and Seamless Pipe Casing and Tubing; Jordan on Bars and Rods of Iron or Steel; Philippines on Float Glass; Russian Federation on Harvesters and Modules Thereof, and Tableware and Kitchenware of Porcelain; Thailand on Glass Block, and Hot-Rolled Steel Products; Ukraine on Matches, Motor Cars, and Casing and Pump-Compressor Seamless Steel Pipes; and Vietnam on Vegetable Oil.

The Safeguards Committee reviewed Article 12.4 notifications regarding the application of a provisional safeguard measure from the following Members: Chile on Maize; Colombia on Steel Wire Rod, and Bars of Iron or Non-Alloy Steel (Rebar) and Wire Rods of Iron or Non-Alloy Steel; Egypt on Raw and White Sugar, and Steel Rebar; Indonesia on Wheat Flour, and Seamless Pipe Casing and Tubing; Jordan on Bars and Rods of Iron or Steel; Morocco on Bars and Rods; Russian Federation on Harvesters and Modules Thereof; South Africa on Frozen Potato Chips; Thailand on Hot-Rolled Steel Flat Products; and Vietnam on Vegetable Oil.

The Safeguards Committee received notifications of the termination of a safeguard investigation with no definitive safeguard measure imposed, or the expiration or termination of a definitive safeguard measure, from the following Members: Brazil on Fine or Table Wine; Chile on Maize and Frozen Pork; Egypt on polypropylene and Raw and White Sugar; India on Phthalic Anhydride; Indonesia on Dextrose Monohydrate and D-Glucitol (Sorbitol); South Africa on Frozen Potato Chips; Thailand on Woven Fabric; Turkey on Cotton Yarn; and Ukraine on Matches.

At the Committee meetings in April and October, the Friends of Safeguards Procedures (FSP) – a new 10 delegation group of WTO Members, including the United States – organized an informal discussion group at each of the Committee meetings. The informal discussion group consisted of presentations by various WTO Members on a specific topic for discussion. The April discussion focused on the initiation of safeguard investigations while the October discussion focused on the experience when evaluating whether to invoke critical circumstances and/or impose provisional measures and the role of consultations.

### **Prospects for 2014**

The Safeguards Committee's work in 2014 will continue to focus on the review of safeguard actions that have been notified to the Committee and on the review of notifications of any new or amended safeguards legislation. The United States will also work on its own, as well as with the FSP, to continue to address systemic issues of concern with safeguard proceedings as issues arise.

## **12. Working Party on State Trading Enterprises**

### **Status**

Article XVII of the GATT 1994 requires Members, *inter alia*, to ensure that state trading enterprises (STEs), as defined in that Article, act in a manner consistent with the general principle of nondiscriminatory treatment, make purchases or sales solely in accordance with commercial considerations, and abide by other GATT disciplines. The Understanding on the Interpretation of Article XVII of the GATT 1994 (the Article XVII Understanding) defines a state trading enterprise more narrowly for the purposes of providing a notification that is required under the Understanding. Members must notify the Working Party of enterprises in their respective territories that meet this definition, whether or not such enterprises have imported or exported goods. Members are required to submit new and full notifications to the Working Party for review every two years.

The Working Party on State Trading Enterprises (WP-STE) was established in 1995 to review, *inter alia*, Member notifications of STEs and the coverage of STEs that are notified, and to develop an illustrative list of relationships between Members and their STEs and the kinds of activities engaged in by these enterprises.

### **Major Issues in 2013**

The WP-STE held one formal meeting on October 7, 2013. At the meeting, Members reviewed STE notifications from Armenia, Barbados, Ecuador, India, Lichtenstein, Malaysia, Mali, Moldova, Peru, Singapore, South Africa, Thailand, and Uruguay.

During the meeting, the European Union posed questions relating to the notification of India, and Pakistan posed two written questions – the first regarding the notification of India and the second regarding the notification of Malaysia.

### **Prospects for 2014**

The WP-STE is scheduled to meet in October 2014. The WP-STE will continue its review of new notifications and its examination of how to improve Member compliance with STE notification obligations to enhance transparency of STEs.

## **F. Council on Trade-Related Aspects of Intellectual Property Rights**

### **Status**

The WTO Council for Trade-Related Aspects of Intellectual Property Rights (the TRIPS Council) monitors implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement. The TRIPS Agreement sets minimum standards of protection for copyrights and related rights, trademarks, geographical indications (GIs), industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights (IPR) through civil actions for infringement, actions at the border and, at least with respect to copyright piracy and trademark counterfeiting, in criminal actions.

The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural, chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods.

Developed Members were required to fully implement the obligations of the TRIPS Agreement by January 1, 1996, and developing country Members generally had to achieve full implementation by January 1, 2000. LDC Members have had their deadline for full implementation of the TRIPS Agreement extended to July 1, 2021. The extension of this deadline provides, as before, that “This Decision is without prejudice to the Decision of the Council for TRIPS of June 27, 2002, on ‘Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least-Developed Country Members for Certain Obligations with respect to Pharmaceutical Products’ (IP/C/25), and to the right of least developed country Members to seek further extensions of the period provided for in paragraph 1 of Article 66 of the Agreement.”

## Major Issues in 2013

In 2013, the TRIPS Council held three formal meetings. In addition to its continuing work on reviewing the implementation of the Agreement, the TRIPS Council's activities in 2013 focused on the positive relationship between intellectual property (IP) and innovation and between IP and sports, under agenda items co-sponsored by the United States and other WTO Members. The TRIPS Council also discussed the contributions of IP to facilitate the transfer of environmentally-sound technology and continued its consideration of the relationship of the TRIPS Agreement to the Convention on Biological Diversity of issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health, and of technology transfer and technical cooperation.

*Intellectual Property and Innovation:* At the March and June TRIPS Council meetings, the United States co-sponsored agenda items on IP and innovation. In March, the United States, Chile, Chinese Taipei and the Republic of Korea co-sponsored an agenda item specifically addressing the importance of IP for innovation by small and medium sized enterprises. Under this item, WTO Members' delegations focused on the particular importance of IP for SMEs in terms of IP serving as the core of the business, a principal element of the venture's value, and a source of its future success. Citing case studies, several delegations also noted the contributions of SMEs to innovation and job growth in their markets as well as the significant negative impact of IP infringement on SMEs. In June, the United States, Canada, Chile, Chinese Taipei, the European Union, the Republic of Korea, and Switzerland co-sponsored an item under the IP and innovation heading focused on low-cost innovation. Interventions under this item stressed the role of IP in facilitating high-impact solutions at a low price, particularly by social entrepreneurs seeking to address challenges in under-served communities, including with respect to medical devices for infants, clean drinking water, cook stoves, and lighting sources. The United States also co-sponsored a WTO side event featuring several NGO and other speakers that highlighted the positive role IP has played in their work to deliver critical services in low-income communities.

*Intellectual Property and Sports:* At the October TRIPS Council meeting, the United States, European Union, Jamaica, Mexico, and Trinidad and Tobago co-sponsored an agenda item on IP and sports. These and several other delegations discussed the contribution of IP to the significant economic and other contributions of sports, including trademarks for branding and sponsorships, and copyright for broadcasting. WTO Members also provided details regarding specific national IP policies geared toward promoting sports, such as hosting international competitions like the Olympics and the World Cup. The United States also co-sponsored a WTO side event including the International Olympic Committee, the Union of European Football Associations, Nike, and a Brazilian IP and sports expert, which spoke on the importance of IP for developing sports and holding major sporting events.

*IP and Climate Change:* At the June and October TRIPS Council meetings, Ecuador sponsored an agenda item on the *Contributions of IP to Facilitate the Transfer of Environmentally-sound Technology*. Relying on very limited data in support of its position, Ecuador contended that IP may not facilitate the transfer of such technologies and that innovation in these areas is focused in a limited number of countries. The United States and several other delegations countered, relying on a significant body of research, that IPR not only incentivizes green technology innovation, but also promotes technology transfer in these goods and services. The United States and other delegations cited a wealth of data demonstrating that green technology innovation is happening in a wide array of countries at different levels of development, that voluntary technology transfer is occurring, and that IPR plays a significant and positive role in promoting both activities. The United States and other Members also cited to numerous economic studies demonstrating that IPR does not increase costs and is not a barrier to technology transfer. Finally, the United States provided a detailed evaluation of the Technology Needs Assessments (TNAs) provided under the UN Framework Convention on Climate Change, in which developing countries did not cite IPR among the nearly 20 access barriers to green technologies identified in their respective TNAs.

*Review of Developing Country Members' TRIPS Agreement Implementation:* During 2013, the TRIPS Council continued to conduct ongoing reviews of developing country Members' and newly acceded Members' implementation of the TRIPS Agreement, and to provide assistance to developing country Members in implementing the Agreement. The United States continued to press for full implementation of the TRIPS Agreement by developing country Members and participated actively during the reviews of legislation by highlighting specific concerns regarding individual Members' implementation of the Agreement's obligations.

*Intellectual Property and Access to Medicines:* The August 30, 2003 solution (the General Council Decision on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health," in light of the statement read out by the General Council Chairperson) continues to apply to each Member until the formal amendment to the TRIPS Agreement replacing its provisions takes effect for that Member. The amendment text adopted by the General Council in December 2005, and the statement by the Chairperson, preserve all substantive aspects of the August 30, 2003 solution and do not alter the substance of the previously agreed to solution. The United States was the first Member to submit its acceptance of the amendment to the WTO. As of January 9, 2014, a total of 49 Members had accepted the amendment, which will enter into force for those Members that have accepted it upon its acceptance by two thirds of the membership of the WTO.

*TRIPS-related WTO Dispute Settlement Cases:* In April 2007, the United States initiated WTO dispute settlement proceedings over deficiencies in China's legal regime for the protection and enforcement of IPR by requesting consultations with China. On September 25, 2007, the WTO Dispute Settlement Body (DSB) established a panel to consider the dispute.

The panel circulated its report on January 26, 2009. The panel found that China's denial of copyright protection to works that do not meet China's content review standards is inconsistent with the TRIPS Agreement. The panel also found it inconsistent with the TRIPS Agreement for China to provide for simple removal of an infringing trademark as the only precondition for the sale at public auction of counterfeit goods seized by Chinese customs authorities.

With respect to the U.S. claim regarding thresholds in China's law that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties, the panel clarified that China must provide for criminal procedures and penalties to be applied to willful trademark counterfeiting and copyright piracy on a commercial scale. The panel agreed with the United States that Article 61 of the TRIPS Agreement requires China not to set its thresholds for prosecution of piracy and counterfeiting so high as to ignore the realities of the commercial marketplace. The Panel did find, however, that it needed more evidence in order to decide whether the actual thresholds for prosecution in China's criminal law are so high as to allow commercial-scale counterfeiting and piracy to occur without the possibility of criminal prosecution.

The DSB adopted the panel report on March 20, 2009. On April 15, 2009, China notified the DSB that China intends to implement the recommendations and rulings of the DSB in this dispute and stated it would need a reasonable period of time for implementation. On June 29, 2009, the United States and China notified the DSB that they had agreed on a one year period of time for implementation, which ended on March 20, 2010. In 2013, the United States monitored China's compliance with the 2009 DSB recommendations and rulings.

During 2013, the United States continued to monitor EU compliance with a 2005 ruling of the DSB that the EU's regulation on food-related GIs is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States has raised certain questions and concerns with regard

to the revised EU regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute.

The United States also continues to monitor WTO Members' implementation of their TRIPS Agreement obligations and will consider the further use of the WTO dispute settlement mechanism as appropriate.

*Geographical Indications:* The Doha Declaration directed the TRIPS Council to discuss “issues related to extension” of the level of protection provided under Article 23 of the TRIPS Agreement to GIs for products other than wines and spirits, and to report to the TNC by the end of 2002 for appropriate action. Because no consensus could be reached in the TRIPS Council on how the Chairperson should report to the TNC on the issues related to the extension of Article 23 level protection to GIs for products other than wines and spirits, and in light of the strong divergence of positions on the way forward on GIs and other implementation issues, the TNC Chairperson closed the discussion by saying he would consult further with Members. At the December 2005 Hong Kong Ministerial Conference, the Ministers directed the Director General to continue his consultative process on all outstanding implementation issues, including on extension of Article 23-level protection to GIs for products other than wines and spirits.

In 2013, the Director General did not hold any consultations on the extension issue. While some WTO Members seek to conduct negotiations in the TRIPS Council Special Session on whether to include other non-wine or spirit GIs, the United States and its allies on this issue continue to oppose any expansion of the Article 24.3 mandate in the Special Session to include negotiations on extension.

*Review of Article 27.3(b), Relationship Between the TRIPS Agreement and the Convention on Biological Diversity, and Protection of Traditional Knowledge and Folklore:* As called for in the TRIPS Agreement, the TRIPS Council initiated a review of Article 27.3(b) of the TRIPS Agreement (permitting Members to exclude from patentability plants, animals, and biological processes used for the production of plants and animals). The Doha Declaration directs the TRIPS Council, in pursuing its work program under the review of Article 27.3(b), to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore. Consideration of this set of issues also continues to be guided by the direction of Ministers in the Hong Kong Declaration, that all implementation issues (including the relationship of the TRIPS Agreement and the CBD) should be the subject of consultations facilitated by the WTO Director General. Furthermore, Ministers agreed that work would continue in the TRIPS Council on this issue.

A number of developing country Members continue to advocate for amending the patent provisions of the TRIPS Agreement to require disclosure of the source of the genetic resource or traditional knowledge, as well as evidence of prior informed consent to obtain the genetic resource and adequate benefit sharing with the custodian community or country of the genetic resource in order to obtain a patent. In 2006, a group of developing country Members submitted draft text for such an amendment to the TRIPS Agreement. There is, however, no consensus in the TRIPS Council that an amendment should be pursued. In 2013, the Director General did not hold consultations with Members on this issue.

*Technical Cooperation and Capacity Building:* As in each past year, the United States and other Members provided reports on their activities in connection with technical cooperation and capacity building for consideration at the fall TRIPS Council meeting (October 2013) (see IP/C/W/596/Add.6). Priority needs reports submitted by LDCs were discussed in the TRIPS Council as well as in informal consultations.

*Implementation of Article 66.2:* Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives for enterprises and institutions in their territories to promote and encourage technology transfer to LDC Members in order to enable them to create a sound and viable

technological base. This provision was reaffirmed in the Doha Decision on Implementation related Issues and Concerns, and the TRIPS Council was directed to put in place a mechanism for ensuring monitoring and full implementation of the obligation. Developed country Members are required to provide detailed reports every third year, with annual updates, on these incentives. In October 2013, the United States provided an updated report on specific U.S. Government institutions and incentives, as required (see IP/C/W/594/Add.6).

*Implementation of the TRIPS Agreement by LDCs:* On June 11, 2013, the TRIPS Council reached consensus on a decision to extend the transition period under Article 66.1 of the TRIPS Agreement for least-developed WTO Members. Under this decision, LDCs are not required to apply the provisions of the TRIPS Agreement, other than Articles 3, 4, and 5, until July 1, 2021, or until such a date on which they cease to be a LDC Member, whichever date is earlier.

*Non-Violation and Situation Complaints:* On October 10, 2013, the TRIPS Council reached agreement *ad ref* to extend the moratorium on non-violation and situation complaints under the TRIPS Agreement until the next Ministerial. The TRIPS Council agreement became final on October 21, 2013. WTO Members confirmed their intention to intensify the examination of this issue in 2014. The moratorium was originally introduced in Article 64 of the TRIPS Agreement, for a period of five years following the entry into force of the WTO Agreement (*i.e.*, until December 31, 1999). The moratorium has been referred to and extended in several WTO Ministerial documents, most recently in 2013.

*New Zealand Plain Packaging Legislation:* In March 2013, Members discussed New Zealand's proposed legislation requiring plain packaging of tobacco products. Australia, Brazil, Canada, China, Cuba, Dominican Republic, Honduras, Mexico, Nicaragua, Nigeria, Norway, Switzerland, Ukraine, Uruguay, Zambia, and Zimbabwe intervened under this agenda item.

## **Prospects for 2014**

In 2014, the TRIPS Council will continue to focus on its built-in agenda and the additional mandates established in the Doha Declaration, including possibly issues related to the LDC transition period for implementing the TRIPS Agreement, the extension of Article 23-level protection for GIs for products other than wines and spirits, on the relationship between the TRIPS Agreement and the CBD, and on traditional knowledge and folklore, as well as enforcement and other relevant new developments.

U.S. objectives for 2014 continue to be to:

- resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- continue efforts to ensure that developing country Members fully implement the TRIPS Agreement;
- engage in constructive dialogue regarding the technical assistance and capacity-related needs of developing countries, and especially LDCs, in connection with TRIPS Agreement implementation;
- continue to encourage a fact-based discussion within the TRIPS Council regarding TRIPS Agreement provisions;
- ensure that provisions of the TRIPS Agreement are not weakened; and
- intensify discussions within the TRIPS Council on the application of NVNI under the TRIPS Agreement.

## **G. Council for Trade in Services**

### **Status**

The General Agreement for Trade in Services (GATS) is the first multilateral, legally-enforceable agreement covering trade and investment in the services sector. The GATS is designed to reduce or eliminate governmental measures that prevent services from being freely supplied across borders or from within an economy through locally-established services firms with foreign ownership. The GATS includes specific commitments by WTO Members to restrict their use of restrictive measures and provides a forum for further negotiations to open services markets over time.

The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council. This includes a technical review of GATS Article XX.2 provisions; review of waivers from specific commitments pursuant to paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the WTO; a periodic review of developments in the air transport sector; the transitional review mechanism under Section 18 of the Protocol on the Accession of the People's Republic of China; implementation of GATS Article VII; a review of Article II exemptions (to most-favored nation treatment); and notifications made to the General Council pursuant to GATS Articles III.3, V.5, V.7, and VII.4. Four subsidiary bodies report to the CTS: The Committee on Specific Commitments, the Committee on Trade in Financial Services, the Working Party on Domestic Regulation, and the Working Party on GATS Rules.

### **Major Issues in 2013**

The CTS met in March, June, and October 2013.

The CTS received a number of notifications pursuant to GATS Article III:3 (transparency) and GATS Article V:7 (economic integration). Norway continued to raise concerns related to the telecommunications market in Thailand pursuant to Article III.5 of the GATS. There were also further discussions on possible ways to assist Members in notifying measures affecting trade in services as a means to improve transparency.

Under the Work Program on Electronic Commerce, the CTS held a workshop in June 2013. The workshop covered a wide array of issues related to e-commerce, many of which were based on submissions from the United States (information and communications technology (“ICT”) principles, cloud computing, and mobile applications). Further work under the Program is possible in 2014.

At the March and June meetings of the Council, the LDC Group added an item for discussion at the CTS on the operationalization of the LDC Services waiver. The CTS is expected to examine this issue in much greater detail in 2014.

Australia, and many other Members, continued to raise concerns related to the enlargement of the European Union, specifically the entry into force of the EC-25 schedule of commitments pursuant to GATS Article XXI and the procedures outlined in S/L/80 and S/L/84. Finally, the United States and other Members involved in the Trade in Services Agreement (TiSA) negotiations provided updates on the progress of those discussions for transparency purposes.

## **Prospects for 2014**

The CTS will continue discussions related to its mandated reviews and various notifications related to GATS implementation, as well as other topics raised by Members. As noted above, work is likely to continue on Member-driven proposals in the area of e-commerce. In addition, further work is envisioned on the topic of the LDC services waiver.

## **1. Committee on Trade in Financial Services**

### **Status**

The Committee on Trade in Financial Services (CTFS) provides a forum for Members to explore financial services market access or regulatory issues, including implementation of existing trade commitments.

### **Major Issues in 2013**

The CTFS met in March, June, and October 2013.

Members continued to urge Brazil to take the necessary steps to accept the Fifth Protocol to the GATS. In accepting the protocol, financial services commitments made in 1994 would be replaced by those agreed during the 1995-1997 extended negotiations on financial services. All other Members have accepted the protocol. The Chair invited Brazil to provide information on the status of its domestic ratification efforts. Brazil reported no progress.

At the March meeting, the CTFS held a dedicated discussion on Members' experiences with macroprudential policies and regulations. This dedicated discussion was based on a proposal by Ecuador to learn from other Members' experiences with macroprudential policies and regulations.

The topic of trade in financial services and development continues to receive attention by the CTFS. China made a brief presentation at the March meeting on the access of small- and medium-sized enterprises to financial services. At the June meeting, Pakistan and Norway made a joint presentation on the various issues surrounding mobile banking services, and raised the issue of access to financial services more generally.

### **Prospects for 2014**

The CTFS will continue to use its broad and flexible mandate to discuss various issues, including ratification of existing commitments as well as market access and regulatory issues. Discussions will continue on trade in financial services and development, as well as on issues related to mobile banking.

## **2. Working Party on Domestic Regulation**

### **Status**

GATS Article VI:4 on Domestic Regulation provides for Members to develop any necessary disciplines relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures. A Ministerial Decision assigned priority to the professional services sector, and Members subsequently established the Working Party on Professional Services (WPPS). In May 1997, the WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector,

adopted by the WTO. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998, although their full implementation is suspended pending completion of the ongoing round of services negotiations. The text of these disciplines is found in WTO document S/L/64 (December 17, 1998).

In May 1999, the CTS established the Working Party on Domestic Regulation (WPDR), which took on the mandate of the WPPS. The WPDR is charged with determining whether any new disciplines are deemed necessary beyond those negotiated for the accountancy sector. At the December 2005 Hong Kong Ministerial Conference, Ministers directed the WPDR to develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations.

### **Major Issues in 2013**

The WPDR met in March, June, and October 2013. At the March 2013 meeting, the delegate from Hungary was elected to be the Chairperson.

Members continued to examine a set of questions raised in the “List of Potential Technical Issues Submitted for Discussion.” Questions examined during 2013 included those related to verification and assessment of qualifications; identification of deficiencies of qualifications; examinations; technical standards; general provisions; and development-related aspects of the disciplines. There was also some information sharing by some Members on the time-frame for processing applications, permission to supply services after fulfillment of requirements, and fees. After these discussions, some Members reflected on the implications of the information provided for possible horizontal disciplines, but there was no consensus on that approach to disciplines. The WPDR also started to examine regulatory issues in particular sectors and modes of supply. These regulatory issues were identified in the sector and modes of supply papers that the Secretariat had compiled over the past several years.

The United States continues to take the view that any horizontal disciplines must respect the right of WTO Members to regulate, as recognized by the GATS, in a manner which meets the legitimate policy objectives of national and subnational regulatory authorities. The United States’ focus remains on the development of horizontal disciplines for regulatory transparency in the procedures used for granting authorization to supply services.

### **Prospects for 2014**

During 2014, the United States expects the WPDR will continue to focus on broad thematic questions submitted by Members, as well as discussion of the Note prepared by the WTO Secretariat on regulatory issues and development.

## **3. Working Party on GATS Rules**

### **Status**

The Working Party on GATS Rules (WPGR) provides a forum to discuss the possibility of new disciplines on emergency safeguard measures, government procurement, and subsidies in the context of the GATS in accordance with the Doha Work Program resulting from the Hong Kong Ministerial Conference in December 2005. That program called for Members to intensify their efforts to conclude the negotiations on rulemaking under GATS Articles X (emergency safeguard mechanism), Article XIII (government procurement), and Article XV (subsidies).

## **Major Issues in 2013**

The WPGR met in March, June, and October 2013, and in March 2013 elected the delegate from Chile to be its Chairman.

Proponents of an emergency safeguard measure (ESM) sought to restart the discussion on this topic and proposed that the Committee hold a dedicated technical discussion to examine so-called emergency safeguard provisions in regional trade agreements (RTAs). At that discussion, those with such RTAs could share their experiences. Further consultations will take place to discuss the framework of such a discussion.

On government procurement of services, Members began planning to hold a discussion in 2014 based on a WTO Staff Working Paper on the scope of government procurement related commitments in RTAs. In addition, the Secretariat made a presentation on the main features of the revised Government Procurement Agreement and its significance for trade in services.

With respect to subsidies, the WPGR continued to face an impasse among Members on next steps for advancing this issue. The Secretariat produced a Background Note entitled, “Subsidies for Services Sectors – Information Contained in WTO Trade Policy Reviews.” This Note generated some discussion, but did not yield any further advancement on the issue. The United States continues to press for responses to a series of questions it put forward in 2010 (contained in document S/WPGR/W/59), designed to identify specific concerns that new subsidies disciplines would aim to address. To date, there has not been a single response. Absent any real evidence of a problem to solve, Members have no clear impetus to begin developing new disciplines.

## **Prospects for 2014**

Future work in the WPGR will likely involve the development of a dedicated discussion on ESMs in RTAs; an examination in greater detail of government procurement and its impact on trade in services based on the WTO Staff Working Paper; and little movement in the area of subsidies in services.

## **4. Committee on Specific Commitments**

### **Status**

The Committee on Specific Commitments (CSC) examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the GATS negotiations, and oversees the application of the procedures for the modification of schedules under GATS Article XXI. The CSC also oversees implementation of commitments in Members’ schedules in sectors for which there is no sectoral body, which is currently the case for all sectors except financial services. As a result of the impasse in the overall Doha Round negotiations, the CSC has focused its efforts on ways to improve the classification of services, so that scheduled commitments reflect the service activity, particularly with regard to new or evolving services.

### **Major Issues in 2013**

The CSC held meetings in March, June, and October 2013.

The CSC resumed its ongoing discussion of classification issues in various sectors, including postal and courier, distribution, maritime transport, logistics, and legal services. The Secretariat prepared a compilation of these issues to facilitate Members’ discussions. In addition, the Secretariat prepared a

Background Note examining services classification issues arising in WTO disputes. On scheduling issues, it was suggested that Members could share scheduling experiences based on trade agreements outside the WTO on an educational basis to ensure clarity and uniformity of services commitments in future negotiations. The Chair is consulting further on that idea.

### **Prospects for 2014**

Work will continue on technical issues.

## **H. Dispute Settlement Understanding**

### **Status**

The Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding or DSU), which is annexed to the WTO Agreement, provides a mechanism to settle disputes under the Uruguay Round Agreements. Thus, it is key to the enforcement of U.S. rights under these Agreements.

The DSU is administered by the Dispute Settlement Body (DSB), which consists of representatives of the entire membership of the WTO and is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB, and authorize retaliation. The DSB makes all its decisions by consensus unless the WTO Agreement provides otherwise.

### **Major Issues in 2013**

The DSB met 13 times in 2013 to oversee disputes and to address responsibilities such as appointing members to the Appellate Body and approving additions to the roster of governmental and nongovernmental panelists.

*Roster of Governmental and Non-Governmental Panelists:* Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be “well-qualified,” such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of nongovernmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates’ qualifications and encouraging the appointment of well qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2013, the DSB approved by consensus a number of additional names for the roster. The United States scrutinized the credentials of these candidates to assure the quality of the roster.

Pursuant to the requirements of the Uruguay Round Agreements Act (URAA), the present WTO panel roster appears in the background information in Annex II. The list in the roster notes the areas of expertise of each roster member (goods, services, and/or TRIPS).

*Rules of Conduct for the DSU:* The DSB completed work on a code of ethical conduct for WTO dispute settlement and, on December 3, 1996, adopted the Rules of Conduct for the Understanding on Rules and

Procedures Governing the Settlement of Disputes. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes in these Rules in 2013.

The Rules of Conduct elaborate on the ethical standards built into the DSU to maintain the integrity, impartiality, and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals called upon to participate in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts.

The Rules of Conduct also provide parties an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by the U.S. Congress in section 123(c) of the URAA, which directed USTR to seek conflict of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also: (1) arbitrators; (2) experts participating in the dispute settlement mechanism (*e.g.*, the Permanent Group of Experts under the SCM Agreement); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chair of the Textile Monitoring Body (TMB) and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings, or observations under the Agreement on Textiles and Clothing; and (5) the support staff of the Appellate Body.

As noted above, the Rules of Conduct established a disclosure based system. Examples of the types of information that covered persons must disclose are set forth in Annex II to the Rules, and include: (1) financial interests, business interests, and property interests relevant to the dispute in question; (2) professional interests; (3) other active interests; (4) considered statements of personal opinion on issues relevant to the dispute in question; and (5) employment or family interests.

*Appellate Body:* Pursuant to the DSU, the DSB appoints seven persons to serve on an Appellate Body, which is to be a standing body with members serving four year terms, except for three initial appointees determined by lot whose terms expired at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. The DSB also agreed that Appellate Body members would serve on a part-time basis and sit periodically in Geneva. The original seven Appellate Body members were Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Mr. Claus-Dieter Ehlermann of Germany, Mr. Said El-Naggar of Egypt, Mr. Florentino Feliciano of the Philippines, Mr. Julio Lacarte-Muró of Uruguay, and Mr. Mitsuo Matsushita of Japan. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano, and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing on December 11, 1997. At its meeting held on October 27, 1999 and November 3, 1999, the DSB agreed to renew the terms of Messrs. Bacchus and Beeby for a final term of four years, commencing on December 11, 1999, and to extend the terms of Mr. El-Naggar and Mr. Matsushita until the end of March 2000. On April 7, 2000, the DSB agreed to appoint Mr. Georges Michel Abi-Saab of Egypt and Mr. A.V. Ganesan of India to a term of four years commencing on June 1, 2000. On May 25, 2000, the DSB agreed to the appointment of Mr. Yasuhei Taniguchi of Japan to serve through December 10, 2003, the remainder of the term of Mr. Beeby, who passed away on March 19, 2000. On September 25, 2001, the DSB agreed to appoint Mr. Luiz Olavo Baptista of Brazil, Mr. John S. Lockhart of Australia, and Mr. Giorgio Sacerdoti of Italy to a term of four years commencing on December 11, 2001. On November 7, 2003, the DSB agreed to appoint Ms. Merit Janow of the United States to a term of four years commencing on December 11, 2003, to reappoint Mr. Taniguchi for a final term of four years commencing on December 11, 2003, and to reappoint Mr. Abi-Saab and Mr. Ganesan for a final term of four years commencing on June 1, 2004. On September 27, 2005, the DSB agreed to reappoint Mr. Baptista, Mr. Lockhart, and Mr. Sacerdoti for a

final term of four years commencing on December 12, 2005. On July 31, 2006, the DSB agreed to the appointment of Mr. David Unterhalter of South Africa to serve through December 11, 2009, the remainder of the term of Mr. Lockhart, who passed away on January 13, 2006. At its meeting held on November 19 and 27, 2007, the DSB agreed to appoint Ms. Lilia R. Bautista of the Philippines and Ms. Jennifer Hillman of the United States as members of the Appellate Body for four years commencing on December 11, 2007, and to appoint Mr. Shotaro Oshima of Japan and Ms. Yuejiao Zhang of China as members of the Appellate Body for four years commencing on June 1, 2008. On November 12, 2008, Mr. Baptista notified the DSB that he was resigning for health reasons, effective in 90 days. On December 22, 2008, the DSB decided to deem the term of the position to which Mr. Baptista was appointed to expire on June 30, 1999, and to fill the position previously held by Mr. Baptista for a four-year term. On June 19, 2009, the DSB agreed to appoint Mr. Ricardo Ramírez Hernández of Mexico as a member of the Appellate Body for four years commencing on July 1, 2009, to appoint Mr. Peter Van den Bossche of Belgium as a member of the Appellate Body for four years commencing on December 12, 2009, and to reappoint Mr. Unterhalter for a final term of four years commencing on December 12, 2009. On November 18, 2011, the DSB agreed to appoint Mr. Thomas Graham of the United States and Mr. Ujal Bhatia of India as members of the Appellate Body for four years commencing on December 11, 2011. On May 24, 2012, the DSB agreed to appoint Mr. Seung Wha Chang of Korea as a member of the Appellate Body for four years commencing on June 1, 2012. On March 26, 2013, the DSB agreed to reappoint Mr. Ricardo Ramírez Hernández of Mexico for a final term of four years commencing on July 1, 2013. On November 25, 2013, the DSB agreed to reappoint Mr. Peter Van den Bossche of Belgium for a final term of four years commencing on December 12, 2013 (*the names and biographical data for the Appellate Body members during 2013 are included in Annex II of this report*).

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued a revision of the Working Procedures, providing for a two year term for the first Chairperson, and one year terms for subsequent Chairpersons. In 2001, the Appellate Body amended its working procedures to provide for no more than two consecutive terms for a Chairperson. Mr. Lacarte-Muró, the first Chairperson, served until February 7, 1998; Mr. Beeby served as Chairperson from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairperson from February 7, 1999 to February 6, 2000; Mr. Feliciano served as Chairperson from February 7, 2000 to February 6, 2001; Mr. Ehlermann served as Chairperson from February 7, 2001 to December 10, 2001; Mr. Bacchus served as Chairperson from December 15, 2001 to December 10, 2003; Mr. Abi-Saab served as Chairperson from December 13, 2003 to December 12, 2004; Mr. Taniguchi served as Chairperson from December 17, 2004 to December 16, 2005; Mr. Ganesan served as Chairperson from December 17, 2005 to December 16, 2006; Mr. Sacerdoti served as Chairperson from December 17, 2006 to December 17, 2007; Mr. Baptista served as Chairperson from December 18, 2007, to December 17, 2008; Mr. Unterhalter served as Chairperson from December 18, 2008 to December 16, 2010; Ms. Bautista served as Chairperson from December 17, 2010 to June 14, 2011; Ms. Hillman served as Chairperson from June 15, 2011 until December 10, 2011; Ms. Zhang served as Chairperson from December 11, 2011 to December 31, 2012; and Mr. Ramirez served as Chairperson from January 1, 2013 to December 31, 2013.

In 2013, the Appellate Body issued two reports, on challenges by the EU and Japan to Canada's measures relating to renewable energy generation. In both disputes, the United States participated as a third party.

*Dispute Settlement Activity in 2013:* During the DSB's first 18 years in operation, WTO Members filed 471 requests for consultations (22 in 1995, 42 in 1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, 37 in 2002, 26 in 2003, 19 in 2004, 11 in 2005, 20 in 2006, 14 in 2007, 19 in 2008, 14 in 2009, 17 in 2010, 8 in 2011, 27 in 2012, and 17 in 2013). During that period, the United States filed 106 complaints against other Members' measures and received 121 complaints on U.S. measures. Several of these complaints involved the same issues as other complaints. A number of disputes commenced in

earlier years remained active in 2013. What follows is a description of those disputes in which the United States was a complainant, defendant, or third party during the past year.

## **Prospects for 2014**

While there were improvements to the multilateral trading system's dispute settlement system as a result of the Uruguay Round, there is still room for improvement. Accordingly, the United States has used the opportunity of the ongoing review to seek improvements in its operation, including greater transparency. In 2014, the United States expects the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. Participants will continue to consider reform proposals in 2014.

## **Disputes Brought by the United States**

In 2013, the United States continued to be one of the most active participants in the WTO dispute settlement process. This section includes brief summaries of dispute settlement activity in 2013 where the United States was a complainant (listed alphabetically by responding party). As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in a number of cases the United States has been able to achieve satisfactory outcomes by invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel proceedings.

### *Argentina — Measures Affecting the Importation of Goods (DS444)*

On August 21, 2012, the United States requested consultations with Argentina regarding certain measures affecting the importation of goods into Argentina. These measures include the broad use of non-transparent and discretionary import licensing requirements that have the effect of restricting U.S. exports as well as burdensome trade balancing commitments that Argentina requires as a condition for authorization to import goods.

Between 2008 and 2013, Argentina greatly expanded the list of products subject to non-automatic import licensing requirements, with import licenses required for approximately 600 eight-digit tariff lines in Argentina's goods schedule. In February 2012, Argentina adopted an additional licensing requirement that applies to all imports of goods into the country. In conjunction with these licensing requirements, Argentina has adopted informal trade balancing requirements and other schemes, whereby companies seeking to obtain authorization to import products must agree to export goods of an equal or greater value, make investments in Argentina, lower prices of imported goods, and/or refrain from repatriating profits.

Through these measures, Argentina appears to have acted inconsistently with its WTO obligations. In particular, the measures appear to be inconsistent with Article XI:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), which generally prohibits restrictions on imports of goods, including those made effective through import licenses. The measures also appear to breach various provisions of the *Agreement on Import Licensing Procedures*, which contains requirements related to the administrative procedures used to implement import licensing regimes.

The United States and Argentina held consultations on September 20-21, 2012, but these consultations failed to resolve the dispute. On December 17, 2012, the United States, together with the European Union and Japan, requested the WTO to establish a dispute settlement panel to examine Argentina's import restrictions, and a panel was established on January 28, 2013. The Director General composed the

panel as follows: Ms. Leora Blumberg, Chair; and Ms. Claudia Orozco and Mr. Graham Sampson, Members.

Argentina repealed its product-specific non-automatic import licenses which had been the subject of consultations and the U.S. panel request on January 25, 2013. However, it continued to maintain a discretionary non-automatic import licensing requirement applicable to all goods imported into Argentina, as well as informal trade balancing and similar requirements.

The panel is expected to issue its report in 2014.

*China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products (DS363)*

On April 10, 2007, the United States requested consultations with China regarding certain measures related to the import and/or distribution of imported films for theatrical release, audiovisual home entertainment products (e.g., video cassettes and DVDs), sound recordings, and publications (e.g., books, magazines, newspapers, and electronic publications). On July 10, 2007, the United States requested supplemental consultations with China regarding certain measures pertaining to the distribution of imported films for theatrical release and sound recordings.

Specifically, the United States was concerned that certain Chinese measures: (1) restricted trading rights (such as the right to import goods into China) with respect to imported films for theatrical release, audiovisual home entertainment products, sound recordings, and publications; and (2) restricted market access for, or discriminated against, imported films for theatrical release and sound recordings in physical form, and foreign service providers seeking to engage in the distribution of certain publications, audiovisual home entertainment products, and sound recordings. The Chinese measures at issue appeared to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and *General Agreement on Trade in Services* (GATS), as well as specific commitments made by China in its WTO accession agreement.

The United States and China held consultations on June 5-6, 2007 and July 31, 2007, but they did not resolve the dispute. On October 10, 2007, the United States requested the establishment of a panel, and on November 27, 2007, a panel was established. On March 27, 2008, the Director General composed the panel as follows: Mr. Florentino P. Feliciano, Chair; and Mr. Juan Antonio Dorantes and Mr. Christian Häberli, Members.

The report of the panel was circulated to WTO Members and made public on August 12, 2009. In the final report, the panel made three critical sets of findings. First, the panel found that China's restrictions on foreign invested enterprises (and in some cases foreign individuals) from importing films for theatrical release, audiovisual home entertainment products, sound recordings, and publications are inconsistent with China's trading rights commitments as set forth in China's protocol of accession to the WTO. The panel also found that China's restrictions on the right to import these products are not justified by Article XX(a) of the GATT 1994. Second, the panel found that China's prohibitions and discriminatory restrictions on foreign owned or controlled enterprises seeking to distribute publications and audiovisual home entertainment products and sound recordings over the Internet are inconsistent with China's obligations under the GATS. Third, the panel also found that China's treatment of imported publications is inconsistent with the national treatment obligation in Article III:4 of the GATT 1994.

In September 2009, China filed a notice of appeal to the WTO Appellate Body, appealing certain of the panel's findings. First, China contended that its restrictions on importation of the products at issue are justified by an exception related to the protection of public morals. Second, China claimed that while it

had made commitments to allow foreign enterprises to partner in joint ventures with Chinese enterprises to distribute music, those commitments did not cover the electronic distribution of music. Third, and finally, China claimed that its import restrictions on films for theatrical release and certain types of sound recordings and DVDs were not inconsistent with China's commitments related to the right to import because those products were not goods and therefore were not subject to those commitments. The United States filed a cross appeal on one aspect of the panel's analysis of China's defense under GATT Article XX(a). On December 21, 2009, the Appellate Body issued its report. The Appellate Body rejected each of China's claims on appeal. The Appellate Body also found that the Panel had erred in the aspect of the analysis that the United States had appealed. The DSB adopted the Appellate Body and panel reports on January 19, 2010. On July 12, 2010, the United States and China notified the DSB that they had agreed on a 14 month period of time for implementation, to end on March 19, 2011.

China subsequently issued several revised measures, and repealed other measures, relating to the market access restrictions on books, newspapers, journals, DVDs and music. As China acknowledged, however, it did not issue any measures addressing theatrical films. Instead, China proposed bilateral discussions with the United States in order to seek an alternative solution. The United States and China reached agreement in February 2012 on a Memorandum of Understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year and substantial additional revenue for foreign film producers. The MOU will be reviewed after five years in order to discuss additional compensation for the U.S. side.

#### *China – Measures Relating to the Exportation of Various Raw Materials (DS394)*

On June 23, 2009, the United States requested consultations with China regarding China's export restraints on a number of important raw materials. The materials at issue are: bauxite, coke, fluorspar, magnesium, manganese, silicon metal, silicon carbide, yellow phosphorus, and zinc. These materials are inputs for numerous downstream products in the steel, aluminum, and chemical sectors.

The United States challenged China's export restraints on these raw materials as inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994*, as well as specific commitments made by China in its WTO accession agreement. Specifically, the United States challenged certain Chinese measures that impose: (1) QRs in the form of quotas on exports of bauxite, coke, fluorspar, silicon carbide, and zinc ores and concentrates, as well as certain intermediate products incorporating some of these inputs; and (2) export duties on several raw materials. The United States also challenged other related export restraints, including export licensing restrictions, minimum export price requirements, and requirements to pay certain charges before certain products can be exported, as well as China's failure to publish relevant measures.

The United States and China held consultations on July 30 and September 1-2, 2009, but did not resolve the dispute. The European Union and Mexico also requested and held consultations with China on these measures.

On November 19, 2009, the European Union and Mexico joined the United States in requesting the establishment of a panel, and on December 21, 2009, the WTO Dispute Settlement Body established a single panel to examine all three complaints. On March 29, 2010, the Director General composed the panel as follows: Mr. Elbio Rosselli, Chair; Ms. Dell Higgie and Mr. Nugroho Wisnumurti, Members. The panel's final report was circulated to Members on July 5, 2011. The panel found that the export duties and export quotas that China maintains on various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, and zinc constitute a breach of WTO rules and that China failed to justify those measures as legitimate conservation measures, environmental protection measures, or short supply measures. The panel also found that China's imposition of minimum export price, export

licensing, and export quota administration requirements on these materials, as well as China's failure to publish certain measures related to these requirements, is inconsistent with WTO rules.

On January 30, 2012, the Appellate Body issued a report affirming the panel's findings on all significant claims. In particular, the Appellate Body confirmed that: China may not seek to justify its imposition of export duties as environmental or conservation measures; China failed to demonstrate that certain of its export quotas were justified as measures for preventing or relieving a critical shortage; and the Panel correctly made recommendations for China to bring its measures into conformity with its WTO obligations. The Appellate Body also found that the Panel erred in making findings related to licensing and administration claims, declaring those findings moot and in its legal interpretation of one element of the exception set forth in Article XX(g) of the GATT 1994.

The DSB adopted the Appellate Body report, and the Panel report as modified by the Appellate Body report, on February 22, 2012. The United States, the European Union, Mexico, and China agreed that China would have until December 31, 2012, to comply with the rulings and recommendations.

At the conclusion of the reasonable period of time for China to comply, it appeared that China had eliminated the export duties and export quotas on the products at issue in this dispute, as of January 1, 2013. However, China maintains export licensing requirements for a number of the products. The United States continues to monitor actions by China that might operate to restrict exports of raw materials at issue in this dispute.

#### *China – Certain Measures Affecting Electronic Payment Services (DS413)*

On September 15, 2010, the United States requested consultations with China concerning issues relating to certain restrictions and requirements maintained by China pertaining to electronic payment services (EPS) for payment card transactions and the suppliers of those services. EPS enable transactions involving credit card, debit card, charge card, check card, automated teller machine (ATM) card, prepaid card, or other similar card or money transmission product, and manage and facilitate the transfers of funds between institutions participating in such card-based electronic payment transactions.

EPS provide the essential architecture for card-based electronic payment transactions, and EPS are supplied through complex electronic networks that streamline and process transactions and offer an efficient and reliable means to facilitate the movement of funds from the cardholders purchasing goods or services to the individuals or businesses that supply them. EPS consist of a network, rules and procedures, and operating system that allow cardholders' banks to pay merchants' banks the amounts they are owed. EPS suppliers receive, check and transmit the information that processors need to conduct the transactions. The rules and procedures established by the EPS supplier give the payment system stability and integrity, and enable net payment flows among the institutions involved in card-based electronic transactions. The best known EPS suppliers are credit and debit card companies based in the United States.

China instituted and maintains measures that operate to block foreign EPS suppliers, including U.S. suppliers, from supplying these services, and that discriminate against foreign suppliers at every stage of a card-based electronic payment transaction. The United States challenged China's measures affecting EPS suppliers as inconsistent with China's national treatment and market access commitments under the WTO's General Agreement on Trade in Services (GATS).

The United States and China held consultations on October 27 and 28, 2010, but these consultations did not resolve the dispute. The United States requested the establishment of a panel on February 11, 2011. On March 25, 2011, the DSB established a panel to consider the claims of the United States. On July 4, 2011, the Director General composed the panel as follows: Mr. Virachai Plasai, Chair; and Ms. Elaine

Feldman and Mr. Martín Redrado, Members. The panel held its meetings with the parties on October 26-27, 2011, and December 13-14, 2011.

The Panel issued its report to the Parties on May 25, 2012. The Panel Report was circulated to the WTO Membership on July 16, 2012. China did not appeal the Panel's findings, and the Panel Report was adopted by the DSB on August 31, 2012.

The United States prevailed on significant threshold issues, including:

- EPS is a single service (or EPS are integrated services) and each element of EPS is necessary for a payment card transaction to occur.
- EPS is properly classified under the same subsector, item (viii) of the GATS Annex on Financial Services, which appears as subsector (d) of China's Schedule ("All payment and money transmission services, including credit, charge, and debit cards...") as the United States argued, and no element of EPS is classified as falling in item xiv of the GATS Annex on Financial services ("settlement and clearing of financial assets, including securities, derivative products, and other negotiable instruments"), as China argued and for which China has no WTO commitments.
- In addition to the "four-party" model of EPS (*e.g.*, Visa and MasterCard), the "three-party" model (*e.g.*, American Express) and other variations, and third party issuer processor and merchant processors also are covered by subsector (d) of China's Schedule.

With respect to the U.S. GATS national treatment claims, the Panel found the following violations:

- China imposes requirements on issuers of payment cards that payment cards issued in China bear the "Yin Lian/UnionPay logo," and furthermore, through these, China requires issuers to become members of the CUP network, and that the cards they issue in China meet certain uniform business specifications and technical standards, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;
- China imposes requirements that all terminals (ATMs, merchant processing devices, and point of sale (POS) terminals) in China that are part of the national card inter-bank processing network be capable of accepting all payment cards bearing the Yin Lian/UnionPay logo, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;
- China imposes requirements on acquirers (those institutions that acquire payment card transactions and that maintain relationships with merchants) to post the Yin Lian/UnionPay logo, and furthermore, China imposes requirements that acquirers join the CUP network and comply with uniform business standards and technical specifications of inter-bank interoperability, and that terminal equipment operated or provided by acquirers be capable of accepting bank cards bearing the Yin Lian/UnionPay logo, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;

With respect to the U.S. GATS market access claims, the Panel found that China's requirements related to certain Hong Kong and Macao transactions are inconsistent with Article XVI:2(a) of the GATS because,

contrary to China's Sector 7.B(d) mode 3 market access commitments, China maintains a limitation on the number of service suppliers in the form of a monopoly.

The United States and China agreed that a reasonable period of time for China to implement the DSB recommendations and rulings would be 11 months from the date of adoption of the recommendations and rulings, that is, until July 31, 2013.

To date, China has taken some compliance steps by removing certain restrictive measures, but it has not yet issued the necessary affirmative regulations to establish a licensing process for foreign EPS suppliers to operate in China. The United States continues to engage China in discussions regarding further regulatory steps China intends to take in the EPS sector.

*China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States (DS414)*

On September 15, 2010, the United States filed a request for consultations regarding China's imposition of antidumping duties (ADs) and countervailing duties (CVDs) on imports of grain oriented flat rolled electrical steel (GOES) from the United States.

In June 2009, China's Ministry of Commerce (MOFCOM) initiated two investigations on GOES from the United States. On April 10, 2010, based on determinations that American steel had been dumped into their market and subsidized, MOFCOM imposed antidumping duties ranging from 7.8 percent to 64.8 percent and countervailing duties ranging from 11.7 percent and 44.6 percent.

China's antidumping and subsidy determinations in the GOES investigations appeared to violate numerous WTO requirements. Specifically, the United States was concerned, *inter alia*, that China initiated the countervailing duty investigation without sufficient evidence; failed to objectively examine the evidence; failed to disclose "essential facts" underlying its conclusions; failed to provide an adequate explanation of its calculations and legal conclusions; improperly used investigative procedures; and failed to provide non-confidential summaries of Chinese submissions.

The United States and China held consultations on November 1, 2010, but did not resolve the dispute. In March 2011, the United States requested the establishment of a panel. In May 2011, the DSB established a panel. On May 10, 2011, the panel was composed by the agreement of the parties, as follows: Mr. John Adank, Chair; and Mr. Anthony Abad and Mr. Jan Heukelman, Members. Meetings with the Panel took place in September and December 2011.

In June 2012, the Panel issued its report, upholding U.S. claims that China had breached a number of substantive and procedural obligations under the WTO Agreement in imposing AD/CVDS on GOES from the United States. The Panel found that China initiated the countervailing duty investigation with respect to several alleged programs based on insufficient evidence, failed to provide non-confidential summaries of submissions containing confidential information, calculated the subsidy rates for U.S. companies in a manner unsupported by the facts, calculated the "all others" subsidy rate and dumping margin without a factual basis, failed to disclose essential facts and failed to explain the calculation of the "all others" subsidy rate and dumping margin, and made unsupported findings that U.S. exports caused injury to China's domestic industry.

In July 2012, China filed a notice of appeal challenging certain aspects of the panel report. The Appellate Body held a hearing in August 2012. In October 2012, the Appellate Body issued its report, and rejected all of China's claims on appeal.

In November 2012, the Dispute Settlement Body adopted the panel and Appellate Body reports. The same month, China announced its intention to implement the DSB recommendations and rulings in the dispute, and stated that it would need a reasonable period of time (RPT) in which to do so.

In early 2013, following unsuccessful bilateral discussions on the length of the RPT, the United States requested that an arbitrator determine the RPT pursuant to Article 21.3(c) of the DSU. The oral hearing was held on April 4, 2013, and the arbitrator issued the award of 8.5 months on May 3, 2013. The RPT expired on July 31, 2013. That same day, China issued a re-determination based on a review of the existing evidence and information in the primary AD/CVD investigations at issue. The re-determination continued the imposition of AD/CVDs on imports of GOES from the United States. The United States is evaluating China's re-determination closely to assess its implications for China's compliance in this dispute.

*China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum (DS431)*

On March 13, 2012, the United States requested consultations with China regarding China's export restraints on rare earths, tungsten and molybdenum. These materials are vital inputs in the manufacture of electronics, automobiles, steel, petroleum products, and a variety of chemicals that are used to produce both everyday items and highly sophisticated, technologically advanced products, such as hybrid vehicle batteries, wind turbines, and energy efficient lighting.

Specifically, the United States is concerned that certain Chinese measures: (1) impose QRs in the form of quotas on exports of rare earth, tungsten and molybdenum ores and concentrates, as well as certain intermediate products incorporating some of these inputs; (2) impose export duties on rare earths, tungsten and molybdenum; and (3) impose other export restraints including prior export performance and minimum capital requirements. The measures at issue appear to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994*, as well as specific commitments made by China in its WTO accession agreement.

The United States, together with the European Union and Japan, held consultations with China on April 25-26, 2012, but the consultations did not resolve the dispute.

On June 29, 2012, the European Union and Japan joined the United States in requesting the establishment of a panel, and on July 23, 2012, the WTO Dispute Settlement Body established a single panel to examine all three complaints. On September 24, 2012, the Director General composed the panel as follows: Mr. Nacer Benjelloun-Touimi, Chair; Mr. Hugo Cayrús and Mr. Darlington Mwape, members. The panel held its meetings with the parties on February 26-28, 2013, and June 18-19, 2013. Circulation of the panel report is expected in 2014.

*China — Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States (DS427)*

On September 20, 2011, the United States filed a request for consultations regarding China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of chicken broiler products from the United States.

On September 27, 2009, China's Ministry of Commerce (MOFCOM) initiated antidumping and countervailing duty investigations of imports of chicken broiler products from the United States. On September 26, 2010 and August 30, 2010, China imposed antidumping and countervailing duties, respectively. In levying the antidumping and countervailing duties, China appears to have acted inconsistently with numerous WTO obligations, such as abiding by applicable procedures and legal

standards, including by finding injury to China's domestic industry without objectively examining the evidence, by improperly calculating dumping margins and subsidization rates, and by failing to adhere to various transparency and due process requirements.

The United States and China held consultations on October 28, 2011, but were unable to resolve the dispute. On December 8, 2011, the United States requested the establishment of a panel. The DSB established a panel on January 20, 2012. On May 24, 2012, the WTO Director General composed the panel as follows: Mr. Faizullah Khilji, Chair; and Mr. Serge Fréchette and Ms. Claudia Orozco, members. The Panel held its meetings with the parties on September 27-28, 2012, and December 4-5, 2012.

The Panel's report, which upheld nearly all the claims brought by the United States, was circulated on August 2, 2013. In particular, the Panel found MOFCOM's substantive determinations and procedural conduct in levying the duties was inconsistent with China's WTO obligations. With respect to the substantive errors, the Panel's report found China breached its obligations by:

- Levying countervailing duties on U.S. producers in excess of the amount of subsidization;
- Relying on flawed price comparisons for its determination that China's domestic industry had suffered injury;
- Unjustifiably declining to use the books and records of two major U.S. producers in calculating their costs of production; failing to consider any of the alternative allocation methodologies presented by U.S. producers and instead using a weight-based methodology resulting in high dumping margins; improperly allocating distinct processing costs to other products inflating dumping margins; and allocating one producer's costs in producing non-exported products to exported products creating an inflated dumping margin; and
- Improperly calculating the "all others" dumping margin and subsidy rates.

With respect to the procedural failings, the Panel found that China breached its WTO obligations by:

- Denying a hearing request during the investigation;
- Failing to require the Chinese industry to provide non-confidential summaries of information it provided to MOFCOM; and
- Failing to disclose essential facts to U.S. companies including how their dumping margins were calculated.

The DSB adopted the panel report on September 25, 2013. On December 19, 2013, the United States and China agreed that the reasonable period of time for China to implement the Panel's findings would be 9 months and 14 days, i.e., July 9, 2014.

#### *China — Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States (DS440)*

On July 5, 2012, the United States filed a request for consultations regarding China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of certain automobiles from the United States.

In November 2009, China's Ministry of Commerce (MOFCOM) had initiated two investigations on certain automobiles from the United States. On December 14, 2011, based on affirmative determinations of injurious dumping and subsidization with respect to certain American-made automobiles, MOFCOM imposed antidumping duties ranging from 2.0 percent to 21.5 percent and countervailing duties ranging from 6.2 percent to 12.9 percent.

China's dumping and subsidy determinations in the autos investigations appear to breach numerous WTO obligations. Specifically, the United States is concerned that China failed to objectively examine the evidence, and made unsupported findings of injury to China's domestic industry. In addition, China failed to disclose "essential facts" underlying its conclusions, failed to provide an adequate explanation of its conclusions, improperly used investigative procedures, and failed to provide non-confidential summaries of Chinese submissions.

The United States and China held consultations on August 23, 2012, but did not resolve the dispute. In September 2012, the United States requested the establishment of a panel, and in October 2012 the DSB established a panel. On February 11, 2013, the Director General composed the panel as follows: Mr. Pierre Pettigrew, Chair; and Ms. Andrea Marie Brown and Ms. Enie Nerie De Ross, members. The panel held meetings with the parties on June 25-26, 2013, and on October 15, 2013. The panel is expected to issue its report in 2014.

*China — Certain Measures Affecting the Automobile and Automobile-Parts Industries (DS450)*

On September 17, 2012, the United States requested consultations with China concerning China's auto and auto parts "export base" program. Under this program, China appears to provide extensive subsidies to auto and auto-parts exporting enterprises located in designated regions known as "export bases." It appears that China is providing these subsidies in contravention of its obligation under Article 3 of the *Agreement on Subsidies and Countervailing Measures* (Subsidies Agreement), which prohibits the provision of subsidies contingent upon export performance. China also appears to have failed to comply with various transparency related obligations, including its obligation to notify the challenged subsidies as required by the Subsidies Agreement, and to publish the measures at issue in an official journal and to translate the measures into one or more of the official languages of the WTO as required by China's Protocol of Accession.

The United States and China held consultations in November 2012 and continue to engage in discussions to explore ways for China to address the concerns raised by the United States in this dispute.

*European Union – Measures concerning meat and meat products (hormones) (DS26, 48)*

The United States and Canada challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. The panel found that the EU ban is inconsistent with the EU's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), and that the ban is not based on science, a risk assessment, or relevant international standards.

Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that, while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. In this case, the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed.

Because the EU did not comply with the recommendations and rulings of the DSB by May 13, 1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions with respect to certain products of the EU. The value of the suspension of concessions represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the level of suspension to be

\$116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of \$116.8 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products, but did not make any changes.

On November 3, 2003, the EU notified the WTO that it had amended its hormones ban. As discussed below (DS320), on November 8, 2004, the EU requested consultations with respect to “the United States’ continued suspension of concessions and other obligations under the covered agreements” in the EU – Hormones dispute. The Appellate Body issued its report in the *U.S. – Continued Suspension* (WT/DS320) dispute on October 16, 2008.

On October 31, 2008, USTR again announced that it was considering changes to the list of EU products on which 100 percent *ad valorem* duties had been imposed in 1999. A modified list of EU products was announced by USTR on January 15, 2009.

On December 22, 2008, the EU requested consultations with the United States and Canada pursuant to Articles 4 and 21.5 of the DSU, regarding the EU’s implementation of the DSB’s recommendations and rulings in the EU–Hormones dispute. In its consultations request, the EU stated that it considered that it has brought into compliance the measures found inconsistent in EU–Hormones by, among other things, adopting its revised ban in 2003. Consultations took place in February 2009.

Pursuant to the MOU, further litigation in the EU–Hormones compliance proceeding has been suspended.

The initial phase outlined in the Beef MOU ran from August 2009 through August 2012. During phase 1, the EU provided increased, duty-free access to the EU market for U.S. beef produced without certain growth promoting hormones. The United States was permitted to maintain increased duties on a reduced list of EU products.

In August 2012 the United States and the EU, by mutual agreement, entered into phase 2 of the Beef MOU. In accordance with its phase 2 obligations, the EU increased the amount of duty free access to the EU market for U.S. beef produced without certain growth promoting hormones. Consistent with its phase 2 obligations, the United States is no longer applying increased duties on EU products.

#### *European Union – Measures affecting the approval and marketing of biotechnology products (DS291)*

Since the late 1990s, the EU has pursued policies that undermine agricultural biotechnology and trade in biotechnological foods. After approving a number of biotechnological products through October 1998, the EU adopted an across the board moratorium under which no further biotechnology applications were allowed to reach final approval. In addition, six Member States (Austria, France, Germany, Greece, Italy, and Luxemburg) adopted unjustified bans on certain biotechnological crops that had been approved by the EU prior to the adoption of the moratorium. These measures have caused a growing portion of U.S. agricultural exports to be excluded from EU markets, and unfairly cast concerns about biotechnology products around the world, particularly in developing countries.

On May 13, 2003, the United States filed a consultation request with respect to: (1) the EU’s moratorium on all new biotechnology approvals; (2) delays in the processing of specific biotech product applications; and (3) the product specific bans adopted by six EU Member States (Austria, France, Germany, Greece, Italy, and Luxembourg). The United States requested the establishment of a panel on August 7, 2003. Argentina and Canada submitted similar consultation and panel requests. On August 29, 2003, the DSB established a panel to consider the claims of the United States, Argentina, and Canada. On March 4,

2003, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Mohan Kumar and Mr. Akio Shimizu, Members.

The panel issued its report on September 29, 2006. The panel agreed with the United States, Argentina, and Canada that the disputed measures of the EU, Austria, France, Germany, Greece, Italy, and Luxembourg are inconsistent with the obligations set out in the SPS Agreement. In particular:

- The panel found that the EU adopted a *de facto*, across the board moratorium on the final approval of biotechnological products, starting in 1999 up through the time the panel was established in August 2003.
- The panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in “undue delays” in violation of the EU’s obligations under the SPS Agreement.
- The panel identified specific, WTO inconsistent “undue delays” with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.
- The panel upheld the United States’ claims that, in light of positive safety assessments issued by the EU’s own scientists, the bans adopted by six EU Member States on products approved in the EU prior to the moratorium were not supported by scientific evidence, and were thus inconsistent with WTO rules.

The DSB adopted the panel report on November 21, 2006. At the meeting of the DSB held on December 19, 2006, the EU notified the DSB that the EU intended to implement the recommendations and rulings of the DSB in these disputes, and stated that it would need a reasonable period of time for implementation. On June 21, 2006, the United States, Argentina, and Canada notified the DSB that they had agreed with the EU on a one year period of time for implementation, to end on November 21, 2007. On November 21, 2007, the United States, Argentina, and Canada notified the DSB that they had agreed with the EU to extend the implementation period to January 11, 2008.

On January 17, 2008, the United States submitted a request for authorization to suspend concessions and other obligations with respect to the EU under the covered agreements at an annual level equivalent to the annual level of nullification or impairment of benefits accruing to the United States resulting from the EU’s failure to bring measures concerning the approval and marketing of biotechnology products into compliance with the recommendations and rulings of the DSB. On February 6, 2008, the European Union requested arbitration under Article 22.6 of the DSU, claiming that the level of suspension proposed by the United States was not equivalent to the level of nullification or impairment. The European Union and the United States mutually agreed to suspend the Article 22.6 arbitration proceedings as of February 18, 2008. The United States may request resumption of the proceedings following a finding by the DSB that the EU has not complied with the recommendations and rulings of the DSB.

Subsequent to the suspension of the Article 22.6 proceeding, the United States has been monitoring EU developments and has been engaged with the EU in discussions with the goal of normalizing trade in biotechnology products.

#### *European Union – Subsidies on large civil aircraft (DS316)*

On October 6, 2004, the United States requested consultations with the European Union, as well as with Germany, France, the United Kingdom, and Spain, with respect to subsidies provided to Airbus, a

manufacturer of large civil aircraft. The United States alleged that such subsidies violated various provisions of the Subsidies and Countervailing Measures Agreement, as well as Article XVI:1 of the GATT 1994. Consultations were held on November 4, 2004. On January 11, 2005, the United States and the EU agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three month time frame for the negotiations and agreed that, during negotiations, they would not request panel proceedings.

The United States and the European Union were unable to reach an agreement within the 90 day time frame. Therefore, the United States filed a request for a panel on May 31, 2005. The panel was established on July 20, 2005. The U.S. request challenged several types of EU subsidies that appear to be prohibited, actionable, or both.

On October 17, 2005, the Deputy Director General composed the panel as follows: Mr. Carlos Pérez del Castillo, Chair; and Mr. John Adank and Mr. Thinus Jacobsz, Members. The panel met with the parties on March 20-21 and July 25-26, 2007, and met with the parties and third parties on July 24, 2007. The panel granted the parties' request to hold part of its meetings with the parties in public session. This portion of the panel's meetings was videotaped and reviewed by the parties to ensure that business confidential information had not been disclosed before being shown in public on March 22 and July 27, 2007.

The Panel issued its report on June 30, 2010. It agreed with the United States that the disputed measures of the European Union, France, Germany, Spain, and the United Kingdom were inconsistent with the SCM Agreement. In particular:

- Every instance of "launch aid" provided to Airbus was a subsidy because in each case, the terms charged for this unique low interest, success dependent financing were more favorable than were available in the market.
- Some of the launch aid provided for the A380, Airbus's newest and largest aircraft, was contingent on exports and, therefore, a prohibited subsidy.
- Several instances in which German and French government entities created infrastructure for Airbus were subsidies because the infrastructure was not general, and the price charged to Airbus for use resulted in less than adequate remuneration to the government.
- Several government equity infusions into the Airbus companies were subsidies because they were on more favorable terms than available in the market.
- Several EU and Member State research programs provided grants to Airbus to develop technologies used in its aircraft.
- These subsidies caused adverse effects to the interests of the United States in the form of lost sales, displacement of U.S. imports into the EU market, and displacement of U.S. exports into the markets of Australia, Brazil, China, Chinese Taipei, Korea, Mexico, and Singapore.

The EU filed a notice of appeal on July 21, 2010. The WTO Appellate Body conducted an initial hearing on August 3, 2010 to discuss procedural issues related to the need to protect business confidential information and highly sensitive business information and issued additional working procedures to that end on August 10, 2010. The Appellate Body held two hearings on the issues raised in the EU's appeal of the Panel's findings of WTO inconsistent subsidization of Airbus. The first hearing, held November

11-17, 2010, addressed issues associated with the main subsidy to Airbus, launch aid, and the other subsidies challenged by the United States. The second hearing held December 9-14, 2010, focused on the Panel's findings that the European subsidies caused serious prejudice to the interests of the United States in the form of lost sales and declining market share in the European Union and other third country markets. On May 18, 2011, the Appellate Body issued its report. The Appellate Body affirmed the Panel's central findings that European government launch aid had been used to support the creation of every model of large civil aircraft produced by Airbus. The Appellate Body also confirmed that launch aid and other challenged subsidies to Airbus have directly resulted in Boeing losing sales involving purchases of Airbus aircraft by easyJet, Air Berlin, Czech Airlines, Air Asia, Iberia, South African Airways, Thai Airways International, Singapore Airlines, Emirates Airlines, and Qantas – and lost market share, with Airbus gaining market share in the European Union and in third country markets, including China and South Korea, at the expense of Boeing. The Appellate Body also found that the Panel applied the wrong standard for evaluating whether subsidies are export subsidies, and that the Panel record did not have enough information to allow application of the correct standard.

On December 1, 2011, the EU provided a notification in which it claimed to have complied with the DSB recommendations and rulings. On December 9, 2011, the United States requested consultations regarding the notification and also requested authorization from the DSB to impose countermeasures. The United States and the EU held consultations on January 13, 2012. On December 22, 2011, the EU objected to the level of suspension of concessions requested by the United States, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On January 19, 2012, the United States and the EU requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

On March 30, 2012, in light of the parties' disagreement over whether the EU had complied with the DSB's recommendations and rulings, the United States requested that the DSB refer the matter to the original Panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on April 13, 2012. On April 25, 2012, the compliance Panel was composed with the members of the original Panel: Mr. Carlos Pérez del Castillo, Chair; Mr. John Adank and Mr. Thinus Jacobsz, Members.

The parties filed submissions in the compliance proceeding in late 2012, and the compliance Panel held a meeting with the parties on April 16-17, 2013. The Panel is expected to issue a report in 2014.

*European Union – Regime for the importation, sale, and distribution of bananas – Recourse to Article 21.5 of the DSU by the United States (WT/DS27)*

On June 29, 2007, the United States requested the establishment of a panel under Article 21.5 of the DSU to review whether the European Union had failed to bring its import regime for bananas into compliance with its WTO obligations and the DSB recommendations and rulings adopted on September 25, 1997. The request related to the EU's apparent failure to implement the WTO rulings in a proceeding initiated by Ecuador, Guatemala, Honduras, Mexico, and the United States. That proceeding had resulted in findings that the EU's banana regime discriminated against bananas originating in Latin American countries and against distributors of such bananas, including a number of U.S. companies. The EU was under an obligation to bring its banana regime into compliance with its WTO obligations by January 1999. The EU committed to shift to a tariff only regime for bananas no later than January 1, 2006. Despite these commitments, the banana regime implemented by the EU on January 1, 2006 included a zero duty tariff-rate quota allocated exclusively to bananas from African, Caribbean, and Pacific countries. All other bananas did not have access to this duty-free tariff-rate quota and were subject to a 176 euro per ton duty. The United States brought challenges under GATT Articles I:1 and XIII.

Ecuador requested the establishment of a similar compliance panel on February 23, 2007, and a panel was composed in response to that request on June 15. In response to the United States request, the Panel was

established on July 12, 2007. On August 13, 2007, the Director General composed the Panel as follows: Mr. Christian Häberli, Chair; and Mr. Kym Anderson and Mr. Yuqing Zhang, members. Mr. Häberli and Mr. Anderson were members of the original Panel in this dispute.

The Panel granted the parties' request to open the substantive meeting with the parties, as well as a portion of the third-party session, to the public. The public observed these meetings from a gallery in the room in which the meetings were conducted.

The Panel issued its report on May 19, 2008. The Panel agreed with the United States that the EU's regime was inconsistent with the EU's obligations under Articles I:1, XIII:1, and XIII:2 of the GATT 1994, and that the EU had failed to implement the recommendations and rulings of the DSB.

On August 28, 2008, the EU filed a notice of appeal. The Appellate Body granted a joint request by the parties to open its hearing to the public, and the public was able to observe the hearing via a closed circuit television broadcast. The Appellate Body issued its report on November 26, 2008. The Appellate Body found that the EU had failed to bring itself into compliance with the recommendations and rulings of the DSB. In particular, the Appellate Body rejected all of the EU's procedural arguments alleging the United States was barred from bringing the compliance proceeding and agreed with the panel that the EU's duty-free tariff-rate quota reserved only for some countries was inconsistent with Article XIII of the GATT 1994. The Panel in this dispute had also found that the EU's banana import regime was in violation of GATT Article I. The EU did not appeal that finding. The DSB adopted the Appellate Body report on December 22, 2008.

On December 15, 2009, the United States and the EU initialed an agreement designed to lead to settlement of the dispute. In the agreement, the EU undertakes not to reintroduce measures that discriminate among bananas distributors based on the ownership or control of the distributor or the source of the bananas, and to maintain a nondiscriminatory, tariff only regime for the importation of bananas. The United States-European Union agreement complements an agreement initialed on the same date between the EU and several Latin American banana supplying countries (the GATB). That agreement provides for staged EU tariff cuts that will bring the EU into compliance with its obligations under the WTO Agreement. The GATB was signed on May 31, 2010, and the United States-European Union agreement was signed on June 8, 2010. The agreements will enter into force following completion of certain domestic procedures. Upon entry into force, the EU will need to request formal WTO certification of its new tariffs on bananas. The GATB provides that once the certification process is concluded, the EU and the Latin American signatories to the GATB will settle their disputes and claims. Once that has occurred, the United States will also settle its dispute with the European Union.

The GATB entered into force on May 1, 2012, following completion of certain domestic procedures. The EU's revised tariff commitments on bananas were formally certified through the WTO certification process (document WT/Let/868 of October 30, 2012). Pursuant to the GATB, the EU, and the Latin American signatories to the GATB settled their disputes and claims on November 8, 2012. As the GATB has entered into force and both the European Union and the United States have completed necessary domestic procedures, the United States-European Union agreement entered into force on January 24, 2013. The United States will also settle its dispute with the European Union.

#### *European Communities – Tariff Treatment of Certain Information Technology Products (WT/DS375)*

On May 28, 2008, the United States requested consultations with the European Union and its Member States regarding the tariff treatment accorded to set top boxes with a communication function, flat panel displays, "input or output units," and facsimile machines. The United States was concerned that certain EU measures appear to have resulted in the imposition of duties on these products. As a result of the

Information Technology Agreement, the EU and its Member States, in their Schedules of Concessions to the GATT 1994, committed to provide duty-free treatment for these products.

The measures in question appeared to be inconsistent with the obligations of the EU and its Member States under Articles II:1(a) and II:1(b) of the GATT 1994. In addition, certain of the actions taken by the EU with respect to set top boxes appeared to be inconsistent with the EU's obligations under GATT 1994 Articles X:1 and X:2.

Japan and Chinese Taipei (on May 28, 2008, and June 12, 2008, respectively) also filed requests for consultations with the EU and its Member States on these measures. On August 18, the United States, Japan, and Chinese Taipei jointly requested the establishment of a panel. A panel was established at the meeting of the DSB on September 23, 2008. On January 22, 2009, the Director General composed the panel as follows: Mr. Wilhelm Meier, Chair; and Mr. David Evans and Ms. Valerie Hughes, Members.

The Panel met with the parties on May 12 and 14, 2009 and on July 9, 2009, and met with the parties and third parties on May 13, 2009. Pursuant to the parties' request, the meetings with the parties, as well as a portion of the third party session, were open for public observation.

The Panel issued its report on August 16, 2010. The Panel agreed with the United States with respect to all three products at issue, finding that the EU measures result in the imposition of duties on products that are entitled to duty-free treatment under the EU's schedule of concessions and are inconsistent with GATT Article II:1(a) and (b). In addition, the Panel agreed with the United States that the EU's failure to promptly publish its Explanatory Note on set top boxes and its enforcement of an April 2007 set top box measure before its official publication were inconsistent with GATT Article X:1 and X:2, respectively.

The report was adopted at the meeting of the DSB on September 21, 2010. On October 13, 2010, the EU informed the Chairman of the DSB that it intended to implement the recommendations and rulings of the DSB and would need a reasonable period of time to do so. On December 20, 2010, the United States and the EU notified the DSB that they had agreed on a nine month and nine day period of time for implementation, to end on June 30, 2011. While the EU took some steps to bring its measures into compliance as of June 30, 2011, the United States remained concerned that certain products at issue would still be subject to duties. In 2013, the EU took additional steps to ensure that flat panel displays which were the subject of the dispute will be afforded duty-free treatment consistent with the findings of the Panel. The United States continues to monitor the EU's implementation of the recommendations and rulings of the DSB.

*European Communities – Certain Measures Affecting Poultry Meat and Poultry Meat Products from the United States (DS389)*

On January 16, 2009, the United States requested consultations regarding certain EU measures that prohibit the import of poultry meat and poultry meat products that have been processed with chemical treatments designed to reduce the amount of microbes on poultry meat, unless such pathogen reduction treatments (PRTs) have been approved. The EU further prohibits the marketing of poultry meat and poultry meat products if they have been processed with PRTs. In December 2008, the EU formally rejected the approval of four PRTs whose approval had been requested by the United States, despite the fact that EU scientists have repeatedly concluded that poultry meat and poultry meat products treated with any of these four PRTs does not present a health risk to European consumers. The EU's maintenance of its import ban and marketing regulation against PRT poultry appears to be inconsistent with its obligations under the SPS Agreement, the Agreement on Agriculture, the GATT 1994, and the Technical Barriers to Trade (TBT) Agreement. Consultations were held on February 11, 2009, but those

consultations failed to resolve the dispute. The United States requested the establishment of a panel on October 8, 2009, and the DSB established a panel on November 19, 2009.

*India — Measures Concerning the Importation of Certain Agricultural Products from the United States (DS430)*

On March 6, 2012, the United States requested consultations with India regarding its import prohibitions on various agricultural products from the United States. India asserts these import prohibitions are necessary to prevent the entry of avian influenza into India. However, the United States has not had an outbreak of highly pathogenic avian influenza (“HPAI”) since 2004. With respect to low pathogenic avian influenza (“LPAI”), the only kind of avian influenza found in the United States since 2004, international standards do not support the imposition of import prohibitions, including the type maintained by India. The United States considers that India’s restrictions are inconsistent with numerous provisions of the SPS Agreement, including Articles 2.2, 2.3, 3.1, 5.1, 5.2, 5.5, 5.6, 5.7, 6.1, 6.2, 7, and Annex B, and Articles I and XI of GATT 1994.

The United States and India held consultations on April 16-17, 2012, but were unable to resolve the dispute. The United States requested the establishment of a WTO panel on May 24, 2012. At its meeting on June 25, 2012, the WTO Dispute Settlement Body established a panel.

*India – Solar Local Content (DS456)*

In February 2013, the United States requested WTO consultations with India concerning domestic-content requirement for participation in an Indian solar-power generation program known as the National Solar Mission (“NSM”). Under Phase I of the NSM, India provides guaranteed, long-term payments to solar power developers contingent on the purchase and use of solar cells and solar modules of domestic origin. Specifically, the NSM’s domestic-content requirements appear to be inconsistent with India’s WTO obligations under Article III:4 of the GATT 1994, Article 2 of the Agreement on Trade-Related Investment Measures, and Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures.

The United States and India held consultations on March 20, 2013. The consultations failed to resolve U.S. concerns, and the United States continues to engage with India on this matter.

*Indonesia – Import Restrictions on Horticultural Products, Animals, and Animal Products (DS455 and DS465)*

In January 2013, the United States requested consultations with Indonesia concerning its non-automatic import licensing requirements and quotas that serve as serious impediments to trade in horticultural products, animals, and animal products.

In late 2011, Indonesia passed regulations establishing non-automatic import licensing requirements for horticultural products. Those regulations were revised in September 2012 to include additional requirements. The affected products include, but are not limited to, fruits, vegetables, flowers, dried fruits and vegetables, and juices. In addition, Indonesia maintains a similar non-automatic import licensing and quota regime for beef and other animal product imports.

Through these measures, Indonesia appears to have acted inconsistently with its WTO obligations. In particular, the measures appear to be inconsistent with Article XI:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article 4.2 of the Agreement on Agriculture. The measures also appear to breach various provisions of the Agreement on Import Licensing Procedures.

Subsequent to the filing of the first U.S. consultations request in January, Indonesia has revised its import licensing and quota measures. Indonesia's revised measures include new laws on food, beef, and other agricultural products that contain further import-restrictive provisions.

In August 2013, the United States and New Zealand each requested consultations with Indonesia concerning its revised measures. Consultations were held on September 23, 2013, but failed to resolve the concerns raised. The United States and New Zealand continue to work to ensure that Indonesia adheres to its WTO obligations.

#### *Philippines – Taxes on Distilled Spirits (DS403)*

On January 14, 2010, the United States requested consultations regarding Philippine excise taxes on distilled spirits. The Philippines has taxed distilled spirits at rates that differ depending on the product from which the spirit is distilled. The Philippines taxed distilled spirits made from certain materials that are typically produced in the Philippines, such as sugar and palm, at a low rate (*e.g.*, 13.59 pesos per proof liter in 2009). Other distilled spirits were taxed at significantly higher rates (from approximately 10 to 40 times higher) than the low rate applied to domestic products. The Philippine taxes on distilled spirits appeared not to tax similarly those distilled spirits that are imported compared to directly competitive or substitutable domestic distilled spirits, and the taxes appeared to be applied in a way that affords protection to the domestic products. In addition, the taxes appeared to subject imported distilled spirits to internal taxes in excess of those applied to like domestic products. Accordingly, the tax treatment of distilled spirits appeared inconsistent with Article III:2 of the GATT 1994. After consultations failed to resolve the dispute, the United States, on March 26, 2010, requested the establishment of a panel. At its meeting on April 20, 2010, the DSB established a panel and agreed that, as provided in Article 9.1 of the DSU in respect of multiple complainants, the panel established on January 19, 2010 to examine the complaint by the European Union (DS396) on the same measures, would also examine the U.S. complaint. The Director General composed the panel on July 5, 2010.

The United States and the European Union filed their respective first written submissions on September 2, 2010. The first meeting of the Panel took place on November 17-18, 2010. The second meeting of the Panel took place on February 9, 2011. The Panel circulated its final report on August 15, 2011. The Panel found that the Philippine excise taxes were inconsistent with the first and second sentences of Article III:2 of the GATT 1994.

The Philippines filed a notice of appeal on September 23, 2011. The Appellate Body hearing was held on October 25-26, 2011. The Appellate Body report was issued December 21, 2011. It confirmed the Panel's findings that the Philippine taxes were inconsistent with the first and second sentences of Article III:2 of GATT 1994.

On April 20, 2012, the United States, the European Union, and the Philippines agreed on a reasonable period of time for implementation of the recommendations and rulings in the dispute, ending on March 8, 2013.

During 2012, the Philippine Congress considered proposals to change the tax system on distilled spirits. On June 5, the Philippine House of Representatives passed a bill that included reform of the taxation system for distilled spirits, and the Senate followed suit with its own bill on November 20, 2012. The proposals were reconciled through a bicameral process, and approved by the full Philippine Congress. The reforms were signed into law on December 20, 2012.

Under the new system, which went into effect January 1, 2013, the raw materials requirement that was the basis for discrimination was removed. All distilled spirits are now subject to a two part tax: a 20 peso tax by proof, and an additional *ad valorem* tax of 15 percent by value in the first two years, rising to 20

percent on January 1, 2015. The specific tax of 20 pesos will increase 4 percent every year after 2015. The United States will continue to review the implementation of the new tax system.

### **Disputes Brought Against the United States**

Section 124 of the URAA requires, *inter alia*, that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO: each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 2013 for disputes in which the United States was a responding party (listed by DS number).

#### *United States – Section 110(5) of the Copyright Act (DS160)*

As amended in 1998 by the Fairness in Music Licensing Act, section 110(5) of the U.S. Copyright Act exempts certain retail and restaurant establishments that play radio or television music from paying royalties to songwriters and music publishers. The European Union claimed that, as a result of this exception, the United States was in violation of its TRIPS obligations. Consultations with the EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999. On August 6, 1999, the Director General composed the panel as follows: Ms. Carmen Luz Guarda, Chair; and Mr. Arumugamangalam V. Ganesan and Mr. Ian F. Sheppard, Members. The Panel issued its final report on June 15, 2000 and found that one of the two exemptions provided by section 110(5) is inconsistent with the U.S. WTO obligations. The Panel report was adopted by the DSB on July 27, 2000, and the United States has informed the DSB of its intention to respect its WTO obligations. On October 23, 2000, the European Union requested arbitration to determine the period of time to be given the United States to implement the Panel's recommendation. By mutual agreement of the parties, Mr. J. Lacarte-Muró was appointed to serve as arbitrator. He determined that the deadline for implementation should be July 27, 2001. On July 24, 2001, the DSB approved a U.S. proposal to extend the deadline until the earlier of the end of the then current session of the U.S. Congress or December 31, 2001.

On July 23, 2001, the United States and the European Union requested arbitration to determine the level of nullification or impairment of benefits to the EU as a result of section 110(5)(B). In a decision circulated to WTO Members on November 9, 2001, the arbitrators determined that the value of the benefits lost to the EU in this case was \$1.1 million per year. On January 7, 2002, the European Union sought authorization from the DSB to suspend its obligations vis-à-vis the United States. The United States objected to the details of the European Union request, thereby causing the matter to be referred to arbitration.

However, because the United States and the European Union had been engaged in discussions to find a mutually acceptable resolution of the dispute, the arbitrators suspended the proceeding pursuant to a joint request by the parties filed on February 26, 2002.

On June 23, 2003, the United States and the European Union notified the WTO of a mutually satisfactory temporary arrangement regarding the dispute. Pursuant to this arrangement, the United States made a lump sum payment of \$3.3 million to the European Union, to a fund established to finance activities of general interest to music copyright holders, in particular awareness raising campaigns at the national and international level and activities to combat piracy in the digital network. The arrangement covered a three year period, which ended on December 21, 2004.

*United States – Section 211 Omnibus Appropriations Act (DS176)*

Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questioned the consistency of Section 211 with the TRIPS Agreement and requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU, the WTO Director General composed the panel on October 26, 2000. The Director General composed the panel as follows: Mr. Wade Armstrong, Chair; and Mr. François Dessemontet and Mr. Armand de Mestral, Members. The Panel report was circulated on August 6, 2001, rejecting 13 of the EU's 14 claims and finding that, in most respects, section 211 is not inconsistent with the obligations of the United States under the TRIPS Agreement. The EU appealed the decision on October 4, 2001. The Appellate Body issued its report on January 2, 2002.

The Appellate Body reversed the Panel's one finding against the United States and upheld the Panel's favorable findings that WTO Members are entitled to determine trademark and trade name ownership criteria. The Appellate Body found certain instances, however, in which section 211 might breach the national treatment and most favored nation obligations of the TRIPS Agreement. The Panel and Appellate Body reports were adopted on February 1, 2002, and the United States informed the DSB of its intention to implement the recommendations and rulings. The reasonable period of time for implementation ended on June 30, 2005. On June 30, 2005, the United States and the European Union agreed that the European Union would not request authorization to suspend concessions at that time and that the United States would not object to a future request on grounds of lack of timeliness.

*United States – Antidumping measures on certain hot-rolled steel products from Japan (DS184)*

Japan alleged that the preliminary and final determinations of the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (USITC) in their antidumping investigations of certain hot rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999, were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claimed that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement and the Agreement Establishing the WTO. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 2000, the Director General composed the panel as follows: Mr. Harsha V. Singh, Chair; and Mr. Yanyong Phuangrath and Ms. Lidia di Vico, Members. On February 28, 2001, the Panel circulated its report, in which it rejected most of Japan's claims, but found that, *inter alia*, particular aspects of the antidumping duty calculation, as well as one aspect of the U.S. antidumping duty law, were inconsistent with the WTO Antidumping Agreement. On April 25, 2001, the United States filed a notice of appeal on certain issues in the Panel report.

The Appellate Body report was issued on July 24, 2001, reversing in part and affirming in part. The reports were adopted on August 23, 2001. Pursuant to a February 19, 2002 arbitral award, the United States was given 15 months, or until November 23, 2002, to implement the DSB's recommendations and rulings. On November 22, 2002, the U.S. Department of Commerce issued a new final determination in the hot rolled steel antidumping duty investigation, which implemented the recommendations and rulings of the DSB with respect to the calculation of antidumping margins in that investigation. The reasonable period of time ended on July 31, 2005. With respect to the outstanding implementation issue, on July 7, 2005, the United States and Japan agreed that Japan would not request authorization to suspend concessions at that time and that the United States would not object to a future request on grounds of lack of timeliness.

*United States – Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) (DS217/234)*

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, South Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 U.S.C. § 754), which amended Title VII of the Tariff Act of 1930 to transfer import duties collected under U.S. antidumping and countervailing duty orders from the U.S. Treasury to the companies that filed the antidumping and countervailing duty petitions. Consultations were held on February 6, 2001. On May 21, 2001, Canada and Mexico also requested consultations on the same matter, which were held on June 29, 2001. On July 12, 2001, the original nine complaining parties requested the establishment of a panel, which was established on August 23, 2001. On September 10, 2001, a panel was established at the request of Canada and Mexico, and all complaints were consolidated into one panel. The panel was composed of: Mr. Luzius Wasescha, Chair; and Mr. Maamoun Abdel-Fattah and Mr. William Falconer, Members.

The Panel issued its report on September 2, 2002, finding against the United States on three of the five principal claims brought by the complaining parties. Specifically, the Panel found that the CDSOA constitutes a specific action against dumping and subsidies and, therefore, is inconsistent with the WTO Antidumping and SCM Agreements as well as Article VI of the GATT 1994. The Panel also found that the CDSOA distorts the standing determination conducted by Commerce and, therefore, is inconsistent with the standing provisions in the Antidumping and SCM Agreements. The United States prevailed against the complainants' claims under the Antidumping and SCM Agreements that the CDSOA distorts Commerce's consideration of price undertakings (agreements to settle antidumping and countervailing duty investigations). The Panel also rejected Mexico's actionable subsidy claim brought under the SCM Agreement. Finally, the Panel rejected the complainants' claims under Article X:3 of the GATT, Article 15 of the Antidumping Agreement, and Articles 4.10 and 7.9 of the SCM Agreement. The United States appealed the Panel's adverse findings on October 1, 2002.

The Appellate Body issued its report on January 16, 2003, upholding the Panel's finding that the CDSOA is an impermissible action against dumping and subsidies, but reversing the Panel's finding on standing. The DSB adopted the Panel and Appellate Body reports on January 27, 2003. At the meeting, the United States stated its intention to implement the DSB recommendations and rulings. On March 14, 2003, the complaining parties requested arbitration to determine a reasonable period of time for U.S. implementation. On June 13, 2003, the arbitrator determined that this period would end on December 27, 2003. On June 19, 2003, legislation to bring the Continued Dumping and Subsidy Offset Act into conformity with U.S. obligations under the Antidumping Agreement, the SCM Agreement, and the GATT of 1994 was introduced in the U.S. Senate (S. 1299).

On January 15, 2004, eight complaining parties (Brazil, Canada, Chile, the EU, India, Japan, South Korea, and Mexico) requested WTO authorization to retaliate. The remaining three complaining parties (Australia, Indonesia, and Thailand) agreed to extend to December 27, 2004 the period of time in which the United States had to comply with the WTO rulings and recommendations in this dispute. On January 23, 2004, the United States objected to the requests from the eight complaining parties to retaliate, thereby referring the matter to arbitration. On August 31, 2004, the Arbitrators issued their awards in each of the eight arbitrations. They determined that each complaining party could retaliate, on a yearly basis, covering the total value of trade not exceeding, in U.S. dollars, the amount resulting from the following equation: amount of disbursements under CDSOA for the most recent year for which data are available relating to antidumping or countervailing duties paid on imports from each party at that time, as published by the U.S. authorities, multiplied by 0.72.

Based on requests from Brazil, the EU, India, Japan, South Korea, Canada, and Mexico, on November 26, 2004, the DSB granted these Members authorization to suspend concessions or other obligations, as provided in DSU Article 22.7 and in the Decisions of the Arbitrators. The DSB granted Chile authorization to suspend concessions or other obligations on December 17, 2004. On December 23, 2004, January 7, 2005 and January 11, 2005, the United States reached agreements with Australia, Thailand, and Indonesia that these three complaining parties would not request authorization to suspend concessions at that time, and that the United States would not object to a future request on grounds of lack of timeliness.

On May 1, 2005, Canada and the European Union began imposing additional duties of 15 percent on a list of products from the United States. On August 18, 2005, Mexico began imposing additional duties ranging from 9 to 30 percent on a list of U.S. products. On September 1, 2005, Japan began imposing additional duties of 15 percent on a list of U.S. products.

On February 8, 2006, U.S. President George W. Bush signed the Deficit Reduction Act into law. That Act included a provision repealing the CDSOA. Certain of the complaining parties nevertheless continued to impose retaliatory measures because they considered that the Deficit Reduction Act failed to bring the United States into immediate compliance. Thus, on May 1, 2006, the EU renewed its retaliatory measure and added eight products to the list of targeted imports. Japan renewed its retaliatory measure on September 1, 2006, retaining the same list of targeted imports. Mexico adopted a new retaliatory measure on September 14, 2006, imposing duties of 110 percent on certain dairy products through October 31, 2006. Since that date, Mexico has taken no further retaliatory measures. Canada did not renew its retaliatory measures once they expired on April 30, 2006.

Since 2007, only the EU and Japan have maintained retaliatory measures against the United States in connection with this dispute. On May 27, 2013, the EU announced that it would renew its retaliatory measure on sweet corn, frames and mountings for spectacles, crane lorries, and women's denim trousers, effective May 1, 2013, at a rate of 26 percent covering, over one year, a total value of trade not exceeding \$60.77 million. On August 23, 2013, Japan announced it would renew its retaliatory measure on various ball bearings, bars and rods, tubes and pipes, parts of ball or roller ball bearings, and bearing housings, effective September 1, 2013, at a rate of 17.4 percent covering, over one year, a total value of trade not exceeding \$74.47 million.

#### *United States – Subsidies on upland cotton (DS267)*

On September 27, 2002, Brazil requested WTO consultations pursuant to Articles 4.1, 7.1, and 30 of the SCM Agreement, Article 19 of the Antidumping Agreement, and Article 4 of the DSU. The Brazilian consultation request on U.S. support measures that benefit upland cotton claimed that these alleged subsidies and measures are inconsistent with U.S. commitments and obligations under the SCM Agreement, the Agreement on Agriculture, and the GATT 1994. Consultations were held on December 3, 4, and 19, 2002, and January 17, 2003.

On February 6, 2003, Brazil requested the establishment of a panel. Brazil's panel request pertained to "prohibited and actionable subsidies provided to U.S. producers, users and/or exporters of upland cotton, as well as legislation, regulations and statutory instruments and amendments thereto providing such subsidies (including export credit guarantees), grants, and any other assistance to the U.S. producers, users and exporters of upland cotton." The DSB established the panel on March 18, 2003. On May 19, 2003, the Director General appointed as panelists: Mr. Dariusz Rosati, Chair; and Mr. Daniel Moulis and Mr. Mario Matus, Members.

On September 8, 2004, the Panel circulated its report to all WTO Members and the public. The Panel made some findings in favor of Brazil on certain claims and other findings in favor of the United States:

- The Panel found that the “Peace Clause” in the WTO Agreement on Agriculture did not apply to a number of U.S. measures, including: (1) domestic support measures; and (2) export credit guarantees for “unscheduled commodities” and rice (a “scheduled commodity”). Therefore, Brazil could proceed with certain of its challenges.
- The Panel found that the GSM 102, GSM 103, and SCGP export credit guarantees for “unscheduled commodities” (such as cotton and soybeans) and for rice are prohibited export subsidies. However, the Panel also found that Brazil had not demonstrated that the guarantees for other “scheduled commodities” exceeded U.S. WTO reduction commitments and therefore breached the Peace Clause. Further, Brazil had not demonstrated that the programs threaten to lead to circumvention of U.S. WTO reduction commitments for other “scheduled commodities” and for “unscheduled commodities” not currently receiving guarantees.
- Some U.S. domestic support programs (*i.e.*, marketing loan, countercyclical, market loss assistance, and so called “Step 2 payments,”) were found to cause significant suppression of cotton prices in the world market in marketing years 1999-2002, causing serious prejudice to Brazil’s interests. However, the Panel found that other U.S. domestic support programs (*i.e.*, production flexibility contract payments, direct payments, and crop insurance payments) did not cause serious prejudice to Brazil’s interests because Brazil failed to show that these programs caused significant price suppression. The Panel also found that Brazil failed to show that any U.S. program caused an increase in U.S. world market share for upland cotton constituting serious prejudice.
- The Panel did not reach Brazil’s claim that U.S. domestic support programs threatened to cause serious prejudice to Brazil’s interests in marketing years 2003-2007. The Panel also did not reach Brazil’s claim that U.S. domestic support programs *per se* cause serious prejudice in those years.
- The Panel also found that Brazil had failed to establish that FSC/ETI tax benefits for cotton exporters were prohibited export subsidies.
- Finally, the Panel found that Step 2 payments to exporters of cotton are prohibited export subsidies not protected by the Peace Clause, and Step 2 payments to domestic users are prohibited import substitution subsidies because they were only made for U.S. cotton.

On October 18, 2004, the United States filed a notice of appeal with the Appellate Body; Brazil then cross appealed. The Appellate Body circulated its report on March 3, 2005. The Appellate Body upheld the Panel’s findings appealed by the United States.

The Appellate Body also rejected or declined to rule on most of Brazil’s appeal issues. On March 21, 2005, the DSB adopted the Panel and Appellate Body reports, and on April 20, 2005, the United States advised the DSB that it intends to bring its measures into compliance.

On June 30, 2005, the United States announced that it would cease to issue GSM 103 export credit guarantees and that it was instituting a new fee structure for the GSM 102 export credit guarantee program. Further, on July 5, the United States proposed legislation relating to the export credit guarantee and Step 2 programs. On July 5, 2005, Brazil requested authorization to impose countermeasures and suspend concessions in connection with the prohibited export subsidies findings. On July 14, 2005, the

United States objected to the request, thereby referring the matter to arbitration. On August 17, 2005, the United States and Brazil agreed to suspend the arbitration. On October 1, 2005, the United States ceased to issue export credit guarantees under the SCGP. On October 6, 2005, Brazil made a separate request for authorization to impose countermeasures and suspend concessions in connection with the “serious prejudice” findings. The United States objected to Brazil’s request on October 17, 2005, thereby also referring that matter to arbitration. On November 21, 2005, the United States and Brazil agreed to suspend the arbitration.

On February 8, 2006, the President signed into law the Deficit Reduction Act of 2005. That Act includes a provision repealing the Step 2 program as of August 2006.

On August 18, 2006, Brazil requested the establishment of an Article 21.5 panel. On September 28, 2006, the DSB established a panel to consider Brazil’s claims. On October 25, 2006, the Director General composed the panel as follows: Mr. Eduardo Pérez Motta, Chair; and Mr. Mario Matus and Mr. Ho-Young Ahn, Members. On December 18, 2007, the Article 21.5 panel circulated its report. The panel found, *inter alia*, that: (1) U.S. export credit guarantees issued under the modified GSM 102 program with respect to unscheduled and certain scheduled (rice, pig and poultry meat) commodities constituted prohibited export subsidies; and (2) U.S. marketing loan and countercyclical payments for upland cotton were continuing to cause serious prejudice to Brazil by significantly suppressing world upland cotton prices. The Panel rejected Brazil’s claim that payments under the marketing loan and countercyclical payment programs were responsible for an increase in U.S. market share in market year 2005 and thereby caused serious prejudice to Brazil’s interests. The Panel also found that the United States was not required to have refused to perform on export credit guarantees that were issued prior to the deadline for the implementation of the DSB’s recommendations and rulings as to such guarantees (July 1, 2005) and that were still outstanding as of that date.

The United States appealed the compliance Panel’s adverse findings on February 12, 2008. Brazil filed its notice of other appeal on February 25, 2008.

The Appellate Body issued its report on June 2, 2008, in which it:

- upheld the compliance Panel’s finding that U.S. marketing loan and countercyclical payments cause significant price suppression in the market for upland cotton, thereby constituting present serious prejudice to Brazil;
- while agreeing with the United States that the compliance Panel erred in dismissing U.S. Government budgetary data showing that U.S. export credit guarantee programs operate at a profit, nonetheless upheld the compliance Panel’s ultimate finding that GSM 102 export credit guarantees with respect to unscheduled products and certain scheduled products (rice, pig meat, and poultry meat) were prohibited export subsidies; and,
- upheld the compliance Panel’s finding that Brazil’s claims as to marketing loan and countercyclical payments made after September 21, 2005, and Brazil’s claims as to GSM 102 guarantees for exports of pig meat and poultry meat, were within the scope of the compliance proceeding.

The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on June 20, 2008.

Brazil requested resumption of the arbitration process on August 25, 2008. On October 1, 2008, the United States and Brazil agreed that the arbitration would be carried out by the following individuals:

Mr. Eduardo Pérez-Motta, Chair; and Mr. Alan Matthews and Mr. Daniel Moulis, Members. The meetings with the Arbitrators were held March 2-4, 2009.

The Arbitrators issued their awards on August 31, 2009. They issued one award concerning U.S. subsidies found to cause serious prejudice to Brazil's interests (marketing loan and countercyclical payments for cotton) and another award concerning U.S. subsidies found to be prohibited export subsidies (export credit guarantees under the GSM 102 program for a range of agricultural products, plus the repealed "Step 2" program for cotton).

The Arbitrators found that Brazil may impose countermeasures against U.S. trade:

- for marketing loan and countercyclical payments for cotton, in an annual fixed amount of \$147.3 million; and,
- for export credit guarantees under the GSM 102 program, in an annual amount that may change each year based on a formula.

The Arbitrators rejected Brazil's request for countermeasures for the Step 2 program.

The Arbitrators also found that, in the event that the total level of countermeasures that Brazil would be entitled to in a given year should increase to a level that would exceed a threshold based on a subset of Brazil's consumer goods imports from the United States, then Brazil would also be entitled to suspend certain obligations under the TRIPS Agreement and/or the GATS with respect to any amount of permissible countermeasures applied in excess of that figure.

On November 19, 2009, the DSB granted Brazil authorization to suspend the application to the United States of concessions or other obligations consistent with the Arbitrators' awards.

On April 6, 2010, the United States and Brazil reached agreement on certain steps to help make progress in the dispute. Pursuant to this agreement, on April 20, 2010, the United States and Brazil signed a Memorandum of Understanding (MOU) establishing a fund of approximately \$147.3 million per year on a *pro rata* basis to provide technical assistance and capacity building. The fund is scheduled to continue until the next Farm Bill or a mutually agreed solution to the Cotton dispute is reached. The MOU also provides that the United States may end the fund if Brazil imposes countermeasures.

With the conclusion of the MOU, Brazil announced that countermeasures would not be imposed for at least 60 days from signature of the MOU. During this period, the United States and Brazil negotiated a framework regarding the Cotton dispute. On June 17, 2010, Brazil approved the framework that the governments had negotiated, and on June 21, it announced that it would not impose countermeasures as long as the framework remained in effect. The framework includes elements on cotton support, the GSM-102 program, and further discussion between the United States and Brazil.

Brazil and the United States met for the first discussions under the framework on October 20, 2010. They held discussions under the framework at least quarterly in 2011, 2012, and 2013. During the meetings, the United States and Brazil discussed issues identified in the June 2010 Framework as part of the ongoing bilateral work program, including the GSM-102 export credit guarantee program and domestic support programs for upland cotton. They also discussed the technical assistance and capacity building fund the parties established in the Memorandum of Understanding in April 2010.

*United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services (DS285)*

On March 13, 2003, Antigua and Barbuda (“Antigua”) requested consultations regarding its claim that U.S. Federal, State, and territorial laws on gambling violate U.S. specific commitments under the GATS, as well as Articles VI, XI, XVI, and XVII of the GATS, to the extent that such laws prevent or can prevent operators from Antigua from lawfully offering gambling and betting services in the United States. Consultations were held on April 30, 2003.

Antigua requested the establishment of a panel on June 12, 2003. The DSB established a panel on July 21, 2003. At the request of Antigua, the WTO Director General composed the panel on August 25, 2003, as follows: Mr. B. K. Zutshi, Chair; and Mr. Virachai Plasai and Mr. Richard Plender, Members. The Panel’s final report, circulated on November 10, 2004, found that the United States breached Article XVI (Market Access) of the GATS by maintaining three U.S. Federal laws (18 U.S.C. §§ 1084, 1952, and 1955) and certain statutes of Louisiana, Massachusetts, South Dakota, and Utah. It also found that these measures were not justified under exceptions in Article XIV of the GATS.

The United States filed a notice of appeal on January 7, 2005. The Appellate Body issued its report on April 7, 2005, in which it reversed and/or modified several Panel findings. The Appellate Body overturned the Panel’s findings regarding the state statutes, and found that the three U.S. Federal gambling laws at issue “fall within the scope of ‘public morals’ and/or ‘public order’” under Article XIV. To meet the requirements of the Article XIV chapeau, the Appellate Body found that the United States needed to clarify an issue concerning Internet gambling on horse racing.

The DSB adopted the Panel and Appellate Body reports on April 20, 2005. On May 19, 2005, the United States stated its intention to implement the DSB recommendations and rulings. On August 19, 2005, an Article 21.3(c) arbitrator determined that the reasonable period of time for implementation would expire on April 3, 2006.

At the DSB meeting of April 21, 2006, the United States informed the DSB that the United States was in compliance with the recommendations and rulings of the DSB in the dispute. On June 8, 2006, Antigua requested consultations with the United States regarding U.S. compliance with the DSB recommendations and rulings. The parties held consultations on June 26, 2006. On July 5, 2006, Antigua requested the DSB to establish a panel pursuant to Article 21.5 of the DSU, and a panel was established on July 19, 2006. The chair of the original panel and one of the panelists were unavailable to serve. The parties agreed on their replacements, and the panel was composed as follows: Mr. Lars Anell, Chair; and Mr. Mathias Francke and Mr. Virachai Plasai, Members. The report of the Article 21.5 Panel, which was circulated on March 30, 2007, found that the United States had not complied with the recommendations and rulings of the DSB in this dispute.

On May 4, 2007, the United States initiated the procedure provided for under Article XXI of the GATS to modify the schedule of U.S. commitments so as to reflect the original U.S. intent of excluding gambling and betting services.

The DSB adopted the report of the Article 21.5 panel on May 22, 2007. On June 21, 2007, Antigua submitted a request, pursuant to Article 22.2 of the DSU, for authorization from the DSB to suspend the application to the United States of concessions and related obligations of Antigua under the GATS and the TRIPS. On July 23, 2007, the United States referred this matter to arbitration under Article 22.6 of the DSU. The arbitration was carried out by the three panelists who served on the Article 21.5 Panel.

On December 21, 2007, the Article 22.6 arbitration award was circulated. The arbitrator concluded that Antigua’s annual level of nullification or impairment of benefits is \$21 million, and that Antigua may request authorization from the DSB to suspend its obligations under the TRIPS Agreement in this amount. On December 6, 2012, Antigua submitted a request under Article 22.7 of the DSU for authorization to suspend concessions or other obligations under the TRIPS Agreement consistent with the award of the Arbitrator. At the DSB meeting of January 28, 2013, the DSB authorized Antigua to suspend concessions or other obligations under the TRIPs Agreement consistent with the Award of the Arbitrator.

During 2007 and early 2008, the United States reached agreement with every WTO Member, aside from Antigua, that had pursued a claim of interest in the GATS Article XXI process of modifying the U.S. schedule of GATS commitments so as to exclude gambling and betting services. Antigua and the United States have continued in their efforts to achieve a mutually agreeable resolution to this matter.

#### *United States – Subsidies on large civil aircraft (DS317)*

On October 6, 2004, the EU requested consultations with respect to “prohibited and actionable subsidies provided to U.S. producers of large civil aircraft.” The EU alleged that such subsidies violated several provisions of the SCM Agreement, as well as Article III:4 of the GATT. Consultations were held on November 5, 2004. On January 11, 2005, the United States and the European Union agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three month timeframe for the negotiations and agreed that, during negotiations, they would not request panel proceedings. These discussions did not produce an agreement. On May 31, 2005, the EU requested the establishment of a panel to consider its claims. The EU filed a second request for consultations regarding large civil aircraft subsidies on June 27, 2005. This request covered many of the measures covered in the initial consultations, as well as many additional measures that were not covered.

A panel was established with regard to the October claims on July 20, 2005. On October 17, 2005, the Deputy Director General established the panel as follows: Ms. Marta Lucía Ramírez de Rincón, Chair; and Ms. Gloria Peña and Mr. David Unterhalter, Members. Since that time, Ms. Ramirez and Mr. Unterhalter have resigned from the Panel. They have not been replaced.

The EU requested establishment of a panel with regard to its second panel request on January 20, 2006. That panel was established on February 17, 2006. On December 8, 2006, the WTO issued notices changing the designation of this panel to DS353. The summary below of *United States – Subsidies on large civil aircraft (Second Complaint) (DS353)* discusses developments with regard to this panel.

#### *United States – Final Antidumping Measures on Stainless Steel from Mexico (DS344)*

On May 26, 2006, Mexico requested consultations with respect to the U.S. Department of Commerce’s alleged use of “zeroing” in an antidumping investigation and three administrative reviews involving certain stainless steel products from Mexico. Mexico claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994, and the WTO Agreement. Consultations were held on June 15, 2006. On October 12, 2006, Mexico filed a request for the establishment of a panel and a panel was established on October 26, 2006. On December 20, 2006, the Director General composed the panel as follows: Mr. Albert Dumont, Chair; and Mr. Bruce Cullen and Ms. Leora Blumberg, Members.

On December 20, 2007, the Panel circulated its report. The Panel found that the use by the United States of “model zeroing” in investigations, including in the particular investigation at issue in this dispute, was inconsistent with U.S. obligations under the Antidumping Agreement. The Panel also found, however,

that the use by the United States of “simple zeroing” in administrative reviews (including in the administrative reviews at issue in this dispute) was not inconsistent with U.S. obligations under the Antidumping Agreement.

On January 31, 2008 Mexico appealed the Panel report with respect to the “as such” and “as applied” claims related to zeroing in administrative review. The Appellate Body issued its report on April 30, 2008. The Appellate Body reversed the Panel’s findings with respect to administrative reviews, finding that zeroing in administrative reviews is “as such” and “as applied” to the subject administrative reviews, inconsistent with Article VI:2 of the GATT 1994 and Article 9.3 of the Antidumping Agreement.

The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on May 20, 2008. At the DSB meeting held on June 2, 2008, the United States notified its intention to comply with its WTO obligations and indicated it would need a reasonable period of time to do so.

On August 11, 2008, Mexico requested that the reasonable period of time be determined through arbitration pursuant to Article 21.3(c) of the DSU. On August 29, 2008, the Director General appointed Mr. Florentino P. Feliciano as the arbitrator. On October 31, 2008, the arbitrator issued his award, in which he decided that the reasonable period of time would be 11 months and 10 days, ending on April 30, 2009.

On May 18, 2009, the United States and Mexico entered into a sequencing agreement regarding any further proceedings in this dispute. On September 2, 2009, the United States held consultations with Mexico with respect to U.S. compliance with the recommendations and rulings of the DSB in this dispute.

On September 7, 2010, Mexico requested the establishment of a compliance panel, and a panel was established on September 21, 2010. On May 13, 2011, the panel was composed by agreement of the parties as follows: Mr. Alberto Juan Dumont, Chair; and Mr. Greg Weppner and Ms. Leora Blumberg, Members.

Mexico submitted its first and second written submissions on July 1, 2011 and August 12, 2011, respectively, and the United States submitted its first and second written submission on July 22, 2011 and September 2, 2011, respectively. The Panel met with the Parties on October 4-5, 2011, and with the third parties on October 4, 2011. The proceeding is currently suspended based on a request from Mexico (and supported by the United States).

#### *United States – Subsidies on large civil aircraft (Second Complaint) (DS353)*

On June 27, 2005, the European Union filed a second request for consultations regarding large civil aircraft subsidies allegedly applied by the United States. The section above on *United States – Subsidies on Large Civil Aircraft (DS317)* discusses developments with regard to the dispute arising from the initial request for consultations. The June 2005 request covered many of the measures in the initial consultations, as well as many additional measures that were not covered. The EU requested establishment of a panel with regard to its second panel request on January 20, 2006. That panel was established on February 17, 2006. On November 22, 2006, the Deputy Director General composed the panel as follows: Mr. Crawford Falconer, Chair; and Mr. Francisco Orrego Vicuña and Mr. Virachai Plasai, Members.

The Panel granted the parties’ request to open the substantive meetings with the parties to the public via a screening of a videotape of the public session. The sessions of the Panel meeting that involve business confidential information and the Panel’s meeting with third parties were closed to the public.

On March 31, 2011, the Panel circulated its report with the following findings:

Findings against the EU

- Most of the NASA research spending challenged by the EU did not go to Boeing.
- Most of the U.S. Department of Defense research payments to Boeing were not subsidies or did not cause adverse effects to Airbus.
- Treatment of patent rights under U.S. Government contracts is not a subsidy specific to the aircraft industry.
- Treatment of certain overhead expenses in U.S. Government contracts is not a subsidy.
- Washington State infrastructure and plant location incentives were not a subsidy or did not cause adverse effects.
- U.S. Department of Commerce research programs were not a subsidy specific to the aircraft industry.
- The U.S. Department of Labor payments to Edmonds Community College in Snohomish County, Washington, were not specific subsidies.
- Kansas and Illinois tax programs were not subsidies or did not cause adverse effects.
- The Foreign Sales Corporation/Extraterritorial Income tax measures were a WTO inconsistent subsidy, but as the United States removed the subsidy in 2006, there was no need for any further recommendation.

Findings against the United States

- NASA research programs conferred a subsidy to Boeing of \$2.6 billion that caused adverse effects to Airbus.
- Tax programs and other incentives offered by the State of Washington and some of its municipalities conferred a subsidy of \$16 million that caused adverse effects to Airbus.
- Certain types of research projects funded under the U.S. Department of Defense's Manufacturing Technology and Dual Use Science and Technology programs were a subsidy to Boeing of approximately \$112 million that caused adverse effects to Airbus.

On April 1, 2011, the EU filed a notice of appeal on certain findings, and on April 28, 2011, the United States filed a notice of other appeal. The Appellate Body held hearings on August 16-19, 2011, and October 11-14, 2011. On March 12, 2012, the Appellate Body circulated its report with the following findings:

- The Panel erred in its analysis of whether NASA and DoD research funding was a subsidy. However, the Appellate Body affirmed the Panel's subsidy finding with regard to NASA research funding and DoD research funding through assistance instruments on other grounds. The Appellate Body declared the Panel's findings with regard to DoD procurement contracts moot, but made no further findings.

- The Panel correctly found that NASA and DoD rules regarding the allocation of patent rights were not, on their face, specific subsidies. The Appellate Body found that Panel should have addressed the EU allegations of de facto specificity, but was unable to complete the Panel's analysis of this issue.
- The Panel correctly found that Washington state tax measures and industrial revenue bonds issued by the city of Wichita were subsidies.
- The Panel erred in concluding that the WTO Dispute Settlement Body was not obligated to initiate information-gathering procedures requested by the EU, but this error did not require any modification in the panel's ultimate findings.
- The Panel correctly concluded that NASA research funding and DoD funding of research through assistance instruments caused adverse effects to Airbus.
- The Panel erred in analyzing the effects of the Wichita industrial revenue bonds separately from other tax measures. The Appellate Body grouped the Wichita measure with the other tax benefits.
- The Panel erred in concluding that Washington state tax benefits, in tandem with FSC/ETI tax benefits, caused lost sales, lost market share, and price depression of the Airbus A320 and A340 product lines. The Appellate Body found that the evidence before it justified a finding of lost sales only in two instances, involving 50 A320 airplanes.

On March 23, 2012, the DSB adopted its recommendations and rulings in this dispute. At the following DSB meeting, on April 13, 2012, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. On September 23, 2012, the United States notified the DSB that it has brought the challenged measures into compliance with the recommendations and rulings of the DSB.

On September 25, 2012, the EU requested consultations regarding the U.S. notification. The United States and the EU held consultations on October 10, 2012. On October 11, 2012, the EU requested that the DSB refer the matter to the original Panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on October 23, 2012. On October 30, 2012, the compliance Panel was composed with the members of the original Panel: Mr. Crawford Falconer, Chair; and Mr. Francisco Orrego Vicuña and Mr. Virachai Plasai, Members. The compliance Panel held a meeting with the parties on October 29-31, 2013. The Panel is expected to issue a report in 2014.

On September 27, 2012, the EU requested authorization from the DSB to impose countermeasures. On October 22, 2012, the United States objected to the level of suspension of concessions requested by the EU, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On November 27, 2012, the United States and the EU each requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

*United States – Measures Concerning the Importation, Marketing, and Sale of Tuna and Tuna Products (WT/DS381)*

On October 24, 2008, Mexico requested consultations regarding U.S. dolphin-safe labeling provisions for tuna and tuna products. These provisions prohibit labeling tuna and tuna products as dolphin-safe if the

tuna was caught by using purse-seine nets intentionally set on dolphins, a technique Mexico uses to catch tuna in the Eastern Tropical Pacific Ocean. Mexico challenged three U.S. measures: (1) the Dolphin Protection Consumer Information Act (19 U.S.C. § 1385); (2) certain dolphin-safe labeling regulations (50 C.F.R. §§ 216.91-92); and (3) the Ninth Circuit decision in *Earth Island v. Hogarth*, 494 F.3d. 757 (9th Cir. 2007). On April 20, 2009, at Mexico's request, the DSB established a WTO panel to examine these measures. Mexico alleged that these measures accord imports of tuna and tuna products from Mexico less favorable treatment than like products of national origin and like products originating in other countries and fail to immediately and unconditionally accord imports of tuna and tuna products from Mexico any advantage, favor, privilege, or immunity granted to like products in other countries. Mexico further alleged that the U.S. measures create unnecessary obstacles to trade and are not based on relevant international standards. Mexico alleges that the U.S. measures are inconsistent with Articles I and III of the *General Agreement on Tariffs and Trade 1994* and Article 2 of the *Agreement on Technical Barriers to Trade*.

On December 14, 2009, the Panel was composed by the Director-General. The Panel issued its interim report on May 5, 2011, and its final report to the parties on July 8, 2011. The final report was circulated to Members and the public on September 15, 2011.

The Panel found the U.S. dolphin safe provisions are technical regulations within the meaning of Annex 1.1 of the TBT Agreement; not inconsistent with Article 2.1 of the TBT Agreement because they do not afford less favorable treatment to Mexican tuna products; inconsistent with Article 2.2. of the TBT Agreement because they are more trade restrictive than necessary to achieve their objectives; and not inconsistent with Article 2.4 of the TBT Agreement because the alternative measure put forth by Mexico would not be an effective means of achieving the objective of the U.S. measures. The Panel exercised judicial economy with respect to the GATT 1994 claims in light of its findings under Article 2.1 of the TBT Agreement.

The United States appealed aspects of the report on January 20, 2012, and Mexico appealed aspects of the report on January 25, 2012. The Appellate Body circulated its report on May 16, 2012. In its key findings, the Appellate Body rejected the U.S. appeal and upheld the Panel's finding that the measure at issue is a technical regulation; agreed with Mexico's appeal and overturned the Panel's finding that the U.S. measure is consistent with the national treatment provisions of Article 2.1 of the TBT Agreement; agreed with the U.S. appeal and overturned the Panel's finding that the measure at issue is more trade restrictive than necessary under Article 2.2 of the TBT Agreement; and agreed with the U.S. appeal and overturned the Panel's finding that the AIDCP is a relevant international standard within the meaning of Article 2.4 of the TBT Agreement.

On June 13, 2012, the DSB adopted the Appellate Body report, and the Panel report as modified by the Appellate Body report. On September 17, 2012, the United States and Mexico notified the DSB that they agreed on a reasonable period of time for the United States to implement the recommendations and rulings of the DSB, ending on July 13, 2013.

On July 23, 2013, the United States announced that it had fully complied with the DSB's recommendations and rulings through a final rule of the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) that came into effect on July 13, 2013. The final rule enhances the documentary requirements for certifying that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught outside the Eastern Tropical Pacific.

On November 25, 2013, Mexico requested that the DSB establish a panel to determine whether the U.S. dolphin-safe labeling provisions, as amended by the new final rule, are consistent with U.S. WTO obligations. Mexico's request makes claims under Articles 2.1 and 2.2 of the TBT Agreement and Articles III:4 and XXIII:1(b) of the GATT 1994.

*United States – Antidumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil (DS382)*

On November 27, 2008, the United States received from Brazil a request for consultations pertaining to definitive antidumping duties imposed by the United States pursuant to the final results issued by the U.S. Department of Commerce in the administrative review of the antidumping duty order on imports of certain orange juice from Brazil. Brazil complained that Commerce used “zeroing” in the first administrative review of the antidumping duty order on imports of orange juice. On May 22, 2009, the United States received a request for consultations from Brazil pertaining to the antidumping duty investigation on certain orange juice from Brazil, the second antidumping duty administrative review on certain orange juice from Brazil, and the “continued use of the US zeroing procedures (‘model’ or ‘simple’ zeroing) in successive antidumping proceedings.”

Brazil claimed that the alleged use of “zeroing” in the investigation and first and second administrative reviews and “continued use of the U.S. ‘zeroing procedures’ in successive antidumping proceedings, in relation to the anti-dumping duty order issued in respect of imports of certain orange juice from Brazil” are inconsistent with Articles II:1(a), II:1(b), VI:1, and VI:2 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Articles 2.1, 2.4, 2.4.2, and 9.3 of the *Agreement on Implementation of Article VI of the GATT 1994*, and Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization.

On August 20, 2009, Brazil requested the establishment of a panel. The DSB established the panel on September 25, 2009. On May 10, 2010, the Deputy Director General composed the panel as follows: Mr. Miguel Rodriguez Mendoza, Chair; and Mr. Pierre Pettigrew and Mr. Reuben Pessah, Members. The Panel met with the parties on July 15-16, 2010, and October 12, 2010, and met with the parties and third parties on July 16, 2010.

The Panel circulated its report on March 25, 2011. The Panel found that the United States acted inconsistently with the Antidumping Agreement by using “zeroing” in calculating certain margins of dumping in the first and second administrative reviews of the antidumping duty order on imports of certain orange juice from Brazil. The Panel also found that the “continued use” of “zeroing” in proceedings under the orange juice antidumping duty order is inconsistent with the Antidumping Agreement.

On June 17, 2011, the DSB adopted its recommendations and rulings in this dispute. At that DSB meeting, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and Brazil agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on March 17, 2012.

On February 14, 2012, the U.S. Department of Commerce published in the *Federal Register*, 77 FR 8101, a modification to its procedures in order to implement DSB recommendations and rulings regarding the use of “zeroing” in antidumping reviews. This modification addresses the findings in this dispute.

The U.S. Department of Commerce issued a notice on April 20, 2012, revoking the antidumping duty order on the products covered in this dispute, effective as of March 9, 2011.

On February 18, 2013, the United States and Brazil informed the DSB that, on February 14, they had reached a mutually satisfactory solution in this dispute.

*United States – Certain Country of Origin Labeling (COOL) Requirements (Canada) (DS384)*

On December 1, 2008, Canada requested consultations with the United States regarding U.S. mandatory country of origin labeling (COOL) provisions. Canada requested supplemental consultations with the United States regarding this matter on May 7, 2009. Canada challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the U.S. Department of Agriculture Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

Canada alleges that the COOL requirements are inconsistent with Articles III:4, IX:2, IX:4, and X:3(a) of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Articles 2.1, 2.2, and 2.4 of the *Agreement on Technical Barriers to Trade* (TBT Agreement), or in the alternative, Articles 2, 5, and 7 of the *Agreement on the Application of Sanitary and Phytosanitary Measures*, and Articles 2(b), 2(c), 2(e), and 2(j) of the *Agreement on Rules of Origin*. Canada asserts that these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada within the meaning of GATT 1994 Article XXIII:1(b).

Consultations were held on December 16, 2008, and supplemental consultations were held on June 5, 2009. On October 7, 2009, Canada requested the establishment of a panel, and on November 19, 2009, the DSB established a single panel to examine both this dispute and Mexico's dispute regarding COOL (see WT/DS386). On May 10, 2010, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members.

The Panel circulated its final report on November 18, 2011. The final report found that the COOL measure (the COOL statute and USDA's Final Rule together), in respect of muscle cut meat labels, breaches TBT Article 2.1 because it affords Canadian livestock less favorable treatment than it affords U.S. livestock. With respect to Article 2.2 of the TBT Agreement, the Panel found that the objective of the COOL measure was to provide consumers with information about the origin of the meat products that they buy at the retail level, and that consumer information on origin is a legitimate objective that WTO Members, including the United States, are permitted to pursue with their measures. However, the Panel found that the COOL measure breaches TBT Article 2.2 because it fails to fulfill its legitimate objective of providing consumer information on origin with respect to meat products. The Panel also found that the Vilsack Letter breaches GATT Article X:3 because it does not constitute a reasonable administration of the COOL measure. On April 5, 2012, USDA withdrew the Vilsack Letter.

On March 23, 2012, the United States appealed the Panel's findings on Article 2.1 and 2.2. On March 28, 2012, Canada appealed certain aspects of the Panel's Article 2.2 analysis, the Panel's failure to make a finding on its claim under Articles III:4 of the GATT 1994, and made a conditional appeal on its claim under Article XXIII:1(b) of the GATT 1994. The Appellate Body agreed with the United States that the Panel's Article 2.2 analysis was insufficient. Moreover, the Appellate Body found that, due to the absence of relevant factual findings by the Panel and the lack of sufficient undisputed facts on the record, the Appellate Body was unable to complete the analysis under Article 2.2, and Canada's claim must fail. With regard to Article 2.1, the Appellate Body upheld the Panel's finding that the COOL measure was inconsistent with the national treatment obligation, albeit with different reasoning. The Appellate Body first upheld the Panel's finding that COOL measure has a disparate impact on Canadian livestock. However, the Appellate Body reasoned that the analysis could not end there but that the Panel should have analyzed whether the detrimental impact stemmed exclusively from a legitimate regulatory

distinction. The Appellate Body found that the COOL measure did not as it imposes costs that are disproportionate to the information conveyed by the labels. Having upheld the Panel's Article 2.1 finding, the Appellate body found it unnecessary to make findings on Canada's appeals under Articles III:4 and XXIII:1(b) of the GATT 1994.

On December 4, 2012, a WTO arbitrator determined that the reasonable period of time (RPT) for the United States to comply with the DSB recommendations and rulings is 10 months, meaning that the RPT ends on May 23, 2013.

On May 24, 2013, the United States announced that it had fully implemented the DSB's recommendations and rulings through a new final rule issued by USDA on May 23, 2013. The final rule modifies the labeling provisions for muscle cut covered commodities to require the origin designations to include information about where each of the production steps (*i.e.*, born, raised, slaughtered) occurred and removes the allowance for commingling.

On September 25, 2013, at the request of Canada, the DSB referred the matter raised by Canada in its panel request to a compliance panel to determine whether the COOL program, as amended by the May 23 final rule, is consistent with U.S. WTO obligations. Canada makes claims under Articles 2.1 and 2.2 of the TBT Agreement and Articles III:4 and XXIII:1(b) of the GATT 1994.

#### *United States – Certain Country of Origin Labeling (COOL) Requirements (Mexico) (DS386)*

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory country of origin labeling (COOL) provisions. Mexico requested supplemental consultations with the United States regarding this matter on May 7, 2009. Mexico challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture ("USDA") Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

Mexico alleges that the COOL requirements are inconsistent with Articles III:4, IX:2, IX:4, and X:3(a) of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Articles 2.1, 2.2, 2.4, 12.1, and 12.3 of the *Agreement on Technical Barriers to Trade* (TBT Agreement), or in the alternative, Articles 2, 5, and 7 of the *Agreement on the Application of Sanitary and Phytosanitary Measures*, and Articles 2(b), 2(c), and 2(e), of the *Agreement on Rules of Origin*. Mexico asserts that these violations nullify or impair the benefits accruing to Mexico under those Agreements and further appear to nullify or impair the benefits accruing to Mexico within the meaning of GATT 1994 Article XXIII:1(b).

Consultations were held on February 27, 2009, and supplemental consultations were held on June 5, 2009. On October 9, 2009, Mexico requested the establishment of a panel in this dispute, and November 19, 2009, the DSB established a single panel to examine both this dispute and Canada's dispute regarding COOL (see WT/DS384). On May 10, 2010, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members.

The Panel circulated its final report on November 18, 2011. The final report found that the COOL measure (the COOL statute and USDA's Final Rule together), in respect of muscle cut meat labels, breaches TBT Article 2.1 because it affords Mexican livestock less favorable treatment than it affords U.S. livestock. Under TBT Article 2.2, the Panel found that the objective of the COOL measure was to provide consumers with information about the origin of the meat products that they buy at the retail level,

and that consumer information on origin is a legitimate objective that WTO Members, including the United States, are permitted to pursue with their measures. However, the Panel found that the COOL measure breaches TBT Article 2.2 because it fails to fulfill its legitimate objective of providing consumer information on origin with respect to meat products.

The Panel rejected Mexico's claim under TBT Article 2.4 that the United States was required to base origin under the COOL measure on the principle of substantial transformation, concluding that using this principle would be an ineffective and inappropriate means to fulfill the U.S. legitimate objective of providing consumers with information about the origin of the meat products they buy. The panel also rejected Mexico's claims under TBT Articles 12.1 and 12.3, concluding that the United States did not fail to take account of Mexico's needs as a developing country Member.

Finally, the Panel found that the Vilsack Letter breaches GATT Article X:3 because it does not constitute a reasonable administration of the COOL measure. On April 5, 2012, USDA withdrew the Vilsack Letter.

On March 23, 2012, the United States appealed the Panel's findings on Article 2.1 and 2.2. On March 28, 2012, Mexico appealed certain aspects of the panel's Article 2.2 analysis, and made a conditional appeal on its claims under Articles III:4 and XXIII:1(b) of the GATT 1994. The Appellate Body agreed with the United States that the Panel's Article 2.2 analysis was insufficient. Moreover, the Appellate Body found that, due to the absence of relevant factual findings by the Panel and the lack of sufficient undisputed facts on the record, the Appellate Body was unable to complete the analysis under Article 2.2, and Canada's claim must fail. With regard to Article 2.1, the Appellate Body upheld the Panel's finding that the COOL measure was inconsistent with the national treatment obligation, albeit with different reasoning. The Appellate Body first upheld the Panel's finding that the COOL measure has a disparate impact on Mexican livestock. However, the Appellate Body reasoned that the analysis could not end there but that the Panel should have analyzed whether the detrimental impact stemmed exclusively from a legitimate regulatory distinction. The Appellate Body found that the COOL measure did not as it imposes costs that are disproportionate to the information conveyed by the labels. Having upheld the Panel's Article 2.1 finding, the Appellate body found it unnecessary to make findings on Mexico's appeals under Articles III:4 and XXIII:1(b) of the GATT 1994.

On December 4, 2012, a WTO arbitrator determined that the reasonable period of time (RPT) for the United States to comply with the DSB recommendations and rulings is 10 months, meaning that the RPT ends on May 23, 2013.

On May 24, 2013, the United States announced that it had fully implemented the DSB's recommendations and rulings through a new final rule issued by USDA on May 23, 2013. The final rule modifies the labeling provisions for muscle cut covered commodities to require the origin designations to include information about where each of the production steps (*i.e.*, born, raised, slaughtered) occurred and removes the allowance for commingling.

On September 25, 2013, at the request of Mexico, the DSB referred the matter raised by Mexico in its panel request to a compliance panel to determine whether the COOL program, as amended by the May 23 final rule, is consistent with U.S. WTO obligations. Mexico makes claims under Articles 2.1 and 2.2 of the TBT Agreement and Articles III:4 and XXIII:1(b) of the GATT 1994.

#### *United States – Anti-dumping Measures on Certain Shrimp from Vietnam (DS404)*

On February 1, 2010, the United States received from Vietnam a request for consultations pertaining to antidumping duties imposed by the United States pursuant to the final results issued by the U.S.

Department of Commerce (Commerce) in several administrative reviews of the antidumping duty order on imports of certain frozen and canned warm water shrimp from Vietnam. Vietnam claimed that certain actions by Commerce and U.S. Customs and Border Protection with respect to several administrative reviews and with respect to any ongoing or future administrative review or sunset review concerning this antidumping duty order, as well as various U.S. laws, regulations, administrative procedures, practices, and policies, both as such and as applied, are inconsistent with U.S. commitments and obligations under Articles I, II, VI:1 and VI:2 of the GATT 1994, Articles 1, 2.1, 2.4, 2.4.2, 6.8, 6.10, 9.1, 9.3, 9.4, 11.2, 11.3, 18.1, and 18.4 and Annex II of the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement); Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization; and Vietnam's Protocol of Accession.

The United States and Vietnam held consultations on March 23, 2010. On April 19, 2010, Vietnam requested that the DSB establish a panel. The DSB did so at its meeting on May 18, 2010. On July 26, 2010, the Director General composed the panel as follows: Mr. Mohammad Saeed, Chair; and Ms. Deborah Milstein and Mr. Iain Sanford, Members.

The Panel circulated its report on July 11, 2011. The Panel found that the use of “zeroing” in the second and third administrative reviews of the shrimp antidumping order was inconsistent with Article 2.4 of the Antidumping Agreement, and the use of “zeroing” in administrative reviews is inconsistent “as such” with Article 9.3 of the Antidumping Agreement and Article VI:2 of the GATT 1994. The Panel also found that the use of antidumping margins determined using “zeroing” to calculate the “all others” rate in the second and third administrative reviews was inconsistent with Article 9.4 of the Antidumping Agreement. The Panel found that the application to the Vietnam-wide entity of an antidumping margin different from the “all others” rate was also inconsistent with Article 9.4 of the Antidumping Agreement. The Panel rejected Vietnam's claim that Commerce's determination to limit the number of individually examined respondents was inconsistent with various provisions of the Antidumping Agreement, and the Panel rejected Vietnam's claims relating to “continued use,” finding those claims to be outside the Panel's terms of reference.

On September 2, 2011, the DSB adopted its recommendations and rulings as set out in the Panel's report. The United States and Vietnam agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on July 2, 2012.

#### *United States – Measures Affecting the Production and Sale of Clove Cigarettes (DS406)*

On April 7, 2010, the United States received a request for consultations from Indonesia regarding Section 907 of the 2009 *Federal Food, Drug, and Cosmetic Act*, as amended by the *Family Smoking Prevention and Tobacco Control Act*, which prohibits the production or sale in the United States of cigarettes with a characterizing flavour other than tobacco or menthol. Indonesia contends that the measure is inconsistent with the United States' WTO obligations in that it bans clove cigarettes. Specifically, Indonesia contends that the measure is inconsistent with Article III:4 of the GATT 1994, as well as Articles 2.1, 2.2, 2.5, 2.8, 2.9, 2.10, 2.12, and 12.3 of the TBT Agreement.

Indonesia and the United States held consultations on May 13, 2010. On June 9, 2010, Indonesia requested the establishment of a panel. The DSB established the panel on July 20, 2010 and the Parties agreed to the composition of the panel on September 9, 2010, as follows: Mr. Ronald Saborío Soto, Chair; and Mr. Ichiro Araki and Mr. Hugo Cayrús, Members.

The Panel met with the parties on December 13-14, 2010, met with the parties and third parties on December 14, 2010, and with the parties on February 15-16, 2011.

The Panel circulated its report on June 24, 2011. The Panel found the measure consistent with Articles 2.2, 2.5, 2.8, 2.9.3, and 12.3 of the TBT Agreement, and inconsistent with Articles 2.1, 2.9.2, and 2.12 of the TBT Agreement. The Panel declined to make findings on Indonesia's claim that the measure was inconsistent with Article III:4 of the GATT 1994 and the related U.S. defense that the measure is justified under Article XX(b) of the GATT 1994.

The United States appealed the Panel Report's finding with respect to Article 2.1 of the TBT Agreement in January 2012, and a hearing was held in February. The WTO Appellate Body report affirmed the Panel Report's finding that the U.S. measure is inconsistent with Article 2.1 of the TBT Agreement.

With respect to Indonesia's claims concerning the U.S. process for adopting the ban, the Panel found in favor of the United States on all of these claims, with two exceptions. The Panel found that the United States should have notified the ban to the WTO prior to it becoming U.S. law and should have waited six months until enforcing the ban instead of the three months the law provided for. The United States appealed the latter finding, and the Appellate Body affirmed the Panel's finding.

The DSB adopted the Appellate Body and Panel Reports on April 24, 2012. At the following DSB meeting on May 24, 2012, the United States notified the DSB of its intention to implement the recommendations and rulings of the DSB. The United States and Indonesia agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on July 24, 2013.

At the DSB meeting on July 23, 2013, the United States stated that it had fully implemented the DSB's recommendations and rulings of the DSB, but Indonesia did not agree. On August 12, 2013, Indonesia filed a request for authorization to suspend concessions or other obligations under Article 22.2 of the DSU. In a communication dated August 22, 2013, the United States objected to Indonesia's request, thereby referring the matter to arbitration. The Arbitrator is composed of the members of the original Panel: Mr. Ronald Saborío, Chair; and Mr. Ichiro Araki and Mr. Hugo Cayrús (Uruguay), members. The Arbitrator is expected to issue its award in 2014.

*United States – Anti-dumping measures on corrosion-resistant carbon steel flat products from Korea (DS420)*

On January 31, 2011, the Republic of Korea (Korea) requested consultations regarding various anti-dumping determinations made by the U.S. Department of Commerce (Commerce), including those made in administrative reviews and sunset determinations, regarding corrosion-resistant carbon steel flat products from Korea. Korea's request concerned Commerce's use of its "zeroing" methodology in these determinations. Korea's request for consultations described "zeroing" as the practice "by which transactions with negative dumping margins are treated as having margins equal to zero in determining dumping margins...."

On September 15, 2011, Korea requested the establishment of a panel. At the September 24, 2011 meeting of the Dispute Settlement Body (DSB), Korea withdrew the request for a panel from the agenda. On February 9, 2012, Korea again requested a panel. The request asserted that Commerce's use of "zeroing" in the referenced determinations was inconsistent with the obligations of the United States under Articles 9.3 and 11.3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994. The DSB established a panel on February 22, 2012. On June 12, 2012, prior to the composition of the panel, Korea requested that panel proceedings be suspended in accordance with Article 12.12 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

*United States – Anti-Dumping Measures on Certain Shrimp and Diamond Sawblades from China (DS422)*

On February 28, 2011, China requested consultations regarding the antidumping duty investigation, a number of antidumping administrative reviews, and the sunset review conducted by the U.S. Department of Commerce on certain frozen warmwater shrimp from China. China challenges what it describes as the use by Commerce of the “zeroing practice” whereby “negative margins or amounts of dumping . . . were put at zero” in those proceedings. On July 22, 2011, China requested additional consultations regarding the antidumping duty investigation conducted by Commerce on diamond sawblades and parts thereof from China, referring in particular to the use of what it calls “zeroing” in that proceeding. The United States and China held consultations on May 11, 2011 and September 8, 2011.

On October 13, 2011, China requested the establishment of a panel. In its panel request, China alleges that the use of zeroing by Commerce in the final less than fair value determinations and the antidumping duty orders on certain frozen warmwater shrimp from China and diamond sawblades and parts thereof from China are inconsistent with the obligations of the United States under the first sentence of Article 2.4.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (“Antidumping Agreement”). The DSB established a panel on October 25, 2011 and the parties agreed to the composition of the panel on December 21, 2011, as follows: Mr. Alberto Juan Dumont, Chair; and Mr. Ernesto Fernández and Ms. Stephanie Sin Far Lee, Members.

The Panel circulated its report on June 8, 2012. The Panel found the use of zeroing in the two final less than fair value determinations and the antidumping duty orders was inconsistent with Article 2.4.2 of the Antidumping Agreement.

Neither party appealed the Panel’s findings. On July 23, 2012, the DSB adopted its recommendations and rulings in this dispute. At that DSB meeting, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and China agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on March 23, 2013.

On March 4, 2013, Commerce issued to interested parties final determinations pursuant to section 129(b)(2) of the URAA with respect to issues in this dispute. On March 22, 2013, USTR directed Commerce to implement its final determinations. On March 28, 2013, a notice was published in the *Federal Register* announcing the implementation of Commerce’s final determinations, effective March 22, 2013 (78 FR 18958). On March 26, 2013, the United States reported to the DSB that it has brought the measures at issue in this dispute into full compliance with the DSB recommendations and rulings.

*United States — Anti-Dumping Measures on Certain Frozen Warmwater Shrimp from Vietnam (DS429)*

On February 21, 2012, the United States received from Vietnam a request for consultations pertaining to antidumping duties imposed by the United States pursuant to the final results issued by the U.S. Department of Commerce (Commerce) in a number of administrative reviews and the sunset review of the antidumping duty order on imports of certain frozen and canned warm water shrimp from Vietnam. Vietnam claimed that certain actions by Commerce with respect to the administrative reviews identified, and with respect to any ongoing or future administrative review, as well as the sunset review concerning this antidumping duty order, as well as various U.S. laws, regulations, administrative procedures, practices, and policies, both as such and as applied, are inconsistent with U.S. commitments and obligations under Articles 1:1, VI: 1, VI:2, and X:3(a) of the GATT 1994; Articles 1, 2.1, 2.4, 2.4.2, 6, 9, 11, 17.6(i), and Annex II of the Agreement on Implementation of Article VI of the GATT 1994 (the

Antidumping Agreement); Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization; Articles 3.7, 19.1, 21.1, 21.3, and 21.5 of the DSU; and Vietnam’s Protocol of Accession. Specifically, Vietnam complained that Commerce used “zeroing” in the administrative reviews of the antidumping duty order on imports of shrimp, Commerce failed to provide most Vietnamese respondents seeking a review an opportunity to demonstrate the absence of dumping by being permitted to participate in a review, the treatment of the Vietnam-wide entity as a “single entity” and the application of adverse facts available to the entity, the use of dumping margins determined using a “zeroing” methodology in the final determination of the sunset review, and the use of WTO-inconsistent antidumping duty assessment rates applied to unliquidated entries that are assessed following a section 129 determination that implements an adverse DSB ruling.

The United States and Vietnam held consultations on March 28, 2012. On December 17, 2012, Vietnam requested the establishment of a panel. Vietnam filed a revised panel request on January 17, 2013. The DSB established a panel on February 27, 2013 and the Parties agreed to the composition of the panel on July 12, 2013, as follows: Mr. Simon Farberbloom, Chair; and Mr. Adrian Makuc and Mr. Abd El Rahman Ezz El Din Fawzy, Members.

The Panel held the first meeting with the parties on December 10-11, 2013.

*United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (DS436)*

On April 24, 2012, India requested consultations concerning countervailing measures regarding certain hot-rolled carbon steel flat products from India. India challenges the Tariff Act of 1930, in particular sections 771(7)(G) and 776(b), as well as Title 19 of the Code of Federal Regulations, sections 351.308 and 351.511(a)(2)(i)-(iv). In addition, India challenges certain actions of the United States with respect to U.S. Department of Commerce countervailing duty determinations and the countervailing duty order related to certain hot-rolled carbon steel flat products from India, including determinations related to the original investigation, certain administrative reviews, and the five-year sunset review. India alleges inconsistencies with Articles I and IV of the GATT 1994 and Articles 1, 2, 10, 11, 12, 13, 14, 15, 19, 21, 22 and 32 of the SCM Agreement. The DSB established a panel to examine the matter on August 31, 2012. The panel was composed by the Director General on February 18, 2013, as follows: Mr. Hugh McPhail, Chair; Mr. Anthony Abad and Mr. Hanspeter Tschaeni, members.

The Panel met with the parties on July 9-10, 2013, and on October 8-9, 2013. The Panel is expected to circulate its report in 2014.

*United States — Countervailing Duty Measures on Certain Products from China (DS437)*

On May 25, 2012, China requested consultations regarding numerous U.S. CVD determinations in which the U.S. Department of Commerce had determined that various Chinese state owned enterprises were “public bodies” under Article 1.1(a)(1) of the SCM Agreement, with a view towards extending the Appellate Body’s analysis in DS379 (discussed above) to those determinations. Various other aspects of these investigations are being challenged as well, including but not limited to Commerce’s calculation of benchmarks, determination of specificity of the subsidies, and use of facts available. Consultations were held in July 2012, and a panel was established in September 2012. The panel was composed by the Director-General on November 26, 2012, as follows: Mr. Mario Matus, Chair; Mr. Scott Gallacher and Mr. Hugo Perezcano Díaz, members. The Panel met with the parties on April 30-May 1, 2013, and on June 18-19, 2013. The Panel is expected to circulate its report in 2014.

*United States — Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina (DS447)*

On August 30, 2012, Argentina requested consultations regarding inaction by the United States to authorize importation of fresh bovine meat from Argentina. Currently, U.S. law prohibits the importation of fresh meat from Argentina, pending a determination by the U.S. Department of Agriculture as to whether, and under what import conditions, if any, such products can be safely imported without introducing foot-and-mouth disease into the United States. At issue in this matter is the status of three applications by Argentina to the U.S. Department of Agriculture to revise its prohibition and permit the importation of fresh bovine meat. Specifically, Argentina contends that U.S. measures are inconsistent with Articles 1.1, 2.2, 2.3, 3.1, 3.3, 5.1, 5.2, 5.4, 5.6, 6.1, 6.2, 8, and 10.1 of the Agreement on Sanitary and Phytosanitary Measures, and Article I:1 and Article XI:1 of the General Agreement on Tariffs and Trade (GATT 1994).

Consultations were held on October 18 and 19, 2012. Argentina requested the establishment of a panel on December 6, 2012, and the DSB established a panel on January 28, 2013. On August 8, 2013, the Director General composed the panel as follows: Mr. Eirik Glenne, Chair; and Mr. Jaime Coghi and Mr. David Evans, members.

*United States — Measures Affecting the Importation of Fresh Lemons (DS448)*

On September 3, 2012, Argentina requested consultations regarding the U.S. failure thus far to grant import authorization for fresh lemons from Northwest Argentina. Consultations were held on October 17-18, 2012, in Geneva, Switzerland. Argentina submitted its request for establishment of a dispute settlement panel on December 6, 2012.

*United States — Countervailing and Anti-dumping Measures on Certain Products from China (DS449)*

On September 17, 2012, the United States received a request for consultations from China regarding Public Law 112-99 (“P.L. 112-99”) and determinations and actions made by the U.S. Department of Commerce, the U.S. International Trade Commission, and the U.S. Customs and Border Protection in connection with 31 joint antidumping (AD) and countervailing duty (CVD) proceedings. China alleges in its consultation request that the retroactive nature of Section 1 of P.L. 112-99 and the difference in effective dates between Sections 1 and 2 of P.L. 112-99 are violations of GATT Article X. China further alleges that the 31 AD and CVD proceedings initiated between November 20, 2006 and March 13, 2012 violate the United States’ WTO obligations because the United States had no basis under domestic law to identify and avoid “double remedies” and U.S. authorities failed to “investigate and avoid double remedies.”

China and the United States held consultations on November 5, 2012. On November 30, China requested the establishment of a panel. China and the United States held consultations on November 5, 2012. On November 30, China requested the establishment of a panel, and on December 17, 2012 a panel was established. On March 4, 2013, the Director General composed the panel as follows: Mr. José Graça Lima, Chair; and Mr. Donald Greenfield and Mr. Arie Reich, members. The panel met with the parties on July 2-3, 2013, and August 27-28, 2013. The Panel is expected to circulate its report in 2014.

*United States – Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea (DS464)*

On August 29, 2013, the United States received from Korea a request for consultations pertaining to antidumping and countervailing duty measures imposed by the United States pursuant to final

determinations issued by the U.S. Department of Commerce (Commerce) following antidumping and countervailing duty investigations regarding large residential washers (“washers”) from Korea. Korea claimed that Commerce’s determinations, as well as certain methodologies used by Commerce, are inconsistent with U.S. commitments and obligations under Articles 1, 2, 2.1, 2.4, 2.4.2, 5.8, 9.3, 9.4, 9.5, 11, and 18.4 of the AD Agreement, Articles 1.1, 1.2, 2.1, 2.2, 10, 14, and 19.4 of the SCM Agreement, Articles VI, VI:1, VI:2, and VI:3 of the General Agreement on Tariffs and Trade 1994, and Article XVI:4 of the WTO Agreement. Specifically, Korea challenges Commerce’s alleged use of “zeroing” and application of the second sentence of Article 2.4.2 of the AD Agreement, as applied in the washers antidumping investigation and “as such.” Korea also challenges Commerce’s determinations in the washers countervailing duty investigation that Article 10(1)(3) of Korea’s Restriction of Special Taxation Act (“RSTA”) is a subsidy that is specific within the meaning of Article 2.1 of the SCM Agreement, Commerce’s determination of the amount of subsidy benefit received by a respondent under Article 10(1)(3) of the RSTA, Commerce’s determination that Article 26 of the RSTA is a regionally specific subsidy, and Commerce’s imposition of countervailing duties on one respondent that were attributable to tax credits that the respondent received for investments that it made under Article 26 of the RSTA.

The United States and Korea held consultations on October 3, 2013. On December 5, 2013, Korea requested that the DSB establish a panel. The DSB considered Korea’s request for the first time at a meeting on December 18, 2013, but a panel was not established.

*United States – Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China (DS471)*

On December 3, 2013, the United States received from China a request for consultations pertaining to antidumping measures imposed by the United States pursuant to final determinations issued by the U.S. Department of Commerce (Commerce) following antidumping investigations regarding a number of products from China, including certain coated paper suitable for high-quality print graphics using sheet-fed presses, certain oil country tubular goods, high pressure steel cylinders, polyethylene terephthalate film, sheet, and strip; aluminum extrusions; certain frozen and canned warmwater shrimp; certain new pneumatic off-the-road tires; crystalline silicon photovoltaic cells, whether or not assembled into modules; diamond sawblades and parts thereof; multilayered wood flooring; narrow woven ribbons with woven selvedge; polyethylene retail carrier bags; and wooden bedroom furniture. China claimed that Commerce’s determinations, as well as certain methodologies used by Commerce, are inconsistent with U.S. obligations under Articles 2.4.2, 6.1, 6.8, 6.10, 9.2, 9.3, 9.4, and Annex II of the AD Agreement and Article VI:2 of the General Agreement on Tariffs and Trade 1994. Specifically, China challenges Commerce’s application in certain investigations and administrative reviews of a “targeted dumping methodology,” “zeroing” in connection with such methodology, a “single rate presumption for non-market economies,” an “NME-wide methodology” including certain “features”. China also challenges a “single rate presumption” and the use of “adverse facts available” “as such.”

## **I. Trade Policy Review Body**

### **Status**

The Trade Policy Review Body (TPRB) is the subsidiary body of the General Council, created by the Marrakesh Agreement Establishing the WTO, to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines domestic trade policies of each Member on a schedule designed to review the policies of the full WTO Membership on a timetable determined by trade volume. The express purpose of the review process is to strengthen Members’ adherence to WTO provisions and to contribute to the smoother functioning of the multilateral trading system. Moreover, the review mechanism serves as a valuable resource for improving the transparency of Members’ trade and investment regimes.

Members continue to value the review process, because it informs each government's own trade policy formulation and coordination.

The Member under review works closely with the WTO Secretariat to provide pertinent information for the process. The Secretariat produces an independent report on the trade policies and practices of the Member under review. Accompanying the Secretariat's report is the Member's own report. In a TPRB session, the WTO Membership discusses these reports together, and the Member under review addresses issues raised in the reports and answers questions about its trade policies and practices. Reports cover the range of WTO agreements – including those relating to goods, services, and intellectual property – and are available to the public on the WTO's website at <http://www.wto.org>. Documents are filed on the website's "Documents Online" database under the document symbol "WT/TPR."

TPRs of least developed country (LDC) Members often perform a technical assistance function, helping them improve their understanding of their trade policy structure's relationship with the WTO Agreements. The reviews have also enhanced these countries' understanding of the WTO Agreements, thereby better enabling them to comply and integrate into the multilateral trading system. In some cases, the reviews have spurred better interaction among government agencies. The reports' wide coverage of Members' policies also enables Members to identify any shortcomings in policy and specific areas where further technical assistance may be appropriate.

The TPRM requires Members, in between their reviews, to provide information on significant trade policy changes. The WTO Secretariat uses this and other information to prepare reports by the Director General on a regular basis on the trade and trade-related developments of Members and Observer Governments. The reports are discussed at informal meetings of the TPRB. The Secretariat consolidates the information it collects and presents it in the Director General's Annual Report on Developments in the International Trading Environment.

### **Major Issues in 2013**

During 2013, the TPRB reviewed the trade regimes of 20 Members (counting the EU as one Member). Members reviewed were Argentina, Brazil, Cameroon, Central African Republic, Chad, Congo, Costa Rica, European Union, Gabon, Indonesia, Japan, Liechtenstein, Kyrgyz Republic, Macao China, Former Yugoslav Republic of Macedonia, Mexico, Peru, Suriname, Switzerland and Vietnam. The trade policies of two members were reviewed for the first time in 2013, including the Former Yugoslav Republic of Macedonia and Vietnam.

Since its formation in 1998 to the end of 2013, the TPRB has conducted 384 reviews. The reviews have covered 147 of 159 Members, representing some 92 percent of world trade and 95 percent of the trade of WTO Members. Of the 34 LDC Members of the WTO, the TPRB had reviewed 30 by the end of 2013.

While each review highlights the specific issues and measures concerning the individual Member, certain common themes emerged during the course of the reviews conducted in 2013. These included:

- transparency in policy making and implementation;
- economic environment and trade liberalization;
- implementation of the WTO Agreements;
- regional trade agreements and their relationship with the multilateral trading system;
- tariff issues, including the differences between applied and bound rates;
- customs valuation and customs clearance procedures;
- the use of trade remedy measures such as antidumping and countervailing duties;
- technical regulations, and standards and their equivalence with international norms;

- sanitary and phytosanitary measures;
- intellectual property rights legislation and enforcement;
- government procurement policies and practices;
- trade-related investment policy issues;
- sectoral trade policy issues, particularly liberalization in agriculture and certain services sectors; and,
- technical assistance in implementing the WTO Agreements and experience with Aid for Trade, and the Enhanced Integrated Framework.

## **Prospects for 2014**

The TPRM continues to meet its transparency goals. It will continue to be an important tool for monitoring Members' compliance with WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures. For 2014, the proposed program of reviews is the United States, Antigua & Barbuda, Bahrain, China, Chinese Taipei, Djibouti, Dominica, Ghana, Grenada, Hong Kong China, Malaysia, Mauritius, Mongolia, Myanmar, Oman, Panama, Qatar, Saint Lucia, Sierra Leone, St. Kitts & Nevis, St. Vincent & the Grenadines, Tonga, Tunisia, and Ukraine.

## **J. Other General Council Bodies/Activities**

### **1. Committee on Trade and Environment**

#### **Status**

The WTO General Council created the Committee on Trade and Environment (CTE) on January 31, 1995, pursuant to the Marrakesh Ministerial Decision on Trade and Environment. Since then, the CTE has discussed many important issues, with a focus on those identified in the Doha Declaration. These issues include: market access associated with environmental measures (Doha paragraph 32(i)); the TRIPS Agreement and the environment (Doha paragraph 32(ii)); labeling for environmental purposes (Doha paragraph 32(iii)); capacity-building and environmental reviews (Doha paragraph 33); and discussion of the environmental aspects of the Doha negotiations (Doha paragraph 51). These issues identified in the Doha Declaration are separate from the issues contained in Doha paragraph 31 that are subject to specific negotiating mandates taken up by the Committee on Trade and Environment Special Session (CTESS) (*for additional information, see Chapter II.B.6.*).

#### **Major Issues in 2013**

In 2013, the CTE met twice under the Chairmanship of Ambassador Esteban Conejos of the Philippines.

As noted above, the CTE's work was organized under the mandate established in the Doha Ministerial Declaration, Paragraphs 32, 33 and 51. Under Paragraph 32, the International Organization for Standardization (ISO) provided an update on ISO technical specifications related to requirements and guidelines for quantifying and communicating the greenhouse gas footprint of products. Additionally, the European Union shared information on its Single Market for Green Products (SMGP) initiative, adopted in April 2013. The SMGP initiative is an environmental assessment methodology scheme that addresses the proliferation of green labels and criteria to prove green credentials. Nigeria provided a presentation on its carbon footprint and management project. Chinese Taipei and Korea provided presentations on their voluntary carbon footprint labeling schemes. Australia shared information on its Clean Energy Future Package, which is a carbon pricing mechanism designed to reduce carbon emissions by

establishing a carbon price that would later be replaced by an emissions trading scheme. The Food and Agriculture Organization of the United Nations briefed the CTE on their 2001 International Plan of Action on Illegal Unreported and Unregulated Fishing as well as on aspects related to traceability concerning food safety, quality assurance and market access. The Convention on International Trade in Endangered Species (CITES) reported on the COP16 which resulted in the inclusion of new marine and timber species. Additionally, CITES informed the CTE on recent developments, including the accession of Angola as the 179th Party. No discussion took place under Paragraph 32(ii) (relevant provisions of the TRIPS Agreement); Paragraph 33 (technical assistance, capacity building, and environmental reviews); and Paragraph 51 (developmental and environmental aspects of the negotiations).

## **Prospects for 2014**

The United States is committed to using the CTE as the premier global forum for discussing trade and environment issues and will explore fresh and innovative approaches to the most challenging issues, including those related to trade and climate change.

## **2. Committee on Trade and Development**

### **Status**

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT 1947's role in the economic development of less developed GATT Contracting Parties. In the WTO, the CTD is a subsidiary body of the General Council. Since the Doha Development Round was launched, Members have established three additional subgroups of the CTD: a Subcommittee on LDCs; a Dedicated Session on Small Economies; and a Dedicated Session on Regional Trade Agreements (RTAs).

The CTD addresses trade issues of interest to Members with particular emphasis on issues related to the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity, and Fuller Participation of Developing Countries). In this context, the CTD focuses on the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing country Members, and regional integration efforts among developing country Members. In addition, the CTD focuses on issues related to the fuller integration of all developing country Members into the international trading system, technical cooperation and training, trade in commodities, market access in products of interest to developing countries, and the special concerns of LDCs, small, and landlocked economies.

The CTD has been the primary forum for discussion of broad issues related to the nexus between trade and development, rather than the implementation or operation of a specific agreement. Since the initiation of the Doha Development Agenda (DDA), the CTD has intensified its work on issues related to trade and development. The CTD has focused on issues such as transparency in preferential trade agreements, expanding trade in products of interest to developing country Members, trade in commodities, the WTO's technical assistance and capacity building activities, and an overall assessment of the development aspects of the DDA and sustainable development goals. As directed in the 2005 Hong Kong Ministerial Declaration, the CTD also conducts annual reviews of steps taken by WTO Members to implement the decision on providing duty free, quota free (DFQF) market access to the LDC Members.

Work in the Subcommittee on LDCs and the Dedicated Sessions on Small Economies and RTAs has included review of market access challenges related to exports of LDC Members, LDC accessions to the WTO, trade-related needs of small, vulnerable economies, including island and landlocked states, and review of Member RTAs notified under the Enabling Clause.

## Major Issues in 2013

The CTD in Regular Session held three formal sessions in March, July, and October 2013. Activities of the CTD and its subsidiary bodies in 2013 included:

- *Focused Work on Trade and Development:* At the Eighth Ministerial Conference of the WTO, “Ministers reaffirm[ed] that development is a core element of the WTO’s work. They also reaffirm[ed] the positive link between trade and development and call[ed] for focused work in the Committee on Trade and Development” (WT/MIN(11)/11). Throughout 2013, Members worked to identify areas of focused work in line with this mandate, and several submissions were considered. Discussions continued on a proposal submitted in late 2012 by Australia and other Members whereby Members would make “presentations in the CTD on individual Members’ participation in the multilateral trading system and its effect on that Member’s economic development” (WT/COMTD/W/191). Some Members expressed reservations about this proposal going forward, and it is unlikely that the proposal will continue to be discussed. The CTD agreed to one of the proposals contained in a submission from late 2012 (WT/COMTD/W/192) by a group of Members, including China, Ecuador, Africa Group, India, which directs the Secretariat to prepare an update to its document on the implementation of special and differential treatment provisions in the WTO Agreements and Decisions. Members have expressed reservations about the other proposals in that same submission, as well as a proposal by Barbados, Belize, Benin, Botswana, Kenya, Lesotho and Mauritius (WT/COMTD/W/202), and all these proposals, therefore, remain under discussion.
- *Technical Cooperation and Training:* In 2013, the CTD was briefed on the operationalization of the results-based management monitoring and evaluation system, which is intended to function as the Secretariat’s tool for achieving targeted results and outcomes relating to technical assistance. The CTD also took note of the 2012 Annual Report on Technical Assistance and Training (WT/COMTD/W/197) and of the Annual Report on Monitoring and Evaluation of Technical Assistance and Training for 2012, (WT/COMTD/W/199) and adopted the Biennial Technical Assistance and Training plan for 2014 and 2015 (WT/COMTD/W/200). In the course of 2013, the CTD was kept updated on the implementation of technical-assistance activities.
- *Notifications Regarding Market Access for Developing and LDCs:* In 2013, notifications under the Enabling Clause concerning Generalized System of Preferences (GSP) schemes were made by the European Union (WT/COMTD/N/4/Add.6), Norway, (WT/COMTD/N/6/Add.5), and the Russian Federation (WT/COMTD/N/42). In addition, the European Union notified the trade preferences granted to Pakistan (WT/COMTD/N/41). The CTD also considered issues relating to the notification status of the Gulf Cooperation Council (GCC) Customs Union, the India-ASEAN RTA, and the India-Korea RTA.
- *Dedicated Session on Regional Trade Agreements:* A formal session of the CTD in Dedicated Session on RTAs was held in September 2013 to consider the Free Trade Agreement between India and Malaysia (WT/COMTD/RTA/5/1, WT/COMTD/RTA/5/2, WT/COMTD/RTA/5/3).
- *Electronic Commerce:* The CTD’s discussion on electronic commerce (e-commerce) in 2013 continued to take place in the context of the December 2011 Decision on the Work Program on E-Commerce (WT/L/843). A workshop on “E-commerce, Development and SMEs” was held at the WTO in April under the auspices of the CTD. The major themes that emerged from the

workshop discussions included concerns regarding infrastructure, and lack of reliable access to broadband, high speed cables.

- *Duty Free, Quota Free Market Access for LDCs Members:* The Decision taken at the Hong Kong Ministerial Conference on DFQF market access for LDCs remains a standing item on the CTD's agenda. A number of Members shared information on the steps they are taking to provide DFQF market access to LDCs' products, including in respect of preferential rules of origin. At each of the formal meetings of the CTD, the LDCs called for an expeditious and faithful implementation of the Decision, noting that DFQF market access was being considered in the context of deliverables for the 9th Ministerial Conference (MC9) which occurred in Bali, Indonesia, in December 2013. Additionally, at the July meeting, the Secretariat and the International Trade Center (ITC) made presentations on the existing market information and analysis tools available in the WTO's Database on Preferential Trade Arrangements (<http://ptadb.wto.org>) and the Market Access Map tool (<http://www.macmap.org>).
- *Dedicated Session on Small Economies:* The Dedicated Session on Small Economies held two formal meetings, in April and October-November 2013. At the April meeting, Members discussed a proposal by Barbados on behalf of the small economies, requesting that the Secretariat undertake more analysis on the effects of Non-Tariff Measures (NTMs) on the exports of small economies. The proposal was revised and agreement reached for the Secretariat to conduct further research on the effects of NTMs on the exports of small economies and to hold a workshop during which this topic would be discussed in greater detail. The workshop was held in conjunction with the October-November CTD meeting, during which Members heard presentations on recent research conducted on NTMs by representatives from the ITC and UNCTAD.
- *Aid for Trade:* The CTD held three sessions on Aid for Trade in 2013, in March, June, and October. Work during these sessions focused on the five headings of the 2012-2013 Aid for Trade Work Program, namely resource mobilization, mainstreaming, regional integration, the private sector, and monitoring and evaluation. In addition, the Fourth Global Review of Aid for Trade was held in July 2013. It provided an opportunity to examine Aid for Trade in the context of a global trading system increasingly characterized by national, regional, and global supply chains and to discuss the challenges that developing countries and, in particular, LDCs face in integrating and moving up value chains. The 24 plenary sessions were structured around three broad themes: trade, development goals, and value chains; understanding value chains and development; and future perspectives on Aid for Trade. A total of 30 side events were also organized by WTO Members, intergovernmental organizations, and non-governmental organizations, including a side event sponsored by the United States on how the United States Agency for International Development (USAID), through its catalyzing role in the creation of both the African Cashew Alliance (ACA) and the Global Shea Alliance (GSA), helped to connect these two value chains to global end markets and helped the private sector add value in developing countries.
- *LDC Subcommittee:* The LDC Subcommittee also held three meetings in 2013. During those meetings, Members considered market access for LDCs and trends in LDC trade, as well as trade-related technical assistance and capacity-building initiatives for LDCs. Members also considered updates to the 2002 WTO Work Program for LDCs and adopted the revised work program in June (WT/COMTD/LDC/11/Rev.1).

## **Prospects for 2014**

The CTD is expected to continue to monitor developments as they relate to issues of concern to developing country Members. Interest in issues related to technical assistance and market access is expected to continue. The CTD will undertake discussions to prepare the new Aid for Trade Work Program to replace the 2012-2013 Work Program. It is anticipated that efforts to identify “focused work” will continue, taking into consideration the Bali Ministerial Declaration. In this vein, the CTD will review steps taken by Members to provide DFQF market access to the LDC Members in line with the Hong Kong Declaration and the Bali Ministerial Declaration and review the participation of developing country Members in the multilateral trading system. Also in line with the Bali Ministerial Declaration in 2014, Members will work with the Secretariat in dedicated session to identify the challenges and opportunities experienced by small economies when linking into global value chains. In addition, the CTD’s examination of RTAs between developing country Members will resume as new RTAs are notified to the WTO. Work will continue on implementing the transparency mechanism for preferential trade agreements. Work will also begin on implementing the Monitoring Mechanism, agreed to at the Bali Ministerial (WT/MIN(13)/W/17), which will be done in dedicated sessions of the CTD.

## **3. Committee on Balance-of-Payments Restrictions**

### **Status**

The Uruguay Round Understanding on Balance-of-Payments substantially strengthened GATT disciplines on balance-of-payments-related trade measures. Under the WTO Agreement, any Member imposing restrictions for balance-of-payments purposes must consult regularly with the Committee on Balance-of-Payments Restrictions to determine whether the use of such restrictions is necessary or desirable to address a Member’s balance-of-payments difficulties. The Committee on Balance-of-Payments Restrictions works closely with the International Monetary Fund in conducting consultations. Full consultations involve examining a Member’s trade restrictions and balance-of-payments situation, while simplified consultations provide for more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in its balance-of-payments.

### **Major Issues in 2013**

The Committee on Balance-of-Payments Restrictions met on October 17, 2013 to elect its Chairperson and to adopt its annual report to the General Council (WT/BOP/R/107). The Committee held no other meetings in 2013.

### **Prospects for 2014**

Should a Member resort to new balance-of-payments measures, WTO rules require a thorough program of consultation with the Committee on Balance-of-Payments Restrictions. The United States expects the Committee to continue to ensure that balance-of-payments provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

## 4. Committee on Budget, Finance and Administration

### Status

The Committee on Budget, Finance and Administration (the Budget Committee) is responsible for establishing and presenting the budget for the WTO Secretariat to the General Council for Members' approval. The Budget Committee meets throughout the year to address the financial requirements of the organization. The budget process in the WTO operates on a biennial basis. As is the practice in the WTO, decisions on budgetary issues are taken by consensus. The United States is an active participant in the Budget Committee.

In the WTO, the assessed contribution of each Member is based on the share of that Member's trade in goods, services, and intellectual property. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. For the 2014 budget, the U.S. assessed contribution is 11.406 percent of the total budget assessment, or Swiss Francs (CHF) 22,298,730 (about \$24.6 million) (*details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget for 2013 are provided in Annex II*).

### Major Issues in 2013

Activities of the Committee in 2013 included:

*WTO Budget:* The adoption of the Biennium Budget for 2014/2015 resulted in zero nominal growth for the 2014 budget and zero real growth for the 2015 budget. The budget adopted for 2014 amounted to CHF 197,203,900, including CHF 190,899,300 for the WTO Secretariat and CHF 6,304,600 for the Appellate Body and its Secretariat.

*WTO Facilities:* The work at the main entrance gate of the building and the security perimeter began this year and is expected to be completed in 2014. The new parking for staff in an off-site facility was completed in October. The interpretation equipment in the Council room was modernized in August.

*Members' Transition Operating Fund:* The Members' Transition Operating Fund was established in 2008 to finance additional operating costs during the Building Project as well as final installation costs once the construction is completed. The Committee approved two projects to be funded for a total amount of CHF 900,000. These projects were: (1) to complete the building work on the Accreditation Facility started in March 2013, and (2) to complete the landscaping of areas surrounding the security perimeter.

*Human Resource Matters:* In accordance with the WTO salary adjustment methodology, the Director General applied a 2.4 percent negative adjustment to the WTO salary scale, to freeze salaries for WTO staff and apply the revised scale to new staff. The main factor behind this negative movement was the drop in the value of the Euro against the Swiss franc in the benchmark comparator. The promotion of staff diversity remained a key issue for the Secretariat and the Committee.

### Prospects for 2014

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis and prepare the biennial budget for 2016-2017. It will also be regularly consulted and kept informed of all aspects concerning the finalization and implementation of security enhancements.

## 5. Committee on Regional Trade Agreements

### Status

The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all regional agreements to which Members are party.

The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established in the Uruguay Round Agreements, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system. Prior to 1996, these reviews were typically conducted by a “working party” formed to review a specific agreement.

GATT Article XXIV is the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim agreements leading to an FTA or CU concerning goods. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the “Enabling Clause,” provides a basis for certain agreements between or among developing country Members, also concerning trade in goods. The Uruguay Round added three more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV of GATT 1994; and Articles V and Vbis of the General Agreement on Trade in Services (GATS), which govern services and labor markets economic integration agreements.

FTAs and CUs are authorized departures from the principle of MFN treatment, if certain requirements are met. With respect to goods, tariffs and other restrictions on trade must be eliminated on substantially all trade between the parties. In addition, duties and commercial measures applied to third countries upon the formation of an FTA or CU must not be higher or more restrictive than was the case before the agreement. If, in forming a CU, a Member exceeds its WTO bound rates, it must so notify the WTO in order to negotiate, with other Members, compensation in the form of market access concessions. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs should exceed 10 years only in exceptional cases.

With respect to trade in services, the CU or FTA must have “substantial sectoral coverage” and prohibit or eliminate substantially all discrimination. In addition, the FTA or CU may not exclude *a priori* any mode of supply from the agreement. As with agreements on goods, barriers or restrictions to trade in services, applicable to third parties upon formation of the FTA or CU, may not be higher than was the case previously. Finally, a compensation requirement analogous to that in goods agreements exists for services agreements.

### Major Issues in 2013

As of November 15, 2013, 432 RTAs have been notified to the GATT or WTO, of which 250 are in force (135 covering goods only, 1 covering services only, and 114 covering both goods and services).

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs. The main features of the mechanism, agreed upon in the Negotiating Group on Rules, include: the early announcement of any RTA; guidelines regarding the notification of RTAs; the preparation by the WTO Secretariat, on its own responsibility and in full consultation with the parties, of a factual presentation on each notified RTA to assist Members in their consideration of a notified RTA; timeframes associated with the consideration of RTAs; provisions regarding subsequent notification and

reporting with respect to notified RTAs; technical support for developing countries; and a division of work between the CRTA – entrusted to implement the mechanism *vis-à-vis* RTAs falling under Article XXIV of GATT 1994 and Articles V and Vbis of the GATS – and the Committee on Trade and Development (CTD), entrusted to do the same for RTAs falling under the Enabling Clause.

Since the implementation of the transparency mechanism in 2007, 155 agreements, counting goods and services notifications separately, have been considered (23 in 2013). Of these agreements, 150 have been reviewed in the CRTA and five in the CTD.

Under the transparency mechanism, the WTO Secretariat was tasked to establish and maintain an updated electronic database on individual RTAs. The database was launched in January 2009 and includes extensive information, all of which is available to the public. The RTAs database may be accessed at: <http://rtais.wto.org>.

In 2013, the Committee continued to discuss proposals regarding possible work on the systemic implications of RTAs and their effect on the multilateral system.

### **Prospects for 2014**

Four sessions of the Committee on Regional Trade Agreements are foreseen in 2014.

## **6. Accessions to the World Trade Organization**

### **Status**

While several applicants intensified efforts to complete their accession negotiations during 2013, only Yemen was able to conclude all aspects of the accession process. The Ministerial Conference adopted Yemen's terms of accession and invited it to become a WTO Member at the 9th Ministerial Meeting in Bali. This reduced to twenty-three the number of countries still negotiating for WTO accession.<sup>14</sup> Laos and Tajikistan accepted their accession packages, which WTO Members approved in 2012, and became WTO Members during 2013. This brought to 159 the total number of WTO Members at the end of the year.

During 2013, the pace of work on accessions slowed, with only 13 formal or informal Working Party (WP) meetings convened as follows: for Afghanistan (1), Algeria (1), Belarus (1 informal WP consultation), Bosnia and Herzegovina (2), Kazakhstan (4), Serbia (1), Seychelles (2), and Yemen (1 final formal WP). Additionally, 11 plurilateral meetings to address specific technical issues in the various accession negotiations (e.g., in agricultural supports, SPS, TBT, or TRIMs issues) were convened for interested WTO Members. Market access negotiations and bilateral consultations on other issues also took place at the time of these meetings and consultations.

Kazakhstan, Afghanistan, and Seychelles made considerable progress in market access negotiations or in negotiations on other terms of accession. Work on these accessions, as well as on the accessions of Bosnia and Herzegovina and Serbia, is well advanced. Algeria and Belarus resumed previously-dormant accession negotiations, and Comoros activated its process with the circulation of its Memorandum on the

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<sup>14</sup> Accession Working Parties have been established for Afghanistan\*, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan\*, Bosnia and Herzegovina, Comoros\*, Equatorial Guinea\*, Ethiopia\*, Iran, Iraq, Kazakhstan, Lebanon, Liberia\*, Libya, Sao Tome and Principe\*, Serbia, Seychelles, Sudan\*, Syria, and Uzbekistan (the 8 countries marked with an asterisk are LDCs).

Foreign Trade Regime (MFTR). Azerbaijan advanced its accession with bilateral contacts, both on WTO rules and on goods and services market access.

Four of the 23 current applicants for WTO accession (Equatorial Guinea, Libya, Sao Tome and Principe, and Syria) have not yet submitted their MFTRs describing their respective foreign trade regimes, the action necessary to actually begin accession negotiations. Working Parties and bilateral negotiations with six other applicants – Andorra, Bhutan, Iraq, Lebanon, Sudan and Uzbekistan – remained dormant in 2013. While not officially dormant, there was no action with respect to Iran’s accession process.

Palestine requested and received observer status at the 9th Ministerial Meeting in Bali. Palestine also requested permanent observer status in the General Council; but, to date, there has been no action on the application. There were no other requests for accession or observer status in 2013.

### *Background*

Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members, as Article XII of the WTO Agreement provides. The accession process, with its emphasis on the implementation of WTO provisions and the establishment of stable and predictable market access for goods and services, provides a proven framework for the adoption of policies and practices that encourage trade and investment and promote growth and development.

In a typical accession negotiation, a government submits an application to the WTO General Council, which establishes a WP composed of all interested WTO Members to review the applicant’s trade regime and to conduct the negotiations. The applicant must then provide its MFTR and respond to questions and comments on that document. When there is sufficient new documentation or the applicant makes progress in implementing WTO rules to justify further discussion, the WTO Secretariat schedules a meeting of the WP. The number of WP meetings, as well as the length of the negotiations, largely depends on the speed with which the applicant prepares itself to address the identified issues and to complete the negotiations. Accession applicants also negotiate trade liberalizing specific commitments on market access for industrial and agricultural goods, as well as for services, based on requests from WP Members. In addition, applicants are expected to make necessary legislative changes to implement WTO institutional and regulatory requirements and to eliminate existing WTO-inconsistent measures. Almost all “developed country” accession applicants, and many “developing country” accession applicants, take all of these actions on WTO rules prior to accession.<sup>15</sup>

At the conclusion of its work, the WP adopts the agreed results of the negotiations (the recommended “terms of accession” developed with WP Members in bilateral and multilateral negotiations) and transmits them with its recommendation for approval to the General Council or Ministerial Conference. These terms, *i.e.*, the accession “package,” consist of the “Report of the Working Party” and “Protocol of Accession,” consolidated schedules of specific commitments on market access for goods and services, and agriculture schedules that include commitments on export subsidies and domestic supports. After General Council or Ministerial Conference approval, accession applicants submit the package to their domestic authorities for acceptance (ratification).<sup>16</sup> Thirty days after the WTO receives the applicant’s instrument accepting the terms of accession, the applicant becomes a WTO Member.

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<sup>15</sup> As outlined below, negotiations with applicants designated as “least developed” by the United Nations are subject to special procedures and guidelines, and do not, as a rule, fully implement WTO provisions prior to accession. Transitional periods may also be negotiated, if necessary, with developing or other applicants that request them and can justify their necessity.

<sup>16</sup> The WP decision to adopt the accession package is by “consensus,” *i.e.*, without objection by any WP Member. While there are provisions in the WTO Agreement for the Ministerial Conference or General Council to approve

The accession process requires attention and active engagement from both applicants and WTO Members. Undertaking accession negotiations is a serious decision for any country. Applicants already committed to economic reform, or that demonstrate a strong interest in using WTO provisions as the basis for their trade regimes, are usually the most successful in moving their accession towards completion (*e.g.*, by submitting usable documentation, market access offers, and legislation for WP review on a timely basis). Thus, the pace of the accession process generally depends on the applicant.

The accession process strengthens the international trading system by ensuring that new Members understand and implement WTO rules from the outset. The process also offers current Members the opportunity to secure market access opportunities from acceding countries, to work with accession applicants towards full implementation of WTO obligations, and to address outstanding trade issues covered by the WTO in a multilateral context.

*U.S. Leadership and Technical Assistance:* As a matter of longstanding policy, the United States takes a leadership role in all aspects of the accession negotiations, including in the bilateral, plurilateral, and multilateral aspects of the negotiations. The objectives are to ensure that the applicant fully implements WTO provisions when it becomes a Member, to encourage trade liberalization in developing and transforming economies, and to use the opportunities provided in these negotiations to expand market access for U.S. exports. The United States also provides a broad range of technical assistance to countries seeking accession to the WTO to help them meet the requirements and challenges presented, both by the negotiations and the process of implementing WTO provisions in their trade regimes. USAID, the U.S. Department of Agriculture, and the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce provide this assistance.

This assistance can include providing short term technical expertise focused on specific issues (*e.g.*, customs procedures, intellectual property rights protection, or sanitary/phytosanitary and technical barriers to trade), and/or a WTO expert in residence in the acceding country or customs territory. A number of the WTO Members that have acceded since 1995 received technical assistance in their accession process from the United States, *e.g.*, Albania, Armenia, Bulgaria, Cape Verde, Croatia, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Laos, Lithuania, Macedonia, Moldova, Montenegro, Nepal, Russia, Tajikistan, Ukraine, Vietnam, and Yemen. Most of these countries had U.S.-provided resident experts for some portion of the accession process.

Accession applicants for which the United States provided a resident expert or other technical assistance for the accession process during 2013 include: Afghanistan, Azerbaijan, Bosnia and Herzegovina, Iraq, Kazakhstan, Laos, and Liberia. Among current accession applicants, Algeria, Belarus, Ethiopia, Lebanon, Serbia, and Uzbekistan also received U.S. technical assistance earlier in their accession processes. All but Belarus had dedicated WTO advisors coordinating shorter term assistance at some point in the negotiations. At the Turkmenistan government's request, USAID organized seminars on WTO accession for officials and other economic stakeholders (a form of short-term assistance) in March and again in July of 2013.

### **Major Issues in 2013**

During 2013, WTO Members approved the terms of accession for only one country, Yemen, on December 4 at the 9th Ministerial Conference in Bali. Yemen intends to complete its domestic procedures to accept the terms of accession and become a WTO Member before the end of 2014.

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accessions by an affirmative vote of two-thirds of all Members, in practice, the Ministerial Conference or General Council also approve the terms of accession by consensus.

### *Kazakhstan*

During 2013, Kazakhstan made further progress towards completion of its WTO accession process, making a strong effort to complete the negotiations and submit its accession package for final approval by the 9th Ministerial Meeting in Bali. During four meetings, WP Members further developed the text of the revised and updated draft WP report, resolving a few outstanding multilateral issues, and making progress towards commitment text for the others. Remaining issues include the need to reach agreement on the level of trade-distorting agricultural supports and export subsidies that can be granted; rules for applying safeguards; application of sanitary and phytosanitary measures; availability of trading rights of foreign individuals; application of import licensing procedures for goods with encryption; and the removal of local content requirements in investment contracts and in purchases by state owned enterprises engaged in commercial activity. Each of these issues saw progress; but, at the end of the year, the text of the draft WP report remained incomplete. Discussions continued for adjustments to the tariffs of the Common External Tariff intended to compensate for tariff commitments negotiated by Kazakhstan that would not be implemented in light of Kazakhstan's membership in the Customs Union with Russia and Belarus. The consolidated schedule of commitments and concessions has not been circulated for verification.

### *Serbia*

Serbia's 13th WP meeting convened in June 2013. While bilateral negotiations on goods and services with the United States are well advanced, Serbia has adopted legislation banning importation of goods containing genetically modified organisms (GMOs). This nontariff measure blocks U.S. exports and is not consistent with WTO rules, which require that technical regulations on imports have a scientific basis. The WP review of Serbia's trade regime is nearing completion based on U.S. and other WTO Members' comprehensive comments and drafting suggestions which they submitted after the WP meeting in March 2012. Given the advanced state of the negotiations, it is critical for Serbia to enact the necessary legislation to bring its trade regime into line with WTO rules, including repeal or amendment of the law banning trade in GMOs.

### *Bosnia and Herzegovina*

Two WP meetings, in March and in June 2013, continued discussion of remaining issues in Bosnia and Herzegovina's WTO accession. Bilateral market access negotiations are well advanced. The review of Bosnia and Herzegovina's trade regime in the Working Party is nearing completion, based on U.S. and other WTO Members' comprehensive comments and drafting suggestions that they submitted during 2012. Working Party deliberations in 2013 focused on review and discussion of Bosnia and Herzegovina's draft legislation that, when enacted, will implement WTO rules in that country's trade regime. To complete its accession negotiations, Bosnia and Herzegovina must bridge the last gaps in market access and dedicate itself to solving the few systemic issues that remain, including on trading rights.

### *Azerbaijan*

After two Working Party meetings in 2012, Azerbaijan spent 2013 focusing on market access negotiations, legislation, and providing the WTO Secretariat with information to refine its draft WP report. While much work remains, it is clear that 2014 could be a decisive year in efforts to complete the accession. Further progress in 2014 will depend on Azerbaijan's successful bridging of the last gaps in market access and movement towards resolution of the outstanding systemic issues (*e.g.*, in agricultural supports, taxes and fees on imports, local content requirements in state enterprise procurement, and removal of QRs), as well as progress towards full legislative implementation of WTO provisions.

## *Seychelles*

Seychelles took a leap forward in its WTO accession in 2013, convening two WP meetings, in June and November. The comprehensive questions and comments provided by the United States and other WTO Members have helped identify the issues that Seychelles must resolve to complete the accession. These include taxes, quantitative restrictions, activity licensing and trading rights, and the establishment of WTO-consistent SPS, TBT, and intellectual property protection regimes. The WTO will hold the next WP meeting in early 2014. Bilateral market access negotiations are underway.

## *Algeria*

After convening informal consultations in 2012 with WTO Members, Algeria's WP Chairman sought a 2013 meeting and requested that Algeria provide updated documentation, including a revised draft WP report and updated legislation to implement WTO rules. Based on these inputs, Algeria resumed negotiations in its Working Party in April 2013. The WP identified the following issues for further discussion: trading rights, tariff exemptions, taxes, quantitative restrictions and import licensing, customs valuation, prohibited subsidies, and the implementation of the WTO Agreements on TBT, SPS, and TRIPS. Algeria also circulated revised goods and services offers, and engaged Members in bilateral negotiations on the margins of its WP meeting.

## *Belarus*

In 2005, the WTO suspended regular WP meetings on Belarus' WTO accession. After considering the situation in informal consultations in 2010 and 2012, WTO Members agreed to resume discussions, determining that Belarus had provided sufficient documentation in the intervening period to continue. Informal Working Party consultations were convened in May 2013. At that time, WP Members agreed that informal consultations with Belarus in the Working Party should continue, based on updated documentation and improved market access offers. Belarus stated that its economic regime was in transition with respect to private ownership of production, rule of law in economic and investment matters, and price controls. Members noted that giving Belarus the opportunity to clarify the status and next steps in its economic reforms justified further work.

## *Other Accessions*

The WPs of Ethiopia, The Bahamas, Iraq, and Liberia did not meet during 2013, and there was little bilateral work with the United States on market access in these accessions. Achieving renewed WP discussions and further bilateral contacts will require efforts to update documentation, indicate an active legislative reform process, and revised offers on goods and services market access.

## **LDC Accessions**

WTO Members are committed to facilitating the accession processes of LDCs and in making WTO accession more accessible to these applicants. The accession negotiations for all LDC accession applicants are guided by the simplified and streamlined procedures developed for these countries in response to the WTO General Council Decision on Accessions of Least Developed Countries (WT/L/508) established at the end of 2002, and in its addendum, adopted in July 2012 by the General Council.<sup>17</sup> The expanded Guidelines include provisions under the following pillars: (i) Benchmarks on Goods; (ii) Benchmarks on Services; (iii) Transparency in Accession Negotiations; (iv) Special and Differential

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<sup>17</sup> WT/L/508 and WT/L/508/Add.1

(S&D) Treatment and Transition Periods; and, (v) Technical Assistance. Points (i) and (ii) establish that market access negotiations for the WTO accession of LDCs would be guided by special principles and benchmarks more appropriate to the development level of LDC applicants. The transparency provisions confirm evolving practice in LDC accessions for the use of the good offices of the Chairperson of the Sub-Committee on LDCs, as well as the Chairpersons of the LDCs' Accession Working Parties to assist the conclusion of the accession process of LDCs. S&D treatment and technical assistance provisions of the additional recommendations also confirm the need for restraint and the broad use of transitional provisions when constructing market access commitments, Action Plans for transitional implementation of WTO provisions, and the need for enhanced technical assistance and capacity building in LDC accessions.

The United States and other developed country WTO Members support both the 2002 and the 2012 Decisions on LDC Accessions, adhering to the guidelines in formulating more flexible negotiating positions on market access and WTO implementation commitments for LDCs. The purpose of the guidelines is to ensure that LDCs are prepared for the responsibilities of WTO Membership by promoting use of technical assistance and structuring transitional periods with action plans, and, in general, facilitating LDC integration into the multilateral trading system. The 2012 additional provisions will continue to establish the WTO accession process for LDCs as a tool for economic development, incorporating the applicant's own development program and schedule for receiving technical assistance in an action plan for progressive implementation of WTO rules.

*Developments in 2013:* With the approval of Yemen's accession terms, the number of LDCs seeking WTO accession shrank to eight.<sup>18</sup> Of those, only two actively negotiated with WTO Members during 2013: Afghanistan during its July 2013 WP meeting and Comoros when it submitted its MFTR. Liberia and Ethiopia did not convene WP meetings in 2013, but are continuing their accession efforts and are likely to convene WP meetings in 2014. Sao Tome and Principe and Equatorial Guinea have not yet provided documentation to begin negotiations, and the accession processes of Bhutan and Sudan have been dormant for some time.<sup>19</sup>

### *Afghanistan*

Afghanistan worked hard in 2013 to complete its accession process, in WP deliberations, in bilateral goods and services negotiations, and through accelerated development of implementing legislation for WTO rules. While unable to wrap up its accession process, Afghanistan made good progress in all these areas. In its single WP meeting in July 2013, Afghanistan continued the discussion initiated in the 2011 and 2012 WP meetings to identify measures in its trade regime that need improvement. At the same time, the WTO circulated to WP Members draft legislation that would change current practices. Revised Market Access Offers on Goods and Services were negotiated in bilateral meetings with delegations on the margins of the July WP meeting and, with the United States, in bilaterals in Washington in February and in DVCs in July, August, and November. As 2014 began, the United States and Afghanistan were preparing to sign their bilateral agreement for goods. Afghanistan has declared that it will be a WTO Member by the end of 2014, a goal supported by the United States.

### **Prospects for 2014**

Kazakhstan and Afghanistan made substantial progress towards completion of negotiations on their respective terms of accession. These applicants are now potential candidates for approval in 2014 based

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<sup>18</sup> Afghanistan, Bhutan, Comoros, Equatorial Guinea, Ethiopia, Liberia, Sao Tome and Principe and Sudan.

<sup>19</sup> LDCs that have not yet applied for WTO accession include Eritrea, Timor-L'Este, Somalia, South Sudan, Kiribati, and Tuvalu.

on their active efforts to resolve outstanding issues, a fact recognized by the WTO Secretariat in its annual report on accessions.<sup>20</sup> Serbia, and Bosnia and Herzegovina also are close to completion, but domestic political conflicts have blocked progress on market access and enacting the implementing legislation necessary for the WP to conclude work on their accessions. Azerbaijan, Algeria, Belarus, and Seychelles are actively engaged in accession negotiations, both on rules and market access. These applicants will continue negotiations bilaterally and in their Working Parties during 2014, depending on the timing and the quality of market access offers and on tangible progress on legislation. Other active accessions, but at an early stage of progress, include The Bahamas, Ethiopia, Comoros, and Liberia. Uzbekistan continues to suggest that it might resume its accession process, and Turkmenistan has signaled interest in possibly applying for accession. With the exception of Comoros, however, the divide between active accessions described in this section and the remaining ten applicant countries has only deepened, as these ten applicants are not, at this time, in a viable accession process, and have not been for over four years.<sup>21</sup>

## K. Plurilateral Agreements

### 1. Committee on Trade in Civil Aircraft

#### Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) entered into force on January 1, 1980, and is one of two WTO plurilateral agreements (along with the Agreement on Government Procurement) that are in force only for those WTO Members that have accepted it.<sup>22</sup>

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the Signatories have agreed provisionally to provide duty free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

There are currently 32 Signatories to the Aircraft Agreement: Albania, Canada, the EU<sup>23</sup> (the following 20 EU Member States are also Signatories to the Aircraft Agreement in their own right: Austria, Belgium, Bulgaria, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Spain, Sweden, and the United Kingdom), Egypt, Georgia, Japan, Macao China, Montenegro, Norway, Switzerland, Chinese Taipei, and the United States. WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, Gabon, Ghana, India, Indonesia, Israel, South Korea, Mauritius, Nigeria, Oman, the Russian Federation, Saudi Arabia, Singapore, Sri Lanka, Trinidad and Tobago, Tunisia, Turkey, and Ukraine. The IMF and UNCTAD are also observers.

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<sup>20</sup> WT/ACC/21

<sup>21</sup> Andorra, Iran, Iraq, Lebanon, Libya, Syria, Equatorial Guinea, Sao Tome and Principe, Bhutan, and Sudan.

<sup>22</sup> Additional information on this agreement can be found on the WTO's website at: [http://www.wto.org/english/tratop\\_e/civair\\_e/civair\\_e.htm](http://www.wto.org/english/tratop_e/civair_e/civair_e.htm).

<sup>23</sup> Currently comprising 27 Member States: Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

The Committee on Trade in Civil Aircraft (Aircraft Committee), permanently established under the Aircraft Agreement, provides the Signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

### **Major Issues in 2013**

The Aircraft Committee held one regular meeting on November 7, 2013. At this meeting, the Committee elected Janet Chakarian-Renouf of Canada as its new Chair and continued to discuss its work on the revision of the Product Coverage Annex to the Trade in Civil Aircraft Agreement in order to bring it into conformity with the 2007 Harmonized Commodity and Description System.

### **Prospects for 2014**

The Aircraft Committee agreed to hold its next regular meeting on November 4, 2014. The Chair of the Committee proposed an additional formal meeting of the Committee to finalize the revisions to the Product Coverage Annex in the first half of 2014. The United States will continue to encourage recently-acceded WTO Members to become Signatories pursuant to their respective protocols of accession, and will continue to encourage current Committee observers and other WTO Members to become Signatories to the Aircraft Agreement.

## **2. Committee on Government Procurement**

### **Status**

The WTO Agreement on Government Procurement (GPA) is a “plurilateral” agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO’s single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to it. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement.

Forty-three WTO Members are parties to the GPA: Armenia; Canada; the EU and its 28 Member States (Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom); Hong Kong China; Iceland; Israel; Japan; South Korea; Liechtenstein; the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; Chinese Taipei; and the United States (collectively the GPA Parties).

As of the end of 2012, 10 Members were in the process of acceding to the GPA: Albania; China; Georgia; Jordan; Kyrgyz Republic; Moldova; Montenegro; New Zealand; Oman; and Ukraine. Four additional Members have provisions in their respective Protocols of Accession to the WTO regarding accession to the GPA: the Former Yugoslav Republic of Macedonia; Mongolia; the Russian Federation; and Saudi Arabia. Panama's withdrew its application for accession to the Agreement in a communication circulated on August 9, 2013. When Croatia joined the EU on July 1, 2013, it also became the 43rd Member of the GPA through EU’s coverage of the GPA.

When China joined the WTO in 2001, it committed to commence negotiations to join the GPA “as soon as possible.” In April 2006, China agreed in the Joint Committee on Commerce and Trade (JCCT) to submit its initial offer of coverage by the end of 2007. Based on these commitments, China submitted its application for accession to the GPA and its Initial Appendix I Offer on December 28, 2007. The United States submitted its Initial Request for improvements in China’s Initial Offer in May 2008. In accordance

with a commitment that China made at the United States-China Strategic and Economic Dialogue in July 2009, China submitted a report to the Committee on its plans for submission of a revised offer and the difficulties it has encountered in revising its offer. At the JCCT meeting in October 2009, China committed to table a revised offer in 2010. China submitted its first Revised Offer in July 2010. The United States submitted its Second Request for improvements in China's revised offer in September 2010. China also submitted its responses to the Checklist of Issues for Provision of Information Relating to Accession in September 2008. In April 2010, the United States submitted questions to China on its responses to the Checklist of Issues. China replied to U.S. questions in October 2010. At the JCCT meeting in December 2010, China committed to table a second revised offer in 2011. During President Hu's January 2011 visit to Washington, China expressly committed that its second revised offer would include subcentral entities. On November 30, 2011, China submitted its second revised offer, which included several subcentral entities. On July 3, 2012, the United States submitted its Third Request for improvements in China's offer. On November 29, 2012, China submitted its Third Revised Offer. On December 30, 2013, China submitted its Fourth Revised Offer, which included lower thresholds, increased coverage of sub-central entities, and improvements in other areas.

Jordan submitted its initial offer of coverage in 2002. It has submitted several revised offers, in response to requests by the United States and other GPA Parties for improvements. Negotiations on Jordan's accession did not make any progress in 2013.

The Kyrgyz Republic's accession to the GPA, which had been inactive since 2003, moved forward in 2009 when it submitted updated responses to the Checklist of Issues, but it did not make further progress in 2013.

Moldova applied for accession to the GPA in 2002, and submitted its initial offer in 2008. In September 2012, Moldova submitted a revised coverage offer. Negotiations on Moldova's accession did not make any progress in 2013.

In October 2012, New Zealand commenced negotiations on its accession to the GPA with the submission of its application for accession, initial market access offer, and its replies to the Checklist of Issues. In September 2013, New Zealand circulated its revised coverage offer.

Ukraine commenced its accession to the GPA in 2011 with the submission of its application for accession, and in August 2011, submitted its replies to the Checklist of Issues. In 2012, Ukraine updated the committee on its progress in bringing its domestic legislation into compliance with the GPA's requirements and its preparations of an initial offer. No further progress was made in 2013.

With the addition of Russia and the former Yugoslav Republic of Macedonia in 2013, the following 27 WTO Members, including those in the process of acceding to the GPA, have observer status in the GPA Committee: Albania, Argentina, Australia, Bahrain, Cameroon, Chile, China, Colombia, Georgia, India, Indonesia, Jordan, the Kyrgyz Republic, Malaysia, Moldova, Mongolia, Montenegro, New Zealand, Oman, Panama, the Russian Federation<sup>24</sup>, Saudi Arabia, Sri Lanka, the former Yugoslav Republic of Macedonia, Turkey, Ukraine and Viet Nam. Four intergovernmental organizations (IMF, International Trade Centre, OECD, and UNCTAD) also have observer status.

On December 15, 2011, the GPA Parties reached agreement on the conclusion of negotiations, which had been conducted over more than a decade, to revise the GPA. The outcome included a revision of the text of the GPA to streamline and clarify its obligations, to incorporate flexibilities that reflect modern procurement practices, and to facilitate its implementation. The revision also significantly expanded the

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<sup>24</sup> GPA/W/322, dated May 16, 2013.

procurement covered under the GPA. As part of the GPA package, the GPA Parties adopted a set of Future Work Programs to be undertaken by the GPA Committee following the entry into force of the revised Agreement. These include programs related to: (i) the treatment of small and medium sized enterprises; (ii) sustainable procurement; (iii) the collection and dissemination of statistical data; (iv) exclusions and restrictions in GPA Parties' Annexes; and (v) safety standards in international procurement. The GPA Committee has also approved a decision relating to the use of electronic means to fulfill notification requirements under Articles XIX and XXII of the revised Agreement.

In March 2012, the GPA Parties formally adopted the results of the revision of the GPA. The GPA Parties also agreed to undertake the necessary domestic approval procedures so that the revised Agreement could enter into force as soon as possible.

On December 2, 2013, the United States deposited its instrument of acceptance. On December 3, 2013 GPA Parties committed to bring the revised GPA into force by March 31, 2014.

### **Major Issues in 2013**

As noted, in March 2012, the GPA Committee adopted the results of the revision of the GPA. The revision will expand procurement opportunities for U.S. goods, services, and suppliers. The revised GPA will also facilitate understanding and implementation of the GPA text. In order for the revised agreement to enter into force, two-thirds of the 15 Parties must deposit their instruments of acceptance. In 2013, seven parties, including the United States, deposited their instruments of acceptance of the revised GPA. In December 2013 at the 9th WTO Ministerial Conference, GPA Parties committed to bringing the revised GPA into force by March 31, 2014.

During 2013, the GPA Committee held four formal meetings (in February, May, October and November) and four informal meetings, focused primarily on the entry into force of the revised GPA. The GPA Committee also worked on completing the decisions on arbitration procedures and indicative criteria that are intended to facilitate the modification of GPA Parties' Annexes at the informal meetings. In addition, the GPA Committee held further discussions at the informal meetings on the accessions to the GPA of China, Croatia, Montenegro, New Zealand, and Ukraine.

In July, Croatia joined the GPA and became the 43rd member country. New Zealand submitted its revised offer in September. China submitted its fourth revised offer in December. Montenegro submitted an initial offer in October and a revised offer in November.

### **Prospects for 2014**

The GPA Committee will continue work to advance GPA accessions, in particular, of China, Montenegro, and New Zealand. The GPA Committee will also focus on completion of decisions on arbitration procedures and indicative criteria. As noted, GPA parties are committed to bring the revised GPA into force by March 31, 2014. When the revised GPA enters into force, the GPA Committee will commence work on the five Work Programs that were adopted as part of the overall package.

### **3. Committee of Participants on the Expansion of Trade in Information Technology Products**

#### **Status**

The Committee of Participants on the Expansion of Trade in Information Technology Products (“the ITA Committee”) was established to carry out the provisions of the Information Technology Agreement (ITA)<sup>25</sup>, among which are to review the current product coverage with a view to incorporate additional products, and to consider any divergence among ITA Participants in classifying ITA products. The ITA Committee thus serves as the forum for meetings required under its procedures and collective consultations among the participants.

The ITA covers a wide range of information and communications technology (ICT) products including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments. In March 2013, Tajikistan joined the ITA based on its WTO accession commitment. In July 2013, Qatar also joined the agreement, meaning that now all member countries of the Gulf Cooperation Council are ITA Participants. In September 2013, just over a year after its accession to the WTO, the Russian Federation became the 78th Participant in the ITA. Among these 78 ITA Participants, however, Morocco has yet to submit the formal documentation to implement its ITA Commitments, and El Salvador has indicated that implementation would begin after the completion of domestic legal procedural requirements.

#### **Major Issues in 2013**

In 2013, the United States and 26 other ITA Participants continued negotiations – started in May 2012 – to expand the product coverage of the ITA. Nine negotiating rounds were held in Geneva over the course of 2013 to negotiate on the basis of a “consolidated list” of products proposed for inclusion in the ITA. However, collective efforts to conclude a balanced and commercially significant ITA expansion deal prior to the 9th WTO Ministerial Conference in December 2013 failed when China refused to accept the inclusion of key technology goods in the scope of a final agreement.

In addition to discussion on ITA product expansion, the ITA Committee held two formal meetings in 2013, on March 22 and October 14.<sup>26</sup> In those meetings, the ITA Committee continued its deliberations on the Non-Tariff Measures (NTMs) Work Program. With regard to its work on the Electro-Magnetic Compatibility/Electro-Magnetic Interference (EMC/EMI) Pilot Project, the ITA Committee took note that 28 ITA Members (including the EU as one Member) have provided survey responses to the ITA Committee and encouraged those that had not provided the information to do so without any further delay. In considering ways to advance and expand its work on NTMs other than EMC/EMI, the ITA Committee also heard reports and updates by participants on their contributions to work on NTMs, including a proposal requesting the ITA Committee to organize a workshop on non-tariff barriers in 2014.

The ITA Committee also continued a discussion of classification divergences on certain ITA products. These discussions are aimed at eliminating differences in the way Participants classify ITA products in their national tariff schedules. The ITA Committee adopted a decision to endorse the classification of 18

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<sup>25</sup> More formally known as the “WTO Ministerial Declaration on Trade in Information Technology Products” (WT/MIN(96)/16).

<sup>26</sup> The minutes of these Committee meetings are contained in WTO documents G/IT/M/57 and G/IT/M/58 (not yet released).

ITA Attachment B items in the Harmonized System (HS) 1996 nomenclature. ITA Participants are to submit the relevant documentation to make any necessary modifications to their ITA schedules pursuant to the decision no later than April 30, 2014.

### **Prospects for 2014**

Since the ITA entered into effect in 1997, the global ICT sector has experienced an innovation revolution, with countless new ICT and electronics products entering the market. It is estimated that eliminating duties on additional technology products through an ITA expansion initiative could liberalize roughly \$1 trillion in global ICT trade, supporting an estimated 60,000 new U.S. jobs, and increase annual global GDP by \$190 billion. In 2014, the United States will continue to urge China to increase its ambition on ITA expansion and to support a balanced and commercially-significant package that can be accepted by all Members and concluded as soon as possible.

The next meeting of the ITA Committee will be held in the first quarter of 2014.

# III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

## A. Free Trade Agreements

### 1. Australia

U.S.-Australian trade relations continued to grow steadily in 2013. With the United States-Australia Free Trade Agreement (FTA) in force since January 1, 2005, U.S. two-way goods trade (exports plus imports) with Australia was \$87 billion in 2013, up 64 percent since 2004. U.S. goods exports were \$26.0 billion in 2013, up 87 percent from 2004, and U.S. goods imports were \$9.3 billion, up 23 percent from 2004. The United States had a \$16.8 billion goods trade surplus with Australia in 2013.

Agricultural trade between the United States and Australia also continued to grow in 2013, with U.S. agriculture exports to Australia reaching \$1.3 billion. In 2013, the United States and Australia continued to closely monitor FTA implementation, including related agriculture, sanitary and phytosanitary measures, and government procurement. The two sides worked to further deepen the trade and investment relationship in the Trans-Pacific Partnership as well as through WTO, APEC, and other regional initiatives.

### 2. Bahrain

The United States-Bahrain Free Trade Agreement (FTA), which entered into force on August 1, 2006, generates export opportunities for the United States. Since the first day that the agreement took effect, 100 percent of the two-way trade in industrial and consumer products has flowed without tariffs. In addition, Bahrain opened its services market wider than any previous FTA partner, creating important new opportunities for U.S. financial service providers and U.S. companies that offer telecommunications, audiovisual, express delivery, distribution, healthcare, architecture, and engineering services. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

To manage implementation of the FTA, the agreement establishes a central oversight body, the United States-Bahrain Joint Committee (JC), chaired jointly by USTR and Bahrain's Ministry of Industry and Commerce. The second meeting of the JC was held in October 2009. Dates for the third meeting of the JC have not been set.

In April 2011, the American Federation of Labor and Congress of Industrial Organizations filed a submission with the U.S. Department of Labor alleging that the government of Bahrain took certain actions related to the protests of that year which could be inconsistent with Bahrain's commitments under the FTA Labor Chapter. In December 2012, the U.S. Department of Labor issued a public report concluding that despite significant progress by Bahrain, several issues remained regarding freedom of association and employment discrimination. The report recommended that the United States request formal consultations under the FTA Labor Chapter and work with Bahrain to develop an action plan to address outstanding concerns. In May 2013, the United States requested formal consultations under the Labor Chapter, and in July, USTR led a U.S. Government delegation to Bahrain to begin discussions on these issues. USTR and the U.S. Government delegation held extensive consultations with officials from Bahrain's Ministries of Labor, Trade, and Foreign Affairs, as well as labor unions and business representatives. During the remainder of 2013, U.S. Government agencies continued to impress upon the

government of Bahrain the importance of taking concrete actions to ensure workers in Bahrain can fully exercise their fundamental labor rights.

### **3. Central America and the Dominican Republic**

#### **Overview**

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. This agreement creates additional economic opportunities by eliminating tariffs, opening markets, reducing barriers to services, and promoting transparency. The Agreement is facilitating trade and investment among the seven countries and furthering regional integration.

Central America and the Dominican Republic represent the third largest U.S. goods export market in Latin America, behind Mexico and Brazil. U.S. goods exports to the CAFTA-DR countries were valued at \$30 billion in 2013. Combined total two-way trade in 2013 between the United States and Central American CAFTA-DR Parties and the Dominican Republic was \$61 billion.

The Agreement has been in force since January 1, 2009 for all seven countries that signed the CAFTA-DR. It entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009.

#### **Elements of the CAFTA-DR**

##### *Operation of the Agreement*

The central oversight body for the CAFTA-DR is the Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the trade ministers of the other CAFTA-DR Parties, or their designees. On November 18, 2013 the CAFTA-DR Coordinators, who are technical-level staff of the Parties, met to define the agenda and undertake the preparatory work for an upcoming meeting of the FTC. The FTC will review implementation of the CAFTA-DR to take actions to further strengthen the operation of the Agreement.

Under the Agreement, 100 percent of U.S. consumer and industrial goods will enter duty free in all the other CAFTA-DR countries' markets by 2015. Nearly all U.S. textile and apparel goods that meet the Agreement's rules of origin now enter the other CAFTA-DR countries' markets duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies. Under the CAFTA-DR, more than half of U.S. agricultural exports now enter the other CAFTA-DR countries' markets duty free. The majority of remaining tariffs on nearly all U.S. agricultural products will be eliminated by 2020, with a few most sensitive products having slightly longer phase-out periods. For certain products, tariff-rate quotas permit some duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period.

##### *Labor*

Ongoing labor capacity building activities are supporting efforts to promote workers' rights and improve the effective enforcement of labor laws in the CAFTA-DR countries, including by supporting efforts to protect the rights of workers in the informal economy and lift barriers to formalization, build the capacity

of workers and their organizations to constructively advocate for workers' rights with public authorities and employers, and ensure that workers and employers develop skills and expertise to resolve disputes. In particular, in 2013, the U.S. Government continued to provide technical assistance focused on the effective enforcement of labor laws and strengthening civil society's role in promoting a culture of compliance with labor laws. For example, in 2013 the U.S. Department of State funded a program to strengthen the capacity of unions to perform core representational functions; expand the inclusion of marginalized worker populations within worker organizations; and bolster unions' skills to effectively engage employers and public authorities.

On April 26, 2013, the United States and Guatemala signed an Enforcement Plan to resolve concerns that were raised in the dispute settlement case brought by the United States against Guatemala under the CAFTA-DR. As a result of reaching agreement on the Enforcement Plan, the work of the arbitration panel handling the dispute was suspended. Under the Enforcement Plan, Guatemala agreed to take significant actions to strengthen labor inspections, expedite and streamline the process of sanctioning employers and ordering remediation of labor violations, increase labor law compliance by exporting companies, improve the monitoring and enforcement of labor court orders, publish labor law enforcement information, and establish mechanisms to ensure that workers are paid what they are owed when factories close. Implementation of the Enforcement Plan was underway in 2013. On October 25, the United States and Guatemala agreed to suspend the work of the arbitration panel for an additional six months in recognition of Guatemala's adoption of a number of reforms consistent with the applicable deadlines under the Enforcement Plan. In doing so, the United States noted that it expects substantially more progress to be made. If at any time during the six month period, the U.S. Government determines that Guatemala is not effectively implementing the Enforcement Plan, it can request the panel to resume its work (for additional information, visit <http://www.ustr.gov/about-us/press-office/press-releases/2013/October/US-Guatemala-enforcement-worker-rights>). To support Guatemala's implementation of the Enforcement Plan and other labor commitments, the U.S. Department of State awarded a grant to the International Labor Organization for a project that seeks to build the capacity of the labor inspectorate; assist the Ministry of Labor to better enforce Guatemalan labor laws, train judges, magistrates, and prosecutors in core labor rights; and support tripartite engagement.

In December 2011, a submission was filed with the U.S. Department of Labor (DOL) alleging that the government of the Dominican Republic failed to ensure the effective enforcement of labor laws in the Dominican sugar sector, which, if substantiated, would be inconsistent with the Dominican Republic's commitments under the CAFTA-DR labor chapter. The DOL accepted the submission for review and issued a public report in September 2013 which highlights concerns about potential and apparent violations of Dominican Republic labor laws in the sugar sector with respect to: (1) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; (2) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and (3) a prohibition on the use of any form of forced or compulsory labor. The DOL also noted concerns in the sugar sector with respect to Dominican labor law on freedom of association, the right to organize, and collective bargaining. The Administration will continue to work with the government of the Dominican Republic to address the concerns identified in this report, which will include time-bound steps and measurable milestones by which to monitor and assess progress. The DOL will review implementation of the recommendations six months and again 12 months after the publication of this report and determine what, if any, further action is needed to address the concerns raised in the report.

In March 2012, the AFL-CIO and 26 Honduran worker and civil society groups filed a submission with the DOL alleging that the government of Honduras had failed to enforce its labor laws in the manufacturing, agriculture, and port operations sectors, which, if substantiated, could be inconsistent with Honduras' commitments under the CAFTA-DR labor chapter. In 2013, the U.S. Government continued

to track key issues identified in the submission. The DOL traveled to Honduras in May 2013 to attend a meeting of a commission of civil society representatives formed to track the government of Honduras' efforts to address the problems identified in the submission. In October, the DOL attended a public forum in Honduras at which representatives from unions, employer organizations, and the government discussed issues identified in the submission, including occupational safety and health and freedom of association, as well as the possible implications of labor practices on the competitiveness of Honduran businesses. The U.S. Government will continue to monitor issues identified in the submission and the DOL is expected to issue a public report during 2014.

### *Environment*

Monitoring and implementation of environment commitments of the CAFTA-DR, including enhanced cooperation and capacity building, continued in 2013 and included an increased effort among the CAFTA-DR countries to improve levels of environmental protection. U.S. Government assistance for environment capacity building programs and activities in Central America and the Dominican Republic continued in 2013 and were funded in part through the Pathways to Prosperity in the Americas initiative. Capacity building focused on compliance with specific CAFTA-DR environment chapter obligations, strengthened environmental laws and enforcement, biodiversity conservation, including through market-based approaches, and improved private sector environmental performance. Public outreach and participation efforts also continued in 2013. The Secretariat for Environmental Matters, established in 2006 in accordance with the CAFTA-DR, received five new submissions from the public in 2013 on a range of environmental concerns, and published a third final Factual Record under the public submission process, CAALA/11/004 West Bay Roatán, available at <http://www.saa-sem.org>.

The CAFTA-DR trade and environment points of contact met twice in 2013 to discuss priorities for environmental capacity building programming, implementation of environment chapter obligations, and preparation for the senior-level meeting of the Environmental Affairs Council (EAC). The EAC met in May 2013 in the Dominican Republic, and Council Members highlighted their governments' successes with respect to implementation of obligations under the environment chapter, as well as accomplishments under the parallel Environmental Cooperation Agreement. A joint communiqué on their work was released and an open session was held to engage members of the public in the implementation process of the CAFTA-DR environment chapter and the complementary cooperative capacity building activities. The communiqué is available at: <http://www.ustr.gov/sites/default/files/05092013%20CAFTA-DR%20EAC%20Joint%20Statement.pdf>

### **Trade Capacity Building**

In addition to the labor and environment programs discussed above, trade capacity building programs and planning in other areas continued throughout 2013 with the Office of the U.S. Trade Representative and other agencies. The U.S. Agency for International Development (USAID) and other donors, including U.S. agencies such as the U.S. Departments of Agriculture, State, and Commerce, carried out bilateral and regional projects with the CAFTA-DR partner countries.

In April 2013, USAID began implementation of the Regional Trade and Market Alliances Project that will support the region's trade and institutional capacity to improve trade facilitation and border management. Through this project, USAID will continue providing assistance to governments and businesses in areas related to customs administration, administrative and operating procedures of customs and other border control agencies, and enhancing private sector consultation processes for trade facilitation.

In 2013, USAID began implementing regional programs addressing customs, trade facilitation, and SPS activities. In 2013, the U.S. Department of State's Pathways to Prosperity in the Americas initiative included a broad trade facilitation element, working with other international donors in the region on various customs and border process related issues to foster trade among CAFTA-DR partners. Under Pathways, CAFTA-DR countries are working with the support of the Inter-American Development Bank and participation by the Association of American Chambers of Commerce of Latin America (AACCLA) to create a single window customs network among CAFTA-DR partners and others in Latin America (Mexico, Chile, Ecuador, Panama, and Colombia). The U.S. Department of Commerce continues a series of customs and border modernization workshops in the region, and a concluding conference was held in Chile in 2013 with representation from all of the CAFTA-DR countries. Phase two of this project, which began in 2013, will focus on Guatemala and the Dominican Republic.

USAID, in partnership with USDA, has continued to support the governments of Central America and the Dominican Republic so that their private sector can take advantage of the trade agreement; for example, training on the new U.S. Food Safety Modernization Act to explain to signatory countries the regulations and requirements administered by the U.S. Food and Drug Administration associated with the new law. Exports of agricultural products to the United States must meet these new requirements to access the U.S. market. Also, activities have been undertaken to improve vegetable packing plant inspection procedures to avoid rejections at the port of entry.

USAID, the U.S. Department of State and others, working in cooperation with Secretaría de Integración Económica Centroamericana (Secretariat for Central American Integration; SIECA), continued to expand implementation of the Small Business Development Center (SBDC) model to all of the CAFTA-DR countries, building on a program that began in El Salvador. USTR, the U.S. Department of State, the Small Business Administration, and other agencies are working with various partner organizations, including multilateral institutions and universities, to connect U.S. and regional SBDCs in order to help SMEs take better advantage of trade opportunities through the Small Business Network of the Americas.

### **Other Implementation Matters**

CAFTA-DR partners worked to carry out various FTC decisions adopted to strengthen implementation.

The Parties continued work to update the Agreement's product-specific rules of origin to reflect changes to the International Convention on the Harmonized Commodity Description and Coding System in 2013 (HS Update). Discussions also addressed modifications to reflect the amendments to certain rules of origin for textile and apparel goods, which were agreed by the CAFTA-DR Free Trade Commission, designed to enhance the competitiveness of the region's textiles sector through regional sourcing and integration. The amendments must also be reflected in the updated product-specific rules of origin. The HS Update, expected to be endorsed at the next FTC meeting, will further facilitate traders' tariff claims and customs administrations' application of the Agreement's rules of origin. During 2013, technical-level staff also discussed countries' respective domestic processes and proposed rules of origin modifications under Article 4.14 in order to create additional opportunities for trade under the Agreement.

USTR and the Commerce Department's Trade Agreement Secretariat provided technical support to assist Guatemala to establish its responsible office to carry out administrative functions according to the FTC Decisions on the remuneration of panelists, assistants, and experts, as well as payment of their expenses for CAFTA-DR dispute settlement proceedings, recognizing the importance of an effective dispute settlement mechanism to the integrity of the Agreement.

The United States also continued to work closely with its CAFTA-DR partners on bilateral matters related to the Agreement, with a particular focus on ensuring that its partners properly implement the Agreement.

For example, the U.S. Government continued to work with several CAFTA-DR partners on implementation of agricultural trade matters such as the administration of tariff-rate quotas and SPS issues as well as government procurement issues. The U.S. Government also worked with several CAFTA-DR countries to promote effective protection of intellectual property rights, including a focus on the balance between trademark and geographical indication protection, as reflected in the CAFTA-DR. The U.S. Government also worked with the government of Costa Rica to review and support the opening of its market for wireless mobile and satellite Internet services, as well as access for U.S. suppliers.

## **4. Chile**

### **Overview**

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004.

The FTA eliminates tariffs and opens markets, reduces barriers for trade in services, provides protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anticompetitive business conduct, and requires effective labor and environmental enforcement. In 2013, U.S. goods exports to Chile decreased by 6.3 percent to \$17.6 billion, while U.S. goods imports from Chile increased by 10.6 percent to \$10.4 billion.

### **Elements of the United States-Chile FTA**

#### *Operation of the Agreement*

The central oversight body for the FTA is the United States-Chile Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Chilean Director General of International Economic Affairs or their designees. The FTC last met in July 2012. In 2013, the United States and Chile engaged frequently on bilateral and regional issues and began preparatory work for an FTC meeting in 2014. The FTC will review implementation of the FTA and will suggest actions to further strengthen the operation of the Agreement.

#### *Labor*

In June 2013, the U.S. Department of Labor, together with Chile's Ministry of Labor and the U.S. Embassy in Santiago, participated in a Trafficking in Persons detection training for labor inspectors. Experts from the U.S. Department of Labor's Wage and Hour Division shared best practices on protection in the United States. The U.S. Department of Labor also submitted responses to inquiries from Chile's Ministry of Labor about the U.S. FOIA program in January 2013 at Chile's request.

#### *Intellectual Property Rights*

Chile remained on the Priority Watch List in 2013. The United States continues to have serious concerns regarding outstanding IPR issues under the United States-Chile Free Trade Agreement. Although Chile took some steps in 2013 to propose legislation, the United States continues to urge Chile to implement an effective system for addressing patent issues expeditiously in connection with applications to market pharmaceutical products. The United States also continues to urge Chile to implement both protections against the unlawful circumvention of technological protection measures, and protections for encrypted program-carrying satellite signals. It is also important for Chile to ensure that effective administrative and judicial procedures, as well as deterrent remedies are made available to rights holders and satellite

and cable service providers. In addition, the United States urges Chile to provide adequate protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to amend its Internet service provider liability regime to permit effective action against piracy over the Internet. The United States looks forward to continuing to work with Chile to resolve these and other issues, including through the TPP negotiations.

### *Environment*

At the January 9, 2013 Environment Affairs Council (EAC) meeting held in Santiago, Chile, senior U.S. and Chilean officials reviewed implementation of the Environment Chapter of the FTA. Chilean officials highlighted progress in establishing new environmental institutions such as environmental tribunals, measures taken to strengthen public participation, and advances in corporate social responsibility. The EAC meeting included a public session demonstrating the EAC's commitment to a transparent and participatory process.

The U.S.-Chile Joint Commission for Environmental Cooperation, established pursuant to the Environmental Cooperation Agreement, develops work programs that establish priorities for cooperative environmental activities. The current priorities of the 2012-2014 Work Program include strengthening enforcement of environmental laws, encouraging adoption of sound environmental practices and technologies, promoting sustainable management of environmental resources, and supporting public participation in environmental decision-making.

## **5. Colombia**

### **Overview**

The CTPA builds on a strong commercial relationship with a dynamic regional trading partner. Two-way goods trade totaled \$40.2 billion in 2013. Upon the Agreement's entry into force, Colombia eliminated duties on over 80 percent of U.S. exports of consumer and industrial products, with remaining tariffs phased out over 10 years. Average Colombian tariffs on U.S. industrial exports had averaged over 9 percent prior to entry into force of the CTPA. More than half of U.S. agricultural exports to Colombia became duty free immediately, with virtually all remaining tariffs to be eliminated within 15 years. With limited exceptions, U.S. services suppliers gained access to Colombia's estimated \$200 billion annual services market in 2012. Colombia also agreed to important new disciplines in investment, government procurement, intellectual property rights, labor, and environmental protection, and joined the WTO Information Technology Agreement per its commitment under the CTPA.

### **Implementation of the Agreement**

#### *Intellectual Property Rights*

The United States-Colombia Trade Promotion Agreement (CTPA) entered into force on May 15, 2012. The two Governments had signed an exchange of letters on April 15, 2012, in which the Colombian government outlined its need for more time to fulfill its CTPA obligations to join three treaties on intellectual property. This would allow Colombia's Constitutional Court to complete its review of the treaties' compatibility with Colombia's Constitution. The two Governments agreed that the United States may remove CTPA benefits if Colombia fails to join the treaties by specified dates. In December 2012 and early in 2013, the Constitutional Court issued rulings invalidating the legal provisions implementing Colombia's intellectual property commitments (including its ratification of one of the three treaties) on

procedural grounds. During 2013 Colombia worked to address the procedural concerns identified but they have not yet been remedied. The Administration will continue to press for action as early as possible.

### *Labor*

The entry into force of the CTPA was also accompanied by further progress by Colombia under the Action Plan Related to Labor Rights. During 2013, the Obama Administration continued intensive engagement with the Colombian government to support its efforts to improve the protection of worker rights, prevent violence against trade unionists, and ensure the prosecution of the perpetrators of such violence. The Colombian government took several important steps during the year to strengthen labor rights, including issuing a new law to increase fines for labor violations, and hiring 134 additional labor inspectors for a total of 294 new inspectors since the launch of the Action Plan. The Colombian government also assessed over \$100 million in fines since the Action Plan's launch for practices that violated labor rights (and has collected approximately five percent of these fines to date), and in 2013 issued a new administrative resolution and began to develop procedures to improve the process for collecting fines. In June, Government officials from the United States and Colombia convened the inaugural meeting of the Labor Affairs Council (LAC) under the CTPA in Washington, D.C. Colombian Labor Minister Rafael Pardo and officials from USTR and the U.S. Department of Labor (DOL) discussed the labor obligations of the agreement as well as progress under the Action Plan. The LAC meeting concluded with a public session, consistent with the LAC's commitment to a participatory process, where stakeholders and interested members of the public from the United States and Colombia asked questions and provided information directly to Minister Pardo and U.S. officials.

Also in 2013, President Obama met with Colombian President Juan Manuel Santos in December and discussed implementation of the Action Plan, and Deputy U.S. Trade Representative Miriam Sapiro and U.S. Secretary of Labor Thomas Perez met with Labor Minister Pardo to review key initiatives under the plan. Additionally, USTR and DOL officials traveled to Colombia on multiple occasions to engage with the Colombian Labor Ministry, the Colombian Prosecutor General's office, the National Protection Unit, and labor and business stakeholders. However, important work remains to address areas of mutual concern. In 2013 the United States and Colombia agreed to continue formal meetings on issues covered by the Action Plan through at least 2014 to ensure ongoing progress on labor rights in Colombia. In addition, DOL continued to fund its \$7.8 million five-year project with the International Labor Organization to: (1) strengthen the capacity of the Colombian Labor Ministry, especially the labor inspectorate, to effectively enforce Colombian labor laws and guarantee fundamental rights at work; (2) strengthen existing social dialogue institutions; and (3) strengthen the capacity of the Colombian government to protect trade union leaders and activists, and to combat impunity for perpetrators of violence against them.

### *Environment*

On December 18, 2013, the United States and Colombia held the first meeting of the Environmental Affairs Council (Council) under the CTPA and the first meeting of the Environmental Cooperation Commission (Commission) under the United States-Colombia Environmental Cooperation Agreement (ECA), which entered into force on June 28, 2013. The Council and Commission also held a public session on December 19, 2013, pursuant to the CTPA Environment Chapter and the ECA. At the December 18 meeting, the Council reviewed implementation of the Environment Chapter of the CTPA including actions taken by the United States and Colombia to increase levels of environmental protection, ensure effective enforcement of environmental laws, and provide opportunities for public participation in environmental governance and the trade policy-setting processes. The Council also discussed the

designation of a secretariat to receive and consider submissions on matters regarding enforcement of environmental laws under Article 18.8 of the CTPA.

The Commission reviewed ongoing environmental cooperation activities and approved and signed the first United States-Colombia Work Program for Environmental Cooperation under the ECA, which provides a robust framework for advancing environmental cooperation in the coming years. In particular, the Work Program identifies priorities for cooperative activities that the two countries intend to pursue, including strengthening implementation and enforcement of their respective environmental laws and regulations; promoting sustainable management of environmental resources, including biodiversity, protected wild areas, and other important ecosystems; encouraging low emissions development and the adoption of sound environmental practices and technologies; and promoting environmental education, transparency, and public participation in environmental decision-making and enforcement.

### **Operation of the Agreement**

On November 19, 2012, Deputy U.S. Trade Representative Miriam Sapiro hosted the inaugural meeting of the United States-Colombia Free Trade Commission (FTC), the body responsible for supervising the implementation of the CTPA and resolving any further issues. The Colombian delegation was led by then Vice Minister of Trade Gabriel Duque Mildenberg. At the meeting, the two sides concluded that the Agreement was functioning smoothly and was already benefiting both countries. In 2013 both Governments worked together to carry out initiatives launched at the November 2012 FTC, such as consideration of accelerating tariff elimination, establishment of certain dispute settlement mechanisms and updating the rules of origin. USTR expects to hold the second FTC meeting to review implementation of the CTPA in 2014.

## **6. Israel**

The United States-Israel Free Trade Agreement is the United States' first FTA. It entered into force in 1985 and continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency. In 2013, U.S. goods exports to Israel declined by 3.7 percent, to \$13.7 billion.

The United States-Israel Joint Committee (JC) is the central oversight body for the FTA. In 2012, the JC met to explore ways to engage in collaborative efforts to increase bilateral trade and investment. During the meeting, the United States and Israel noted progress made in addressing a number of specific standards-related impediments to trade and opened a dialogue to address additional standards-related issues. The United States and Israel spent the balance of 2012 and 2013 working to expand cooperation in standards and customs. In October 2013, Israel enacted revisions to its standards regime, which seek to significantly expand recognition standards of other internationally respected standards bodies, including those of the United States. If the new standards law is broadly implemented, it would have a substantial positive effect on easing the importation of a broad range of U.S. products. The United States and Israel are also working to facilitate claims of duty-free status for individual products.

The Parties also made progress during the JC meeting on negotiating a new agreement on trade in agricultural products and resolving several outstanding sanitary and phytosanitary (SPS) issues. In 1996, the United States and Israel concluded an Agreement Concerning Certain Aspects of Trade in Agricultural Products (ATAP), which provided for duty-free or other preferential tariff treatment of a number of agricultural products. The 1996 agreement was extended through 2003 and a new agreement was concluded in 2004. While this Agreement originally was scheduled to expire at

the end of 2008, it has been extended annually since then to allow negotiations on a new ATAP agreement to continue.

In November 2012, the United States proposed revised modalities for a new ATAP agreement, seeking to capitalize on progress to date and to streamline the negotiations while liberalizing trade to the maximum degree possible. Each side is reviewing the proposals put forward by the other in preparation for the next round of negotiations, tentatively planned for 2014. In November 2013, the two sides agreed to extend the ATAP agreement through December 31, 2014, while the aforementioned negotiations continue.

In November 2013, the United States and Israel brought a telecommunications mutual recognition agreement into force. This agreement streamlines conformity assessment processes. It facilitates trade by permitting recognized U.S. laboratories to test U.S. telecommunications equipment for conformity with Israeli technical regulations. The agreement also provides that in the future, the United States and Israel can agree to the mutual acceptance of equipment certifications issued by recognized conformity assessment bodies in the United States and Israel.

## **7. Jordan**

In 2013, the United States and Jordan continued to benefit from their economic partnership. A key element of this relationship is the United States-Jordan Free Trade Agreement (FTA), which entered into force on December 17, 2001, and was implemented fully on January 1, 2010. In addition, the Qualifying Industrial Zones (QIZs) program, established by the U.S. Congress in 1996, allows products to enter the United States duty-free if manufactured in Jordan, Egypt, or the West Bank and Gaza, with a specified amount of Israeli content. The program has succeeded in stimulating significant business cooperation between Jordan and Israel.

Together these measures have played a significant role in boosting overall U.S.-Jordanian economic ties. U.S. goods exports to Jordan were an estimated \$2.1 billion in 2013, up 18 percent from 2012. QIZ products account for about 5 percent of Jordanian exports to the United States, but the QIZ share of these exports is declining relative to the share of exports shipped to the United States under provisions of the FTA. This shift toward exporting products manufactured outside of the QIZs demonstrates the important role the FTA plays in helping Jordan diversify its economy.

The United States-Jordan FTA has expanded the trade relationship between the two countries by reducing barriers for services, providing cutting edge protection for intellectual property, ensuring regulatory transparency, and requiring effective labor and environmental enforcement. At the October 2012 meeting of the Joint Committee (JC) established under the FTA, the United States and Jordan crafted an action plan outlining concrete steps to boost trade and investment bilaterally, and between Jordan and other countries in the Middle East region. Among its first steps under the action plan during 2013, Jordan endorsed Joint Principles on International Investment and Joint Principles for Information and Communication Technology (ICT) Services. Additionally, the United States worked with Jordan on the Implementation Plan Related to Working and Living Conditions of Workers which was concluded in January 2013, supported by the USAID-funded ILO Better Work Jordan program. In December 2013, the Jordanian Ministry of Labor signed a Memorandum of Understanding with the U.S. Department Labor to strengthen institutional capacity to fulfill the common goals of labor cooperation under the agreement, designating an office within each respective Ministries of Labor to serve as points of contact for this purpose.

## 8. Republic of Korea

### Overview

The United States-Korea Free Trade Agreement (KORUS) entered into force on March 15, 2012. Under the agreement, almost 80 percent of U.S. exports to the Republic of Korea (Korea) of consumer and industrial products became duty free on March 15, 2012, and nearly 95 percent of bilateral trade in consumer and industrial products will become duty-free within five years of that date. Most remaining tariffs will be eliminated within 10 years. As of January 1, 2014, three rounds of tariff cuts have taken place under KORUS. For agricultural products, almost two-thirds (by value) of Korea's agriculture imports from the United States have enjoyed duty-free status since March 15, 2012.

For services, the agreement has provided meaningful market access commitments that extend across virtually all major service sectors, including greater and more secure access for international delivery services and the opening up of the Korean market for foreign legal consulting services. In the area of financial services, the agreement has increased access to the Korean market and ensured greater transparency and fair treatment for U.S. suppliers of financial services. The agreement has addressed nontariff barriers in a wide range of sectors and includes strong provisions on intellectual property rights, competition policy, labor and environment, and transparency and regulatory due process. The agreement also has provided U.S. suppliers with greater access to the Korean government procurement market.

### Operation of the Agreement

The agreement's central oversight body is the Joint Committee, chaired by the U.S. Trade Representative and the Korean Trade, Industry and Energy Minister. The second Joint Committee meeting was convened on October 5, 2013, and substantial issues of interest to both parties – including origin verification, financial services, and automotive issues – were discussed. A Senior Officials Meeting (SOM) was held on November 17, 2013, to follow up on the above-mentioned issues and to coordinate and report on the activities of the committees and working groups established under the agreement.

In addition to the Joint Committee and the SOM, 12 of the 19 committees and working groups established under the KORUS met in 2013 and served as the primary venues for monitoring Korea's implementation of its FTA commitments. USTR has consulted and will continue to consult closely with stakeholders regarding the work of the FTA committees, including with respect to potential agenda items.

The Environmental Affairs Council (EAC) met on February 14, 2013. The EAC reviewed implementation of the Environment Chapter of the FTA. The United States and Korea outlined actions they have taken to increase levels of environmental protection, ensure effective enforcement of environmental laws, and provide opportunities for public participation in environmental governance and the trade policy-setting processes. They also discussed ways to further strengthen their cooperation in multilateral and regional fora, including APEC. They held a public session of the EAC, which included participation from civil society, business, and members of the press.

On February 19, the Committee on Sanitary and Phytosanitary Matters met and discussed a number of substantive issues of interest to both countries, including the regulations concerning minimum residue levels of certain pesticides, food classifications, exchange of information regarding pesticide control and detection, and biotechnology.

On February 20, the Fisheries Committee met and discussed policies on fishing access in the exclusive economic zones of the United States and Korea, cooperation under bilateral and regional fisheries management arrangements, and transparency of fisheries subsidies programs.

On March 18 and 19, the Labor Affairs Council met and discussed labor rights issues, including Korea's regulations concerning "non-regular workers" and obstruction of business (*e.g.*, strikes), and held a public session to hear comments from labor organizations and other interested stakeholders.

On June 10, the Professional Services Working Group exchanged information on various services sectors including engineering, architectural, veterinary, and accounting services, and discussed possible work by relevant professional bodies on mutual recognition agreements and temporary licensing.

The Committee on Technical Barriers to Trade met on June 11. In this meeting, the United States urged Korea to address concerns regarding new requirements for the registration and evaluation of chemicals, testing and certification of solar panels, Korean regulations on electrical safety assessment for information technology equipment, and Korean certification of organic processed food products. The Committee also reviewed implementation of KORUS' transparency provisions, such as publishing responses to comments received during regulatory notice and comment periods.

The Automotive Working Group also met on June 11 and discussed a wide range of issues related to trade in the automotive sector. The United States used the meeting to receive early updates on Korea's regulatory plans related to safety and environment and to raise concerns with possibly contradictory methodologies and redundancies between ministries as Korea revises its system for checking compliance with automobile emissions requirements. The United States also addressed systemic issues in the meeting, urging Korea to fully implement the automotive-specific transparency provisions and systematically improve the regulatory and business environment for U.S. automakers by significantly lengthening the amount of adaptation time provided between the adoption of new regulations or amendments and their effective date.

On June 27, the Committee on Trade Remedies discussed various issues related to trade remedies regulations and activities in both countries, including information related to antidumping and countervailing duty investigation and review procedures in the United States and updates on privatization plans of the Korea Development Bank and Woori Bank.

The Working Group on Small and Medium Sized Enterprises (SMEs) has met three times since KORUS entered into force, reflecting the priority both countries place on ensuring that SMEs in both countries can take full advantage of the KORUS' opportunities. The SME Working Group convened on June 27 for its third meeting. The Group has discussed cooperation on joint education and outreach efforts to inform SMEs in both countries, the administration of the *de minimis* provision for express shipments, customs cooperation, and the operations of electronic payment systems on SME online vendors. Both parties also commissioned respective short-term analyses and evaluations of the impact of the implementation of the KORUS on SMEs.

On November 4, the Committee on Outward Processing Zones (OPZ) met. The OPZ Committee meeting was introductory in nature, and the Korean government provided an overview of the Gaesong Industrial Complex (GIC), responding to questions regarding the current status of its operations.

On November 5, the Committee on Trade in Goods met and discussed issues under Chapters 2 (market access), 6 (rules of origin), and 7 (customs) of the KORUS. The United States urged Korea to resolve serious concerns related to inappropriate and excessive procedures and methodologies used to verify whether U.S. goods met KORUS' rules of origin. The United States also discussed the potential effects

of Korea's proposed low carbon program on automobile sales of U.S. vehicles, as well as Korea's administration of the *de minimis* provision for express shipments.

The Medicines and Medical Devices Committee also met on November 5 and reviewed Korea's implementation of Articles 5.2 (innovation) and 5.3 (transparency) – in particular, the Committee discussed Korea's recent changes to drug and medical device reimbursement and pricing policies and their potentially adverse effects on fostering greater innovation and development of life-saving drugs and technologies. The United States also provided updates on the U.S. healthcare system.

The U.S. Government also addresses KORUS compliance and other trade issues on a continual basis through regular inter-sessional consultations, through our respective embassies, and through other engagement with the Korean government, including at senior levels, in order to resolve issues in a timely manner.

## **9. Morocco**

The United States-Morocco Free Trade Agreement (FTA) entered into force on January 1, 2006. The FTA is a comprehensive agreement that supports the significant economic and political reforms that are underway in Morocco and provides improved commercial opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the entry into force of the FTA, two-way U.S.-Morocco trade has risen to \$3.3 billion in 2013, up from \$927 million in 2005 (the year prior to entry into force). U.S. goods exports to Morocco in 2013 were \$2.3 billion, up 6 percent from the previous year. Corresponding U.S. imports from Morocco in 2013 were \$977 million, up 4.8 percent from 2012.

The United States and Morocco signed a Trade Facilitation Agreement in November 2013 that builds on the FTA and includes provisions facilitating the movement of goods across borders, including transit, transparency with respect to penalties, Internet publication of rules and regulations governing trade, and other issues that will improve Morocco's efficiency in its goods trade. This accord follows Morocco's endorsement of Joint Principles on International Investment and Joint Principles for Information and Communication Technology (ICT) Services in December 2012.

During the past year, the United States and Morocco took steps to enhance their trade and investment relationship. Morocco hosted four regional programs funded by the U.S. Department of State and organized by the U.S. Department of Commerce (DOC) including a March 2013 seminar to aid customs officials in identifying counterfeit products; a May 2013 workshop on best practices in government procurement; a May 2013 conference on standards development; and an October 2013 commercial mediation program. In June 2013, DOC officials provided technical assistance to the Moroccan Department of Foreign Trade in implementing commercial defense measures and, in December 2013, the U.S. Patent and Trademark Office, in partnership with the Moroccan Industrial and Commercial Property Office, organized a conference for the Moroccan judiciary on IPR enforcement.

In 2013, the United States and Morocco continued their cooperation in support of the FTA labor chapter. In December 2013, the U.S. Department of Labor funded a \$1 million project to promote gender equality in the workplace, and a \$5 million project to reduce child labor in the Marrakesh-Tensift-Al-Haouz region by promoting children's participation in educational and vocational training programs. The U.S. Department of State, through a grant to the International Labor Organization, provided technical support and training to the Moroccan Ministry of Labor to enforce labor laws and to promote social dialogue. The U.S. Department of State, through a grant to the American Center for International Labor

Solidarity, also continued its assistance to Moroccan worker organizations to support internal capacity building and to organize vulnerable workers employed in call centers and Export Processing Zones.

In 2013, Morocco and the United States continued their cooperation on environmental issues. The U.S. Department of the Interior (DOI) helped Moroccan government authorities strengthen tools customs officers use to seize contraband wildlife products at ports of entry, and Morocco's CITES Management Authority to oversee legal trade in wildlife products. The DOI also partnered with Morocco's High Commission for Water, Forests and the Fight Against Desertification to: (1) develop park-use and zoning plans to sustainably manage increased tourism in Toubkal National Park, home to the second highest mountain peak in Africa, and (2) improve the management of 38,000 hectares of protected areas. The U.S. Forest Service provided rangeland management training to Moroccan officials and supported the establishment of a Rangeland Management School to help protect Morocco's primary water source. The World Environment Center, in collaboration with the Moroccan Cleaner Production Center, is helping 18 SMEs to increase energy efficiency and establish cleaner production methods in the food canning sector. In 2013, with U.S. government support, the High Atlas Foundation launched a Green Jobs in Morocco program with the goal of increasing household incomes of family farmers in nut-growing regions by 400 percent over the next 5 years.

## **10. North American Free Trade Agreement**

### **Overview**

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada, and Mexico (NAFTA) entered into force. All remaining duties and quantitative restrictions were eliminated, as scheduled, on January 1, 2008. The NAFTA created the world's largest free trade area, which now links 470 million people producing roughly \$19.5 trillion worth of goods and services.

Trade between the United States and its NAFTA partners has soared since the agreement entered into force. U.S. two-way goods trade with Canada and Mexico exceeds U.S. goods trade with the European Union and Japan combined. U.S. goods exports to the NAFTA partners have increased by 271 percent between 1993 and 2013, from \$142 billion to \$527 billion. By dismantling barriers, the NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness.

The NAFTA was also the first U.S. FTA to link free trade with obligations to protect labor rights and the environment. In connection with the NAFTA, the United States and Mexico also agreed to fund a development bank to address environmental infrastructure needs along the U.S.-Mexico border.

### **Elements of NAFTA**

#### *Operation of the Agreement*

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), comprised of the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy or their designees. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement.

The FTC held its most recent annual meeting in Washington on April 3, 2012. At the meeting, the FTC agreed to continue to contribute to ongoing bilateral and trilateral regulatory cooperation initiatives, with a view to facilitating trade and reducing unnecessary administrative costs. These regulatory cooperation initiatives take place through the U.S.-Canada Regulatory Cooperation Council and the U.S.-Mexico

High Level Regulatory Cooperation Council. The Parties also furthered their work to liberalize the NAFTA rules of origin.

#### *NAFTA and Labor*

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC established a tri-national Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat. In addition, each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and the Secretariat, to provide publicly available information to the Secretariat and the other NAOs, and to provide for the submission and review of public communications on labor law matters. The NAOs, together with the Secretariat, can also carry out cooperative activities promoted by the Council.

In 2013, representatives from the three Parties' NAOs met to discuss ways to strengthen coordination and communication between the NAOs. In addition, the U.S. National Advisory Committee (NAC) for Labor Provisions in U.S. Free Trade Agreements, which is made up of four representatives from the public, four from the labor community, and four from the business community, provided recommendations to the U.S. NAO on how to improve the functioning of the NAALC. In January 2012, the U.S. Department of Labor (DOL) accepted for review a public submission from the Mexican Union of Electrical Workers (Sindicato Mexicano de Electricistas) and over 90 other organizations concerning Mexico's obligations under the NAALC regarding worker rights. Officials from the DOL met with the NAC in March 2013 and provided an update on the submission regarding Mexico, as well as other issues. DOL reported that the Mexican submitters asked to provide additional information regarding the review, which DOL extended in order to consider this new information.

#### *NAFTA and the Environment*

The Parties continued their efforts to ensure that trade liberalization and efforts to protect the environment are mutually supportive. In 2012, the FTC approved a work plan to strengthen cooperation between the FTC and the North American Commission for Environmental Cooperation (CEC). Trade officials from the Parties participated in the development of the CEC's 2013-2014 work plan, which was formally adopted in July 2013. The work plan focuses on collaborative actions in three areas: greening transportation, tackling climate change while improving air quality, and addressing waste in trade.

Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC) provide for a process allowing members of the North American public to make an assertion that a Party is failing to effectively enforce its environmental law. In 2013, the CEC Secretariat received three submissions that asserted that one of the Parties is failing to effectively enforce its environmental law. For more information regarding these submissions, please visit the CEC website at <http://www.cec.org>.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects in furtherance of the goals of the NAFTA and the NAAEC. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of September 30, 2013, NADB had contracted a total of \$2.2 billion in loans and/or grant resources to partially finance 189 infrastructure projects certified by the BECC with an estimated cost of \$6.5 billion.

## 11. Oman

The United States-Oman Free Trade Agreement (FTA), which entered into force on January 1, 2009, complements other U.S. FTAs in the Middle East and North Africa (MENA) to promote economic reform and openness throughout the MENA region. Implementation of the obligations in the FTA generate export opportunities for U.S. goods and services providers, solidify Oman's trade and investment liberalization efforts, and strengthen intellectual property rights protection and enforcement.

The central oversight body for the FTA is the United States-Oman Joint Committee (JC), chaired jointly by USTR and Oman's Ministry of Commerce and Industry. The second meeting of the JC was held on September 9, 2012. During this meeting, officials discussed a broad range of trade issues, including efforts to increase bilateral trade and investment levels, efforts to ensure effective implementation of the FTA's customs, investment and services chapters, possible cooperation in the broader MENA region, and additional cooperative efforts related to labor rights and environmental protection. Dates for the third meeting of the JC have not yet been set.

During the first meeting of the Subcommittee on Labor Affairs in April 2012, officials discussed the complaint mechanism of the labor chapter and potential areas of future labor cooperation.

## 12. Panama

### Overview

The United States-Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. The United States' two-way goods trade with Panama was \$11.2 billion in 2013, with U.S. goods exports to Panama totaling \$10.8 billion. On October 31, 2012, the TPA immediately eliminated tariffs on 86 percent of U.S. consumer and industrial goods exports to Panama (based on 2011 trade flows), with any remaining tariffs phased out within 10 years. Additionally, nearly half of U.S. agricultural exports became duty-free, with most remaining tariffs to be phased out within 15 years. Tariffs on a few most sensitive agricultural products will be phased out in 18 years to 20 years. The first tariff reduction under the TPA took place on October 31, 2012, and the second annual tariff reduction took effect on January 1, 2013. The TPA also provides significant new access to Panama's nearly \$28 billion services market and contains disciplines related to customs administration and trade facilitation, technical barriers to trade, government procurement, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

### Elements of the United States-Panama TPA

#### *Operation of the Agreement*

The TPA's central oversight body is the United States-Panama Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Panamanian Minister of Trade and Industry or their designees. The FTC is responsible for overseeing implementation and operation of the TPA. The United States and Panama worked intensively during 2013 to implement the provisions of the TPA and address issues of concern that arose during the first year. The FTC's first decision was to establish the Agricultural and the Sanitary and Phytosanitary (SPS) Committees under the TPA, which held their first meetings on August 2, 2013. The United States and Panama also signed a side letter regarding a 2007 side letter regarding how the United States would treat products from other U.S. free trade agreement partners if those products passed through Free Trade Zones in Panama, and a side letter amending a 2006 side letter to change the certification requirements for U.S. beef and beef products to be exported to Panama. It is

expected that the FTC will review progress thus far in implementing the TPA and to consider launching additional initiatives.

### *Labor*

The TPA includes obligations for both countries to protect fundamental labor rights as well as to effectively enforce existing labor laws, which will enable workers and businesses to compete on a level playing field.

Panama undertook a series of major legislative and administrative actions beginning in 2009 to further strengthen its labor laws and labor enforcement. Panama reformed its laws to protect the right to strike, eliminate restrictions on collective bargaining, and protect the rights of temporary workers. Panama also took administrative actions to address concerns in the areas of subcontracting, temporary workers, employer interference with unions, bargaining with non-union workers, strikes in essential services, and labor rights in the maritime sector. In 2012, Panama began conducting a series of targeted inspections to monitor compliance with laws on subcontracting and temporary workers, and publically issued findings citing specific companies for violations and these targeted inspections continued through 2013.

The TPA also established a Labor Affairs Council comprised of cabinet-level officials to oversee implementation and progress under the labor chapter. The inaugural meeting of the Council was held in Panama City on January 27-28, 2014. USTR and the U.S. Departments of Labor and State attended the meeting to engage with Panama's Ministry of Labor and Ministry of Commerce and Industry to review progress on the implementation of the TPA labor obligations and discuss areas for cooperation on labor rights issues. The labor obligations under the TPA are subject to the same dispute settlement provisions as the other obligations in the TPA and therefore are subject to the same remedies.

### *Environment*

The environmental obligations under the TPA are subject to the same dispute settlement provisions as the other obligations in the TPA and therefore are subject to the same remedies.

The TPA environmental commitments require both countries to maintain existing levels of environmental protection and to strive for higher environmental standards. Both the United States and Panama are committed not to weaken existing environmental laws or to reduce environmental protections in any way that will give domestic producers an advantage over the other country's exporters – and both Governments commit to effective enforcement of environmental laws.

On October 22, 2013, the Panamanian National Assembly passed the U.S.-Panama Environmental Cooperation Agreement (ECA), and it entered into force on December 7, 2013. In May 2012, the United States and Panama had signed the ECA, which had been negotiated by the U.S. Department of State in parallel with the environment chapter of the TPA. USTR continues to work closely with the U.S. Department of State and government officials in Panama in development of the ECA work program, which will outline the priorities and cooperative activities anticipated to fulfill ECA commitments, build on trade and environment successes in the region, and support capacity building to protect the environment in concert with the strengthening of bilateral trade and investment relations. The inaugural meeting of the Environmental Affairs Council and the Environmental Cooperation Commission, established under the TPA Environment Chapter and ECA, respectively, was held in Panama City on January 29, 2014. During this meeting, the Council and Commission discussed progress to implement the Environment Chapter, continued discussions regarding the establishment of a secretariat for environmental enforcement matters, and advanced progress on the ECA work program. A public session was held in connection with these meetings.

## 13. Peru

### Overview

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009.

The United States' two-way goods trade in goods with Peru was \$18.2 billion in 2013, with U.S. goods exports to Peru totaling \$10.1 billion.

The PTPA eliminates tariffs, removes barriers to U.S. services, provides a secure and predictable legal framework for investors, and strengthens protections for intellectual property, workers' rights, and the environment.

### Elements of the PTPA

#### *Operation of the Agreement*

The PTPA establishes a Free Trade Commission (FTC) to supervise the implementation of and oversee the further elaboration of the PTPA. The FTC is comprised of the U.S. Trade Representative and the Peruvian Minister of Foreign Trade and Tourism or their designees. In June 2013, the FTC met for the third time to review the progress made under the PTPA since entry into force. The FTC heard reports from several committees established under the PTPA to enhance cooperation and consultation between the Parties and address ongoing bilateral issues. Namely, the Standing Committee on Sanitary and Phytosanitary Measures, the Committee on Technical Barriers to Trade, the Environmental Affairs Council, the Environmental Cooperation Commission, and the Sub-Committee on Forest Sector Governance all met during 2013 and provided updates to the FTC. The FTC also issued a decision to add the State of Delaware to the Government Procurement Chapter of the Agreement. The FTC also discussed a number of ongoing bilateral issues and cooperation efforts in other trade fora.

#### *Labor*

USTR continues to engage with the government of Peru to review progress on the implementation of the PTPA's labor provisions, including most recently at the June 2013 FTC meeting.

With trade capacity building funds, USAID implemented programs to improve the enforcement capacity of the Peruvian Ministry of Labor and to strengthen worker organizations and educate workers on their labor rights. The U.S. Department of Labor is supporting the Solidarity Center to build the capacity of worker organizations in the textile/apparel, agroindustry, and mining sectors in Peru.

#### *Environment*

The Parties continued their work to strengthen environmental protection and enforcement through the PTPA Environment Chapter and its Annex on Forest Sector Governance (Forest Annex).

In January 2013, the Parties agreed to a five point Action Plan to strengthen implementation of the Forest Annex and promote Peru's forestry sector reform efforts. The Action Plan identifies a targeted set of actions for Peru to undertake to address specific challenges in its forestry sector, including implementing anti-corruption measures, improving systems to track and verify the chain of custody of timber exports, ensuring timely criminal and administrative proceedings for forestry-related crimes and infractions, and strengthening development of accurate annual operating plans for timber producers. The United States is

supporting Peru's actions to implement the Action Plan through a number of ongoing environmental cooperation projects as well as planned activities that will further enhance implementation, such as trainings for prosecutors on environmental issues.

In October 2013, Peru achieved another important milestone by publishing draft regulations to implement its new Forestry and Wildlife Law. USTR and other agencies are reviewing the draft regulations and continuing to engage with Peru regarding the establishment of key oversight institutions in Peru's forestry sector, with a view to further strengthen Peru's implementation of the Forest Annex. USTR, together with the U.S. Department of State, also concluded negotiations with Peru on the terms of several documents necessary to establish an independent secretariat to consider citizen submissions that assert that a Party is failing to effectively enforce its environmental laws.

On April 3-4, 2013, the United States and Peru convened the sixth meeting of the Forest Sector Subcommittee (Sub-Committee) and the third meeting of the Environmental Cooperation Commission (ECC) in Lima, Peru. The Sub-Committee reviewed progress under the Forest Sector Annex, including the development of a prototype for an information system that will track and verify the chain of custody for wood harvested in Peru's forests. The ECC reviewed ongoing and future environmental cooperation programs that support activities under the Forest Sector Annex and the bilateral Action Plan. On June 4-5, the United States and Peru convened the fourth meetings of the Environmental Affairs Council (EAC) and ECC in Washington, D.C. The EAC reviewed the progress the United States and Peru have made in ensuring effective implementation of the obligations under the Environment Chapter of the TPA. Public sessions were held following the meetings in April and June to provide stakeholders with an opportunity to discuss matters related to the Environment Chapter and Forest Annex with Government officials from the United States and Peru.

In December 2013, USTR published a fact sheet outlining progress made to date to implement the PTPA Environment Chapter and Forest Annex, key developments, and priority areas for USTR engagement in the coming year. The press release is available at the following link: <http://www.ustr.gov/sites/default/files/2013-Progress-under-the-Forest-Annex.pdf>.

### *Trade Capacity Building*

Since 2009, the U.S. Department of Agriculture's Foreign Agricultural Service (FAS) with financial support from USAID in Lima have provided targeted capacity building in the areas of sanitary and phytosanitary regulatory and surveillance systems, agricultural research, and agricultural education to support the implementation of the PTPA. Their trade capacity program (excluding environment matters) was completed in September 2013 and closed-out in October.

## **14. Singapore**

The United States-Singapore Free Trade Agreement (FTA) has been in force for a decade and trade relations between the two countries continue to grow steadily. Two-way goods trade with Singapore totaled \$48.6 billion in 2013, up 53 percent from 2003 (the year before the FTA's entry into force). U.S. goods exports were \$30.7 billion, up 86 percent from 2003, and U.S. goods imports were \$17.8 billion, up 18 percent from 2003. In 2013, the United States had an estimated \$17.8 billion trade surplus in goods with Singapore.

The United States continued to monitor implementation of the FTA throughout 2013, consulting regularly with Singapore. The two sides also continued to discuss trade in textiles and apparel, measures related to Singapore's imports of U.S. beef and pork, protection of intellectual property rights, concerns related to

the geographical indications regime in the EU-Singapore FTA, cloud computing deployments in the financial services industry, requirements for pay television companies to cross-carry content from competing providers, and continued environmental and labor cooperation efforts. In April 2013, the United States and Singapore held a review meeting for Environmental Cooperation under the FTA and adopted a new Plan of Action for Environmental Cooperation for 2013-2014. The United States and Singapore also coordinated on ASEAN, APEC, and WTO issues.

## **B. Other Bilateral and Regional Initiatives**

### **1. The Americas**

#### **Free Trade Agreements**

The United States' free trade agreements with Colombia and Panama entered into force in 2012, on May 15 and October 31, respectively. In addition, the United States continued to implement, enforce, and benefit from its four other FTAs covering the following countries in the Americas: Canada and Mexico under NAFTA; Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua under CAFTA-DR; Chile; and Peru. The United States began its domestic consultative process with respect to Mexico and Canada joining the Trans-Pacific Partnership (TPP) negotiations in November 2011, and this process concluded in October 2012, with Mexico and Canada joining the negotiations. Expanding the negotiations to include additional countries throughout the Asia-Pacific region has been a longstanding U.S. objective. The participation of Mexico and Canada advances this goal and further increases the economic significance of the TPP Agreement (*a description of USTR's FTA focused activity in this region during 2013 can be found in Chapter III.A.*).

#### **Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms**

USTR chairs bilateral meetings with non-FTA partners in the Americas to discuss market opening opportunities, including improving access for small and medium sized businesses and resolving trade issues with those governments. In May of 2013, the United States signed a Trade and Investment Framework Agreement (TIFA) with the Caribbean Community (CARICOM). The Trade and Investment Council established by the TIFA met for the first time on November 15, 2013, in Washington D.C. It addressed an increased focus on intellectual property protection, the development of e-commerce infrastructure, the removal of barriers to bilateral trade, and the need for continued regulatory collaboration.

#### **Other Priority Work**

The United States continued its engagement with other countries in the region, aimed at fostering bilateral trade relations and resolving trade problems during 2013. Highlights of USTR's other priority activities in the region include:

##### *Brazil*

In September 2013, Brazil hosted the second meeting of the United States-Brazil Commission on Economic and Trade Relations, which was established under the United States-Brazil Agreement on Trade and Economic Cooperation (ATEC). The ATEC was signed during President Obama's March 2011 trip to Brazil to deepen U.S. engagement with Brazil and expand U.S. trade and investment relationship on a broad range of issues including trade facilitation, intellectual property rights and innovation, and technical barriers to trade. During the September 2013 Commission meeting, the United

States and Brazil agreed to move forward to hold the first meeting of the Working Group on Intellectual Property Rights and Innovation, which was established during the first Commission meeting in 2012.

### *Canada*

President Barack Obama and Prime Minister Stephen Harper created the U.S.-Canada Regulatory Cooperation Council (RCC) on February 4, 2011. After private sector consultations and bilateral negotiations, the RCC released the Joint Action Plan on Regulatory Cooperation on December 7, 2011. The RCC met in Washington, D.C., on June 19, 2013, to discuss work under the 2011 Joint Action Plan, the next steps in furthering Canada-U.S. regulatory alignment, and the role of the Council moving forward. On June 20, 2013, in Washington, D.C., the RCC held its second stakeholder outreach event on February 4, 2013, the first having taken place in January 2012.

Protection and enforcement of intellectual property rights is a continuing priority in bilateral trade relations with Canada. Canada re-introduced the Combating Counterfeit Products Act in the House of Commons in October 2013. The United States continues to urge the government of Canada to amend this legislation to also address the problem of transshipment of counterfeit trademark and pirated copyright goods through Canada to the United States. With respect to pharmaceuticals, the United States continues to have serious concerns about the impact of the heightened utility requirements for patents that Canadian courts have been adopting recently and other developments.

On September 30, 2013, the United States and Canada agreed to jointly initiate arbitration under the Softwood Lumber Agreement (SLA) to resolve a disagreement over the implementation of a prior SLA arbitration award (LCIA No. 81010). The award requires Canada to apply additional export charges on shipments of softwood lumber from Quebec and Ontario to remedy breaches of the SLA concerning certain forestry programs in those provinces. The additional export charges were designed to collect \$58.85 million over the term of the SLA, which was set to expire on October 12, 2013, when the award was issued. In January 2012, the United States and Canada extended the SLA until October 12, 2015. Canada has applied the additional export charges since March 2011, but did not collect \$58.85 million as of October 12, 2013. The United States and Canada have reconvened the original tribunal to determine whether the award requires Canada to continue to apply the additional export charges until \$58.85 million is collected while the SLA remains in effect.

As a result of the 1998 United States-Canada Record of Understanding on Agricultural Matters, the United States-Canada Consultative Committee on Agriculture (CCA) and the Province/State Advisory Group were formed in 1999 to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. The CCA met in June 2013 to reinforce the close working relationship between the two Governments and their respective agricultural sectors.

### *Mexico*

In May 2013, President Obama and Mexican President Peña Nieto established the High Level Economic Dialogue (HLED) to further elevate and strengthen the dynamic bilateral commercial and economic relationship. The HLED, which is led at the cabinet level, is a flexible platform intended to advance strategic economic and commercial priorities central to promoting mutual economic growth, job creation, and global competitiveness. In September 2013, Ambassador Froman joined Vice President Biden at the first meeting of the HLED. The United States and Mexico developed an initial work plan laying out potential areas for cooperation under three broad pillars: Promoting Competitiveness and Connectivity; Fostering Economic Growth, Productivity, Entrepreneurship, and Innovation; and Partnering for Regional and Global Leadership.

Mexico remains one of the most important markets for U.S. agricultural products. In 2013, the United States worked with Mexico to remove Mexican barriers to exports of U.S. beef and beef products. In addition, the United States continues to monitor Mexico's use of sanitary and phytosanitary measures to ensure that they are not applied in a way that would improperly impede U.S. exports.

## **2. Europe and the Middle East**

USTR's Office of Europe and the Middle East is responsible for bilateral trade relations with the European Union (EU) and its 28 Member States, non-EU European countries, Russia, certain countries of western Eurasia, the Middle East, and North Africa. Priority activities in 2013 included: initiating negotiations on a comprehensive Transatlantic Trade and Investment Partnership agreement; monitoring Russia's implementation of its WTO commitments; building initiatives in the Middle East/North Africa (MENA) region to support ongoing political and economic reforms as well as trade and investment integration, including through the implementation of FTAs, BITs, and TIFAs; and working with countries wherever possible, through TIFAs and other arrangements, to resolve trade concerns, expand trade and investment opportunities, and foster commercial and trade policies grounded in the rule of law.

### **Deepening U.S.-EU Trade and Investment Relations**

The U.S. trade and investment relationship with the EU is the largest and most complex economic relationship in the world. Transatlantic trade flows (goods and services trade plus earnings and payments on investment) averaged an estimated \$4.3 billion each day of 2013. The total stock of transatlantic investment was \$3.8 trillion in 2012. These enormous trade and investment flows constitute a key pillar of prosperity for the United States and Europe, and countries around the world benefit from access to the markets, capital, and innovations of the transatlantic economy.

To further strengthen this critical trade and investment relationship, President Obama announced on February 13, 2013 his intention to pursue comprehensive trade and investment negotiations with the EU. On June 17, 2013, President Obama and EU Leaders announced the launch of negotiations on a Transatlantic Trade and Investment Partnership (T-TIP) agreement. These negotiations build upon the work and recommendations of the United States-EU High Level Working Group for Jobs and Growth, which was co-chaired by the U.S. Trade Representative and the European Commission Trade Directorate, and which issued a final recommendation for a comprehensive trade and investment agreement in February 2013.

In establishing U.S. negotiating objectives for the T-TIP agreement, the Administration consulted closely with the U.S. Congress and a wide range of public and private sector stakeholders. The United States is seeking in T-TIP to:

- Further open EU markets to increase the \$465 billion in goods and private services the United States exported in 2012 to the EU, our largest export market;
- Strengthen rules-based investment to grow the world's largest investment relationship. The United States and the EU already maintain a total of nearly \$3.8 trillion in investment in each other's economies (as of 2012);
- Eliminate all tariffs on trade;
- Tackle costly "behind the border" non-tariff barriers that impede the flow of goods, including agricultural goods;
- Obtain improved market access for trade in services;

- Significantly reduce the cost of unnecessary differences in technical regulations, standards, and conformity assessment procedures by promoting greater compatibility, transparency, and cooperation, while maintaining our high levels of health, safety, and environmental protection;
- Develop rules, principles, and new modes of cooperation on issues of global concern, including intellectual property and market-based disciplines addressing state-owned enterprises and discriminatory localization barriers to trade; and,
- Promote the global competitiveness of small- and medium-sized enterprises.

Three negotiating rounds took place in 2013, and both sides have agreed to pursue an ambitious schedule of negotiations in 2014.

### **Ensuring that U.S. Companies and Workers Can Reap the Benefits of Russia’s WTO Membership**

In 2013, Russia passed its one-year anniversary as a Member of the WTO. The United States negotiated a strong commercial deal for Russia’s accession to the WTO. As described in USTR’s first annual report “Russia WTO’s Implementation of the WTO Agreement” issued in December, 2013, (Implementation Report), Russia adopted, amended, or modified many of its international treaties, laws, regulations, decrees, resolutions, and other measures in an effort to bring its legal regime governing international trade into conformity with WTO rules, but more work needs to be done (for further information see the Implementation Report available at <http://www.ustr.gov/about-us/press-office/reports-and-publications/2013/Report-on-Russia-Implementation-of-WTO-Agreement>).

Having laws on the books and rules in place, however, does not guarantee WTO compliance or ensure that U.S. workers and businesses will realize the full benefits of Russia’s WTO membership. As reflected in USTR’s Implementation Report and the “Report on WTO Enforcement Actions: Russia” issued in June 2013, the United States has spent the past year urging Russia to implement fully its WTO commitments and using various WTO mechanisms to obtain compliance where Russia appears to fall short (for further information see the Enforcement Report available at <http://www.ustr.gov/about-us/press-office/reports-and-publications/2013/wto-enforcement-russia>). For example, in September, 2013, at the insistence of the United States and other WTO Members, Russia completed the steps to become the 78th participant in the Information Technology Agreement Committee, as a result of which Russia will eliminate tariffs on all covered products by 2016. USTR, in conjunction with USDA, continued to work to bring Russia’s SPS regime into conformity with WTO rules, in particular opposing Russia’s imposition of SPS measures that appear to be inconsistent with international standards and not based on science. The United States has also pressed Russia to revise its import licensing regime with regard to imports of products with cryptographic capabilities. In addition, USTR has raised concerns about Russia’s imposition of safeguard measures against combine harvesters and against other products. In response to objections from the United States and other WTO Members, Russia amended its “recycling fee” to address concerns about its discriminatory application only to imported vehicles. The United States also pressed Russia to meet its WTO transparency obligations to ensure that U.S. businesses are aware of, and could comment on, changes to Russia’s legal and regulatory regime. The United States will continue to monitor Russia’s implementation of its WTO obligations and use all available tools of the WTO, as appropriate, to enforce those obligations.

The Obama Administration has also responded to U.S. industry concerns about Russia’s protectionist measures and practices. For example, USTR has opposed local content requirements imposed or introduced by Russia in such areas as automobiles, medical devices, pharmaceutical products, and movies. The United States will continue its efforts to open Russia’s market to exports of U.S. goods and services.

Protecting intellectual property rights has always been a key component of U.S. trade policy and an important tool to support U.S. exports. Under the auspices of the United States-Russia IPR Bilateral Working Group, the United States has advocated for stronger enforcement of Russia's IPR laws and improvement of current law and practice, as required by the IPR Action Plan that the United States and Russia signed in 2012, and worked with Russia to implement the steps set forth in the plan. USTR continues to engage with Russia on topics identified in the WTO Working Party Report, including the improved administration of Russia's royalty collecting societies, greater clarity in its pharmaceutical regulations, and more effective IPR enforcement practices.

The United States has also continued to engage with the Eurasian Economic Commission (EEC), the administrative arm of the Russia-Kazakhstan-Belarus Customs Union (CU), on issues that fall within the EEC's competence (*e.g.*, TBT, SPS, and tariffs). As the EEC assumes more responsibility over the external trade policy of the Customs Union Parties, USTR will work with the EEC as well as with Russia to ensure compliance with the WTO rules and to open the CU's markets to exports of U.S. goods.

### **Ongoing Engagement with the Middle East and North Africa**

The revolutions and other changes that have swept through the MENA region beginning in 2011 have prompted a comprehensive reevaluation of U.S. trade and investment policies toward this critical part of the world. The dramatic developments in certain countries, most notably Egypt, Tunisia, and Libya, have provided new opportunities for engagement, as well as new challenges, with respect to trade and investment issues. In response to these events, and pursuant to the President's call in his May 2011 speech to establish a new trade and investment partnership initiative with the MENA region, USTR coordinated with other Federal agencies, outside experts, and stakeholders in both the United States and MENA partner countries to identify prospective areas for cooperation that could yield the quickest results in terms of increased trade and investment. The Obama Administration's initial focus has centered on developing initiatives with respect to trade facilitation, investment, and the information and communications technology (ICT) sector, in addition to developing longer-term trade and investment objectives with trading partners in the region. In 2013, the United States continued to monitor, implement, and enforce U.S. FTAs in the region; signed a TIFA with Libya; pursued TIFA consultations with Tunisia, Algeria and others; and sought new opportunities to cooperate more closely with Egypt.

Also in 2013, the United States enhanced its engagement with the Gulf Cooperation Council (GCC) countries by negotiating the United States-GCC "Framework Agreement for Trade, Economic, Investment and Technical Cooperation." Delegations from the United States, the GCC Secretariat, and the six Member States (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) held a meeting under the Agreement in June 2013, discussing key trade and investment issues including customs, intellectual property, control procedures for food imports, standards development, legal harmonization, and WTO initiatives. Enhanced U.S. dialogue with the GCC should help ensure that U.S. interests are fully represented as the GCC continues to develop as a regional organization that aims to harmonize standards, import regulations, and conformity assessment systems among its member states.

### **Other Priority Trade Activities**

In addition to the countries referenced above, the United States also engaged with other key countries in the Europe, western Eurasia and Middle East/North Africa regions to promote enhanced trade and investment ties, increase U.S. exports, foster the development of intraregional economic ties, and, where relevant, advance countries' accessions to the WTO (*see Chapter II.J.6. for more information on WTO accessions*).

Notable activities in 2013 included:

- *Turkey*: U.S. bilateral economic ties with Turkey have grown steadily over the last 15 years. Recognizing Turkey's growing importance as a trading partner, USTR and the U.S. Department of Commerce co-chair U.S. participation in a ministerial-level forum for enhancing bilateral engagement on economic and trade issues, known as the Framework for Strategic Economic and Commercial Cooperation (FSECC). Building on longstanding senior-official-level bilateral consultations in the economic area (for example, under the United States-Turkey TIFA), the U.S. Government aims to utilize the FSECC process to reduce or eliminate barriers to bilateral trade and investment, in the process creating opportunities for U.S. workers, farmers, and firms. The first and second formal FSECC meetings occurred in Washington in October 2010 and in Ankara in June 2012; the next is envisioned for early- to mid- 2014. Given Turkey's concerns about the potential for United States-EU T-TIP negotiations to affect its trade relations, President Obama and Turkish Prime Minister Erdogan agreed in May 2013 to form a High Level Committee (HLC), associated with the FSECC, to assess such potential impacts and seek new ways to promote bilateral trade and investment; the United States and Turkey held several working level consultations under the HLC in 2013. USTR Michael Froman and Turkish Minister of the Economy Caglayan convened the first formal meeting of the HLC on September 16, 2013.
- *Ukraine*: The United States condemned Ukraine's attempt in 2012 to revise its WTO tariff bindings on over 350 key agricultural and non-agricultural products, and continues working with other concerned WTO Members to persuade Ukraine to rescind its request to revise its tariff bindings. The United States also continued to work with the government of Ukraine to improve the protection and enforcement of intellectual property rights. USTR is currently investigating Ukraine's intellectual property protection policies and practices following Ukraine's designation as a Priority Foreign Country under Section 301 of the Trade Act of 1974, as amended (*for further information see Chapter V.B.1.*).
- *Southeastern Europe*: The United States continued to engage the countries of this region on a variety of trade issues, including the WTO accessions of Bosnia and Herzegovina and of Serbia, participation in U.S. preference programs, and IPR protection.

### **3. Japan, Republic of Korea, and the Asia-Pacific Economic Cooperation Forum**

#### **Japan**

##### *United States-Japan Trade Relations*

In 2013, the United States continued to engage Japan on a broad array of trade and trade-related issues, with the goal of eliminating barriers to trade and expanding access to Japan's market.

In late January 2013, the United States and Japan agreed on new terms and conditions for the export of U.S. beef and beef products to Japan that led to significantly increased U.S. exports to Japan. Under these terms, which entered into effect on February 1, Japan permits the import of beef from cattle less than 30 months of age, compared to the previous limit of 20 months, among other improvements. Both Governments also agreed to regular and *ad hoc* consultations to review progress under the agreement and address any issues that may arise.

Following extensive consultations with Japan on its readiness to meet the Trans-Pacific Partnership's (TPP) high standards for liberalizing trade and investment, as well as Prime Minister Abe's March 15 statement seeking Japan's participation in the TPP negotiations, the United States announced on April 12 the successful completion of these bilateral consultations and support for Japan's participation in the TPP negotiations. Accompanying this announcement were a series of actions by and agreements with Japan that included: (1) agreement to launch bilateral negotiations conducted in parallel to Japan's participation in the TPP negotiations to address issues of concern in the automotive and insurance sectors, as well as other non-tariff measures in areas such as express delivery, transparency, and government procurement; (2) a unilateral step by Japan to more than double by type the number of motor vehicles eligible for import under its Preferential Handling Procedure certification method; and (3) agreement that U.S. tariffs on motor vehicles would be phased out in accordance with the longest staging period in the TPP negotiations, with maximum back loading.

Following extensive domestic U.S. stakeholder and congressional consultations, including a public hearing and the solicitation of comments through the *Federal Register*, and the completion of additional U.S. domestic procedures, the United States joined other TPP countries in welcoming Japan into the TPP negotiations on July 23 as the group's 12th member country. Bilateral parallel negotiations with Japan on motor vehicles, insurance, and other non-tariff measures were launched soon after, beginning on August 7, with three additional rounds held during the remainder of 2013.

In addition, the United States worked closely with Japan to address trade issues of common interest, including those in third-country markets, bilaterally and multilaterally. This included closely coordinating on World Trade Organization (WTO) dispute settlement matters, working toward the successful conclusion of negotiations to expand the WTO Information Technology Agreement, and working closely together in the Asia-Pacific Economic Cooperation (APEC) forum on addressing local content requirements, promoting effective, market-driven, and non-discriminatory innovation and trade policies, and improving supply chain performance in the Asia-Pacific.

### **Republic of Korea (Korea)**

*(See Chapter III.A.8 for discussion of the United States-Korea Free Trade Agreement.)*

In addition to close engagement with counterparts in the Korean government in FTA committee meetings and working groups under the U.S.-Korea Free Trade Agreement (KORUS FTA), USTR continues to hold bilateral consultations with Korea in a variety of formats to address bilateral trade issues in a timely fashion, as well as to discuss emerging issues that may fall outside the scope of the FTA. These meetings, which USTR leads, and in which other U.S. international economic agencies participate, are augmented by a broad range of senior level policy discussions. In 2013, the United States and Korea held a number of bilateral trade consultations, in which the United States raised a number of issues, including the importance of Korea not imposing regulations in the automotive sector that could restrict trade and urging Korea to address concerns about unlicensed or infringing uses of copyrighted or patented products. Korea has provided important market access for U.S. beef and beef products from animals less than 30 months of age since reopening its market to imports of U.S. beef in June 2008. In 2013, U.S. exports of beef and beef products to Korea topped \$609 million, making Korea the fifth largest U.S. beef export market.

The United States and Korea cooperated extensively in a range of multilateral and regional fora to advance opening markets. In APEC, the two economies worked together closely to achieve significant and concrete outcomes on a variety of initiatives to strengthen regional economic integration in the Asia-Pacific, in particular by improving supply chain performance in the region and addressing trade-distorting local content requirements. Korea joined with the United States and others to launch negotiations in 2013

to conclude a Trade in Services Agreement (TiSA). TiSA now includes 23 economies and almost two-thirds of world services exports.

## APEC

### *Overview*

Since it was founded in 1989, the Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in promoting regional and global trade and investment. In 2011, the United States hosted APEC for the first time since 1993, which provided a unique opportunity to reduce barriers to U.S. exports and to more closely link our economy with the dynamic Asia-Pacific region. In 2012 and 2013, with Russia and Indonesia as APEC hosts, respectively, the United States was able to build on the momentum created in its host year.

At the October 2013 meeting in Bali, APEC Leaders committed to a series of significant and meaningful outcomes that will advance trade and investment in the region. As a means of accelerating APEC's work to achieve their 2010 commitment to improving supply chain performance by 10 percent by 2015 in terms of reduction of time, cost, and uncertainty of moving goods and services through the region, APEC Leaders established a new APEC fund for assisting economies with overcoming obstacles they face in improving supply chain performance. The resources in this fund will be dedicated towards implementing a comprehensive plan for targeted, focused capacity building activities in individual economies. This capacity building platform will provide significant opportunities for APEC to continue its global supply chain leadership, address supply chain chokepoints, and reduce the time, cost, and uncertainty of moving goods and services through the region.

In 2013 APEC Leaders also endorsed a capacity building effort to assist economies with implementing their groundbreaking 2011 commitment to reduce their tariffs on an agreed list of environmental goods to 5 percent or less. Implementing this historic outcome will make a significant contribution to the Obama Administration's goals to increase exports and jobs, as well as its strong commitment to promoting green growth and sustainable development. APEC Leaders also established a new Public-Private Partnership on Environmental Goods and Services (PPEGS), which will be a forum for APEC governments and industry representatives collectively to address critical issues impacting this sector, including addressing non-tariff barriers impacting trade in environmental goods and services.

As a part of United States efforts to address harmful localization barriers to trade appearing around the world, the United States led an APEC initiative on improving understanding of how local content requirements distort trade and investment and impair economic growth. This work led to APEC Leaders' welcoming in Bali on October 5, 2013, *APEC Best Practices to Create Jobs and Increase Competitiveness*, which APEC members can use to address their domestic economic objectives rather than using local content requirements.

APEC Leaders also agreed to advance actions to address next generation trade and investment issues, including finalizing work to implement effective, non-discriminatory, and market-driven innovation and trade policy, as soon as possible; and continue efforts to strengthen the implementation of good regulatory practices. In a separate statement, APEC Leaders expressed their support for the multilateral trading system, resisting protectionism, and achieving successful outcomes at the 9th WTO Ministerial Conference (MC9) in Bali during December 2013. They also encouraged the swift conclusion of a balanced and commercially significant outcome of the negotiations to expand product coverage of the WTO Information Technology Agreement, and sought expanded membership of the ITA.

According to the APEC Secretariat, the 21 member economies collectively account for about 40 percent of the world's population, half of global trade, and 60 percent of total GDP. In 2013, United States-APEC total trade in goods was \$2.4 trillion. Total trade in services was \$376 billion in 2012 (latest data available). The significant volume of U.S. trade in the Asia-Pacific region underscores the importance of the region as a market for U.S. exports.

### *2013 Activities*

**Supply Chain Connectivity and Performance:** APEC Leaders in 2013 established a new Supply Chain Connectivity Sub-Fund; instructed officials to develop a capacity building plan to assist economies, particularly developing economies, in overcoming specific obstacles they face in enhancing supply chain performance; and encouraged economies to contribute necessary resources to the Sub-Fund to execute the capacity building plan. This new capacity building platform will provide significant opportunities for economies to improve their supply chain regimes; address supply chain chokepoints; reduce the time, cost, and uncertainty of moving goods and services through the region; and implement their commitments under the WTO Trade Facilitation Agreement. APEC Ministers also endorsed a broad set of policy recommendations that, if adopted by economies, would contribute significantly to improving supply chain performance and reaching the 2015 ten percent performance improvement objective. APEC's supply chain work will make it significantly cheaper, easier, and faster for businesses to trade in the region. Examples of the types of chokepoints include burdensome customs procedures and documentation requirements, inefficient clearance of goods at the border, and inadequate transportation infrastructure, among other issues important to the logistics sector.

**Promoting Environmental Goods and Services:** APEC Leaders agreed to advance the implementation their historic commitments in 2011 and 2012 to reduce tariffs on a list of 54 credible environmental goods<sup>27</sup> to 5 percent or less by 2015. In this regard, Ministers endorsed a capacity building proposal sponsored by the U.S., China, and Indonesia to assist economies with the implementation of their commitments. As a means to address non-tariff measures impacting trade in environmental goods and services, APEC Leaders also on October 5, 2013, established the APEC Public-Private Partnership on Environmental Goods and Services (PPEGS), which will have its first meeting in 2014 on renewable and clean energy. The PPEGS will be a forum for the private sector and APEC economies to discuss industry trends, avenues for cooperation, and non-tariff measures impacting trade and investment in environmental goods and services. These activities will help APEC businesses and citizens access important environmental technologies at lower costs, which in turn will produce a cleaner environment and other environmental benefits, improving the quality of life and living standards of people across the Asia-Pacific region. They will also contribute significantly to APEC's core mission to promote free and open trade and investment. In their separate statement on the WTO, APEC Leaders committed to explore opportunities in the WTO to build on the APEC commitment.

**Addressing Local Content Requirements:** When governments require that businesses must source parts and components from domestic suppliers, they limit export opportunities and disrupt global supply chains. Local content requirements are even more challenging for small and medium-sized businesses that do not have the capital and other resources to comply with such requirements by producing abroad. In 2013, APEC discussed how economies can promote job creation and competitiveness that enhance, rather than distort, trade. This work resulted in Ministers' endorsement of *APEC Best Practices to Create Jobs and Increase Competitiveness*, which presents economies with a model to promote their domestic economic objectives instead of using trade-distorting local content requirements. APEC Leaders

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<sup>27</sup> The APEC List of Environmental Goods includes such core products as renewable and clean energy technologies, wastewater treatment technologies, air pollution control technologies, solid and hazardous waste treatment technologies, and environmental monitoring and assessment equipment.

welcomed these Best Practices and acknowledged the work on local content requirements. Adoption of these Best Practices by APEC economies will help stem the growing proliferation of these measures around the world, mitigating negative effects of local content requirements on the global trade regime.

**Strengthening the Implementation of Good Regulatory Practices:** To improve the quality of regulations of APEC economies and prevent non-tariff barriers to trade and regulatory divergences from occurring in the region, APEC Leaders agreed to take specific actions to develop, use, or strengthen the implementation of the three Good Regulatory Practices (GRPs) identified in 2011 in the U.S. APEC host year. These GRPs are (1) ensuring internal coordination of regulatory work; (2) assessing the impact of regulations; and (3) conducting public consultations. APEC Leaders also noted three optional tools used by some economies to help achieve this goal, including: (1) single online locations for regulatory information; (2) prospective regulatory planning; and (3) periodic reviews of existing regulation. APEC Ministers instructed officials to continue carrying out related capacity building and information sharing activities to create a high-quality regulatory environment and advance regulatory coherence and cooperation.

**Addressing Next Generation Trade and Investment Issues:** In 2013, APEC Leaders agreed to advance actions to address the next generation trade and investment issues as agreed to in 2011 and 2012, including by finalizing the *APEC Innovation and Trade Implementation Practices* as soon as possible. These Practices will help economies meet their 2011 commitment to implement in their domestic policy frameworks effective, non-discriminatory and market-driven innovation policies.

**Advancing Regulatory Cooperation through Industry Dialogues:** In 2013, the Automotive Dialogue promoted policies that support green car development and enhance the participation of SMEs in the automotive supply chain. The Chemicals Dialogue Regulators Forum updated its Regulation Cooperation Action Plan through 2015 to further advance its objectives of facilitating risk reduction/management and the sound management of chemicals. The Chemical Dialogue also undertook activities to enhance the understanding of the chemical industry's role as an innovative solutions industry; and to encourage chemical product stewardship, safe use, and sustainability. The Life Sciences Innovation Forum (LSIF) made progress in implementing its 2011 multi-year strategic framework for achieving regulatory convergence for medical products (both devices and medicines) by 2020. In particular, in 2013 the LSIF advanced its work to ensure medical product quality and the integrity of the medical products supply chain, developed principles for the development of the innovative health and life sciences sectors, and worked to establish a regional training center for the commercialization of medical life sciences innovations in the region.

**Supporting the Multilateral Trading System and the 9th Ministerial Conference of the World Trade Organization (MC9):** APEC Leaders at Bali in October reaffirmed their commitment to a successful outcome at MC9. The support of APEC Leaders was a key driver in the WTO reaching agreements at MC9 on trade facilitation, some elements of agriculture, and development, including issues of interest to least developed countries. APEC Leaders also reaffirmed their commitment to roll back protectionist and trade-distorting measures and extended their standstill commitment to refrain from protectionist measures, including raising new barriers to investment or to trade in goods and services, imposing new export restrictions, or implementing WTO consistent measures, through 2016.

**WTO Information Technology Agreement:** As a part of their separate statement, APEC Leaders encouraged the swift conclusion of a balanced and commercially significant outcome of the negotiations to expand product coverage of the WTO Information Technology Agreement, and also sought expanded membership of the ITA.

## **4. China, Hong Kong, and Taiwan**

### **China**

See 2013 USTR Report to Congress on China's WTO Compliance:  
<http://www.ustr.gov/sites/default/files/2013-Report-to-Congress-China-WTO-Compliance.pdf>.

### **U.S.-Hong Kong Trade Relations**

The United States continued its efforts to expand trade with Hong Kong, a Special Administrative Region of the People's Republic of China. The notable issue in 2013 related to market access for U.S. beef products. The United States and Hong Kong reached agreement to expand U.S. beef product access to the Hong Kong market, including deboned beef from animals of any age, and many bone-in products less than 30 months of age, under an approved USDA-AMS export verification program. In May 2013, the World Organization for Animal Health (OIE) upgraded the United States' risk classification for bovine spongiform encephalopathy (BSE) to negligible risk. Following the decision, the United States actively engaged Hong Kong authorities to conduct the necessary verification assessments for further market openings. The United States continues to work with Hong Kong to expand access to its market for imports of all U.S. beef and beef products in 2014.

### **U.S.-Taiwan Trade Relations**

During 2013, the United States worked on range of issues affecting bilateral trade and investment in order to expand opportunities for U.S. exports to Taiwan. For the first time since 2007, a high-level meeting of the U.S.-Taiwan Trade and Investment Framework Agreement (TIFA) Council took place in March 2013. The meeting outcomes included establishment of two working groups to discuss investment and technical barriers to trade (TBT) issues and joint statements on investment and information and communication technology services principles. The TIFA Working Group on Investment held its first meeting in September, and the Working Group on TBT met in December. Outside of the TIFA, a working group on Sanitary and Phytosanitary and Agricultural Standards, led by the Animal and Plant Health Inspection Service and the Environmental Protection Agency, met on a broad range of agricultural trade issues in December.

The United States continues to prioritize the effort to address concerns regarding Taiwan's shortcomings in meeting its bilateral obligations and ensuring that Taiwan's sanitary and phytosanitary measures are based on science. The establishment of a maximum residue level (MRL) for ractopamine use in beef in September 2012 by Taiwan authorities was an important step in rebuilding confidence in Taiwan as a reliable trading partner. Taiwan, however, has not established an MRL for ractopamine in pork. Ractopamine is a feed additive that improves feed efficiency, increases meat yield, and reduces waste. Its use is approved in the United States and many other countries, but Taiwan had maintained an import ban on beef and pork products containing traces of ractopamine, despite conducting a risk assessment that found no health risk and notifying the WTO of its intention to establish a maximum residue level (MRL) for ractopamine in beef and pork in 2007. Establishing an MRL for pork and continuing to make progress in establishing a food safety regime reliably based on science will be critical to reenergizing the bilateral trade relationship. The United States will continue to engage Taiwan closely in 2014 to seek resolution of these and other high-priority policy concerns.

Taiwan's failure to adopt internationally established pesticide and other agrochemical MRLs, or to develop its own science-based MRLs in a timely manner, has resulted in rejections of various U.S. agricultural exports, including fresh fruits and vegetables, grains, and oilseeds. Taiwan has made

progress in reducing the backlog of MRL applications, but much work remains. U.S. exports of agricultural products into Taiwan remain at risk of rejection for pesticides and other agrochemicals that are approved and widely used internationally and in the United States but have not yet been reviewed and approved in Taiwan. The American Institute in Taiwan (AIT) is working with the Taipei Economic and Cultural Representative Office (TECRO) to develop a new U.S. priority list of pesticide MRLs to focus Taiwan's efforts and reduce barriers to trade. The United States will continue to work closely with Taiwan in 2014 to resolve these systemic concerns.

The United States continued its efforts with Taiwan to provide market access for the full range of U.S. beef and beef products in a manner consistent with OIE guidelines for BSE. These efforts included pressing Taiwan to fully comply with the science-based and OIE-consistent 2009 bilateral (AIT-TECRO) protocol that would have provided full market access for U.S. beef and beef products. Taiwan's own risk assessment, undertaken prior to Taiwan's 2007 notification to the WTO of its intention to establish an MRL for ractopamine in beef and pork, found U.S. beef to be safe.

On January 5, 2010, Taiwan's Legislative Yuan (LY) approved an amendment to Taiwan's Food Sanitation Act that had the effect of banning the import of ground beef and certain offals from the United States. This ban is contrary to Taiwan's obligations under the protocol. Taiwan authorities have also implemented a range of administrative measures that have disrupted trade and created uncertainty in the market. In particular, disruptions have occurred because of Taiwan authorities' failure to adhere to predictable inspection, testing, and labeling practices that are appropriately focused on legitimate food safety and consumer protection concerns. The United States has made some progress in working with Taiwan to eliminate certain of these problematic administrative measures, but serious concerns remain. In January 2014, the LY approved an amendment to the Food Sanitation Act, now renamed the Food Safety and Sanitation Act, that directs the Taiwan Food and Drug Administration (TFDA) to register and label genetically engineered food products, including highly refined products. This requirement is expected to be a trade barrier for a wide variety of U.S. food products, from soybeans to processed food products. The United States will continue to press Taiwan to act in a manner consistent with science, as well as its obligations under the bilateral protocol, and to refrain from taking measures that overly burden trade in all agricultural and food products.

The United States also continued to engage Taiwan on issues related to fulfilling Taiwan's WTO Country Specific Quota (CSQ) and Taiwan's inconsistent grading practices for the importation of U.S. rice for the public portion of Taiwan's rice minimum access commitment. The United States has expressed concerns that Taiwan's ceiling price mechanism for the CQS is non-transparent and causes unnecessary trade disruptions. In 2007 and 2008, public sector rice tenders for U.S. rice repeatedly failed due to Taiwan's ceiling price mechanism. Throughout 2009 and 2010, the United States worked with Taiwan to seek improvements to the rice import system, and to address the shortfalls in Taiwan's procurement of U.S. rice in 2007 and 2008. As a result of these efforts, it appears that Taiwan successfully filled the U.S. country specific tenders in subsequent years, including in 2012 and 2013. However, Taiwan has still not taken steps to address the shortfall in 2007 and 2008, and the United States continues to have concerns about Taiwan's rice procurement system. In addition, the United States has worked to resolve increasing discrepancies between the grades that U.S. rice receive in the United States prior to shipment and those received in Taiwan, which has resulted in U.S. rice failing grade inspections on arrival in Taiwan. The United States worked with Taiwan's Agriculture and Food Agency as well as the Council on Agriculture in a grading seminar during May of 2013 in order to standardize grading mechanisms between the two economies.

Taiwan's investment climate lacks the transparency and predictability necessary to attract and maintain foreign investment across a broad range of sectors, most notably in financial services. Taiwan regulators maintain broad and vague criteria that affect inbound foreign investment, mergers and acquisitions, and

market exit approvals. This has led to rejections of investment deals, excessive delays, and a low level of investment in the private equity sector. The United States will continue to use the Investment Working Group to urge progress by Taiwan authorities to provide a more welcoming and predictable environment for foreign investment.

Intellectual property rights protection and enforcement also continue to be important issues. The United States recognizes Taiwan's efforts to improve enforcement of IPR and has continued to deepen bilateral cooperation activities with Taiwan on these issues. In April 2009, the LY amended the Taiwan Copyright Law to require Internet service providers (ISPs) to undertake specific and effective notice and takedown actions against online infringers, in order to avoid certain forms of liability for the infringing activities of users on their networks. The United States is increasingly concerned about the implementation of the ISP liability legislation, as ISPs and rights holders have not been able to finalize an effective Code of Conduct to implement the notice and takedown provisions. As a result, pirated content over the Internet has proliferated, particularly through the use of peer-to-peer platforms. An additional concern is the growing use of media box hardware that may contain or facilitate the user's access via the Internet to pirated content, given the lack of effective enforcement tools to address this form of infringement. Some music rights holders have expressed concerns about amendments passed in January 2010 to the Copyright Act and the Copyright Collective Management Organization Act. These amendments grant the Taiwan Intellectual Property Office the power to set royalty rates if a commercial arrangement cannot be reached. They also ban rights holders or collective management organizations from using commissioned agents to collect licensing fees, although this is a common and well-accepted industry practice.

Over the past several years there have been a number of high-profile, serious thefts and unauthorized transfers of proprietary technology by private company employees to mainland Chinese competitors. These cases have raised concerns about the effectiveness of Taiwan's industrial espionage laws. In an effort to address these concerns, on January 11, 2013, the LY passed a bill amending the Trade Secrets Act to increase criminal and civil penalties for trade secret theft. The United States has requested that Taiwan consider making additional improvements to its regime to facilitate enhanced investigation and prosecution of alleged trade secret theft and will deepen bilateral engagement in 2014.

Taiwan is a member of the WTO Agreement on Government Procurement (GPA). At the Bali Ministerial, Taiwan, as a GPA member, supported the entry into force of the revised GPA by March 31, 2014.

The United States has also continued to engage Taiwan on concerns raised by the pharmaceutical and medical device industries regarding the failure of Taiwan's procedures for medical product pricing and reimbursement to adequately recognize the value of innovative medical products for patients in Taiwan. The United States encourages Taiwan to continue to engage in collaborative consultations with relevant stakeholders to consider improving such policies in order to better facilitate the development of innovative products and improve patients' access to such products. Taiwan enacted a number of reforms to its public health insurance system in 2011, and in 2012 and 2013, issued related administrative measures. The United States had positive engagement with Taiwan authorities during the implementation of these reforms, and is assessing their potential impact on U.S. pharmaceutical and medical device manufacturers.

## 5. Southeast Asia and the Pacific

### Free Trade Agreements

The United States continued to implement, monitor, and enforce its FTAs with Singapore and Australia, which have led to significant increases in U.S. goods and services exports to both countries (*see Chapter III.A. for additional information*).

### Trans-Pacific Partnership

In 2013, the United States made substantial progress toward completing the Trans-Pacific Partnership (TPP), a high-standard, Asia-Pacific trade and investment agreement. The TPP will advance U.S. economic interests with the fastest growing region of the world and expand U.S. exports, which are critical to U.S. economic growth and supporting and retaining high-paying, high-quality jobs in the United States, while creating a platform for economic integration across the Asia-Pacific region.

The United States and its TPP partners – Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam – held four rounds of negotiations, four ministerial meetings, and a number of inter-sessional meetings in 2013. They worked toward achievement of their goal of concluding an agreement that will address new and emerging trade issues and 21st-century challenges, including issues related to market access, non-tariff barriers, intellectual property, cross-border services, investment, competition policy, environment, and labor. In addition, the TPP will cover cross-cutting issues not included in previous trade agreements, such as making the regulatory systems of TPP countries more compatible which will enable U.S. companies to operate more seamlessly in TPP markets, facilitating the ability of U.S. companies to participate in the dynamic production and distribution chains in the Asia-Pacific region, and helping SMEs, which are a key source of innovation and job creation, to participate more actively in international trade.

In July, Japan formally joined the negotiations as the TPP's 12th member, adding significantly to the economic benefits of TPP and underscoring its importance as the most promising pathway for free trade in the Asia-Pacific. In October, the Leaders of the TPP countries issued a joint statement reaffirming their commitment to finalizing a comprehensive, next-generation agreement that will enhance the competitiveness of all the TPP countries and serve as a model for future free trade agreements. To that end, TPP ministers met in Singapore in December and made substantial progress toward completing the agreement, including identifying potential landing zones for most of the remaining issues.

Throughout 2013, the Administration continued to consult closely with the U.S. Congress and stakeholders on the outstanding issues in the TPP negotiations. The Administration will continue to work collaboratively with the U.S. Congress and to consult with stakeholders as the negotiations draw closer to completion to ensure that our negotiating objectives best advance U.S. economic priorities, including enhancing economic growth and creating and retaining U.S. jobs.

The United States and the other TPP members also are developing TPP as a potential platform for regional integration that can be expanded to include other economies in the Asia-Pacific that are prepared to adopt the TPP's ambitious commitments. In late 2013, the Republic of Korea (Korea) announced its interest in joining the TPP negotiations and commencing bilateral consultations with existing members. The United States welcomed Korea's interest, noting that potential new entrants must be able to meet the high standards agreed to by all TPP negotiating partners, as well as address a range of U.S. priorities, including full implementation of their obligations under existing agreements. The Administration will

continue to engage Korea and other countries that express interest in joining the TPP, in close consultation with the U.S. Congress and domestic stakeholders.

### **Managing U.S.-Southeast Asia and Pacific Trade Relations**

As in previous years, USTR maintained bilateral and regional engagements with countries in Southeast Asia and the Pacific to develop new initiatives and resolve market access concerns of U.S. traders and investors.

In 2013, the United States held several bilateral meetings under our Trade and Investment Framework Agreements (TIFAs) as well as regional meetings with the Association of Southeast Asian Nations (ASEAN) under the United States-ASEAN Trade and Investment Framework Arrangement (TIFA) and the ASEAN-United States Expanded Economic Engagement (E3) initiative, announced by President Obama and ASEAN Leaders in late 2012. During these meetings, the United States sought to resolve bilateral trade issues in areas such as customs, intellectual property protection and enforcement, market access for industrial and agricultural products, regulatory and other non-tariff barriers facing U.S. manufacturers and services suppliers, and other trade-related issues, including workers' rights and protections. The United States also used these consultations to work with our trading partners in the region to monitor implementation of WTO commitments and to coordinate economic assistance projects to support implementation and reform efforts. In addition, the United States used these meetings to discuss the emerging interest of several countries, including the Philippines and Thailand, in potentially joining the TPP, as well as to coordinate on ASEAN, APEC and other regional and multilateral issues.

The United States bilaterally engaged with Southeast Asian countries on a range of issues over the past year. A number of high-level meetings were held to discuss key trade and investment issues with Vietnam, as well as labor rights. To promote improved labor rights, the United States funded programs that expanded the International Labor Organization programs to monitor labor conditions in certain Vietnamese factories and provided technical assistance developing labor regulations to implement the 2013 amendments to Vietnam's labor laws. In May 2013, the United States signed a Trade and Investment Framework Agreement (TIFA) with Burma, which creates a platform for ongoing cooperation to expand bilateral trade and investment and promote inclusive growth and economic reform in Burma, consistent with U.S. foreign policy objectives. The United States also held initial exploratory discussions with Cambodia regarding a potential bilateral investment treaty and supported the successful conclusion of WTO accession negotiations with Laos, which formally became a WTO member in February 2013.

### **Expanded Economic Engagement/U.S.-ASEAN Trade and Investment Framework Arrangement**

The United States is pursuing several initiatives to expand and deepen economic engagement with the fast-growing ASEAN countries, which collectively represent the fourth largest U.S. trading partner and have a combined GDP of \$2.3 trillion. In April, the United States hosted the ASEAN Economic Ministers Road Show to the United States, which included business promotion activities in Los Angeles, Silicon Valley, and Washington D.C., and opportunities to discuss potential trade and investment initiatives between the United States and ASEAN countries. The Roadshow concluded with a meeting of the U.S.-ASEAN TIFA dialogue. In addition to the Roadshow, the ASEAN chair – Brunei Darussalam – hosted a U.S.-ASEAN business forum during the first U.S.-ASEAN Summit in August. The United States held several high-level meetings with ASEAN in 2013 to advance initiatives under E3 and the U.S.-ASEAN TIFA, including in the areas of investment, information and communications technology, trade facilitation, the development of a code of conduct for small and medium sized enterprises, and the expansion of cooperative work on standards development and practices, including on technical barriers to trade and good regulatory practices.

## **6. Sub-Saharan Africa**

### **Trade and Investment Relations**

The African Growth and Opportunity Act (AGOA) has been the cornerstone of the United States' engagement with sub-Saharan Africa on trade and investment since its enactment in 2000. By providing duty-free entry into the United States for almost all products of beneficiary countries, AGOA helps to expand and diversify two-way trade between the United States and sub-Saharan Africa, fosters an improved business environment in many sub-Saharan African countries, and establishes a high level dialogue on trade and investment in the form of the annual United States-Sub-Saharan Trade and Economic Cooperation Forum (AGOA Forum). As a result of the 2013 annual review of country eligibility, President Obama designated 40 sub-Saharan African countries to be eligible for AGOA benefits in 2014, including the restoration of AGOA eligibility for Mali.

AGOA is scheduled to expire in September 2015. During the annual AGOA Forum held in Ethiopia in August 2013, U.S. Trade Representative Froman launched a comprehensive review of the AGOA program to assess how well the Act has met its stated goals. The review will include views from AGOA's many stakeholders, studies conducted by the U.S. International Trade Commission at the request of the United States Trade Representative, a hearing, as well as roundtable discussions on a range of AGOA issues. The studies, hearing, and input from stakeholders will help inform the Administration's consultations with Congress on the future of the AGOA program.

### **Trade Africa/U.S.-EAC Trade and Investment Partnership**

During his landmark visit to sub-Saharan Africa in the Summer of 2013, President Obama announced a new initiative, Trade Africa, which is a new partnership between the United States and sub-Saharan Africa that seeks to increase internal and regional trade within Africa and expand trade and economic ties between Africa, the United States, and other global markets. Trade Africa will initially focus on the member states of the East African Community (EAC) – Burundi, Kenya, Rwanda, Tanzania, and Uganda. Trade Africa will help mobilize resources to support increased U.S.-EAC trade and investment, building upon the United States-EAC Trade and Investment Partnership announced in June 2012.

Activities under Trade Africa include: exploration of a United States-EAC Investment Treaty to contribute to a more attractive investment environment; negotiations on a Trade Facilitation Agreement; cooperation on regulatory issues that affect the competitiveness of EAC regional and global trade (including with the United States), particularly the development of product standards, and regulatory systems related to food safety and plant and animal health; a United States-EAC Commercial Dialogue to bring the private sector together with policy makers and increase opportunities for trade and investment; transformation of the East Africa Trade Hub into the U.S. Trade and Investment Center to provide information, advisory services, and risk mitigation and financing to encourage linkages between United States and East African investors and exporters; and a new partnership with TradeMark East Africa, a multidonor project focused on supporting regional economic integration within the EAC.

In August 2013, U.S. Trade Representative Michael Froman and other senior U.S. Government officials held a trade ministerial meeting with the EAC Secretary General and Trade Ministers from each of the five EAC countries to discuss progress in meeting the goals for the U.S.-EAC partnership.

Total two-way goods trade between the United States and the EAC was an estimated \$1.8 billion in 2013, with \$1.2 billion in U.S. goods exports and U.S. goods imports totaling \$597 million. Kenya was by far the United States' top trading partner within the EAC, with two-way goods trade totaling \$1.1 billion,

followed by Tanzania with \$491 million, Uganda with \$172 million, Rwanda with \$50 million, and Burundi with \$21 million. Top U.S. exports to EAC countries were aircraft, machinery, and electrical machinery. Top U.S. imports included apparel, coffee, nuts, and semi-precious stones.

### **Economic Roundtable with Four African Leaders**

In late March 2013, Acting U.S. Trade Representative Demetrios Marantis led an Economic Growth Roundtable on U.S.-Sub-Saharan African trade and investment with President Ernest Bai Koroma of Sierra Leone, President Macky Sall of Senegal, President Joyce Banda of Malawi, and Prime Minister José Maria Pereira Neves of Cape Verde. The leaders were invited to Washington, D.C. to meet with President Obama and other Administration officials because of their extraordinary progress in establishing democratic institutions and to discuss how they and other African countries can build on their democratic progress to generate increased economic opportunities for expanded trade and investment.

At the Economic Growth Roundtable, U.S. economic agency principals and the African leaders discussed the benefits of deeper economic ties between their countries and the United States, enhancing two-way trade and investment with the United States and strengthening the four countries' business and investment environments, to promote broad-based economic growth. U.S. senior officials discussed a number of U.S. initiatives aimed at enhancing the U.S. trade and investment relationship with the four countries.

### **Progress on Bilateral Investment Treaties**

Exploratory talks and negotiations continue with several potential Bilateral Investment Treaty (BIT) partners. In 2013, two rounds of discussions were held with the government of Gabon to explore the terms of a potential United States-Gabon BIT. Those discussions were dedicated to exploring the terms of the 2012 U.S. Model BIT and subsequent video conferences in July and August 2013 focused on clarifying the scope of the dispute resolution mechanism in that model. Since announcing the United States-EAC Trade and Investment Partnership in June 2012, there have been two technical level meetings to explore the terms of a potential United States-EAC Investment Treaty, including technical level meetings held in April 2013. Exploratory BIT talks were also held with Ghana. Finally, USTR continues to work with Mauritius towards the successful conclusion of a BIT.

### **ECOWAS TIFA Discussions**

In 2013, the Economic Community of West African States (ECOWAS) and the United States started talks to determine if a Bilateral Trade and Investment Framework Agreement would be mutually beneficial. There were several staff level exchanges of draft text proposals and at year's end discussions with ECOWAS are ongoing.

## **7. South and Central Asia**

### **Advancing the United States-India Trade and Investment Relationship**

The United States and India continued to work in 2013 towards strengthening the bilateral economic relationship by focusing efforts on policy actions that inhibit trade and investment flows between the two countries. The United States-India Trade Policy Forum (TPF), created in 2005, remains the principal bilateral forum for discussing trade and investment issues. In the first of their several meetings this year, Ambassador Froman and Minister Sharma committed to renewing regular engagement between capital-based experts under the TPF with a view to removing trade and investment barriers. This engagement has

begun with intellectual property issues and will expand to cover manufacturing policies, services, agriculture, trade remedies, and other areas with potential for increasing bilateral trade and investment flows.

Ambassador Froman and Minister Sharma also discussed steps to overcome challenges facing U.S. and Indian exporters of goods and services. India took a significant step toward addressing one of those key challenges – certain discriminatory domestic purchase mandates in its Preferential Market Access (PMA) policy – by suspending the application of those mandates to the private sector. India also opened sectors such as telecommunications to more foreign direct investment and adopted measures to ease foreign investment in other areas, including banking. Following the resumption of negotiations on a bilateral investment treaty (BIT) in 2012, the United States and India furthered work towards concluding a high standard agreement. USTR also continues to use all appropriate WTO mechanisms to address trade and investment issues with India, including initiating a dispute in February to resolve longstanding concerns with local content requirements in India’s national solar policy, and raising concerns in WTO Committees in concert with other WTO Members about India’s growing localization measures.

In addition to work under the TPF, USTR has ensured that trade and investment challenges remain a priority in discussions of the broader bilateral relationship, including Secretary Kerry’s engagement during the U.S.-India Strategic Dialogue in June and Vice President Biden’s meetings with Prime Minister Singh and other senior Indian officials in July. During Prime Minister Singh’s visit to Washington in September, President Obama built upon these discussions in promoting positive outcomes for both Governments by addressing manufacturing and intellectual property policies that restrict trade and discourage innovation.

### **Contributing to Regional Stability**

In support of top U.S. national security objectives in Afghanistan, Pakistan, Iraq, and Central Asia in 2013, USTR strengthened engagement with these countries as part of a broader effort to boost trade, employment, and sustainable development. Working with other U.S. agencies, USTR participated in bilateral and other high-level meetings with officials from Afghanistan, Pakistan, Iraq and Central Asian countries. Key highlights from 2013 include:

- USTR worked with Afghanistan to reform its legal and regulatory regime related to trade and investment to provide a pathway to a more stable and growing economy. Under the United States-Afghanistan Trade and Investment Framework Agreement (TIFA), both sides agreed to focus efforts on improving trade and investment flows, as well as assisting Afghanistan in joining the World Trade Organization (WTO).
- USTR worked intensively with Afghanistan in 2013 to advance its efforts to join the World Trade Organization, including finalizing negotiations on goods and services. Afghanistan completed negotiations on the pillar of its negotiations related to agriculture supports and subsidies. USTR and Afghanistan completed significant work to bring Afghanistan’s Working Party report to an advanced stage. Ongoing U.S. technical assistance was critical to Afghanistan drafting more than 25 key pieces of WTO-related legislation. Afghanistan and the United States are committed to Afghanistan’s accession to the WTO in 2014.
- USTR led two interagency delegations to Iraq to advance the growing, \$21 billion U.S.-Iraq bilateral trade relationship and to tackle barriers to U.S. trade and investment. The two parties also prepared a comprehensive plan for their first TIFA meeting, which is scheduled for March 2014.

- USTR played a central role in the visit of Pakistan’s Prime Minister Nawaz Sharif in October 2013, leading U.S. Government-wide efforts to further ongoing initiatives to increase U.S. trade and investment with Pakistan. During his meeting with Prime Minister Sharif, President Obama directed USTR to lead efforts to develop a plan with Pakistan on how to increase trade and investment flows over the next five years. Among other initiatives, Pakistan and the United States will intensify engagement on trade and investment issues by focusing on addressing intellectual property protection issues as identified in the Special 301 Report, reviewing needed legal and regulatory reforms, addressing investment climate issues and, after reauthorization, conducting outreach to the private sector in Pakistan to promote better understanding of the U.S. GSP program. The United States and Pakistan agreed to continue discussions between capitals through regularly scheduled digital video conferences and will hold the next TIFA Council Meeting in March 2014.

### **Enforcing Labor Rights in Bangladesh**

In June, 2013, the United States suspended Bangladesh’s Generalized System of Preferences (GSP) benefits. This followed a multi-year, interagency U.S. Government review of Bangladesh’s compliance with statutory GSP eligibility criteria related to worker rights. The review began in 2007, based on a petition submitted by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), and involved intensive U.S. Government engagement with the government of Bangladesh and various stakeholders in Bangladesh and the United States. USTR has also held several public hearings on the GSP review of Bangladesh, most recently on March 28, 2013. USTR also initiated new discussions with the government of Bangladesh regarding steps to improve the worker rights environment in Bangladesh so that GSP benefits could be restored and tragedies, such as the Rana Plaza building collapse and Tazreen Fashion factory fire, can be prevented.

On November 25, 2013, the United States and Bangladesh signed the United States-Bangladesh Trade and Investment Cooperation Forum Agreement (TICFA). The TICFA provides a mechanism for both Governments to discuss trade and investment issues and areas of cooperation, and provides a means for the U.S. Government to track and discuss Bangladeshi efforts to improve worker safety and worker rights.

### **Communicating the Importance of Ensuring Women’s Economic Empowerment through Trade and Investment Agreements in Central and South Asia**

In 2013, the United States worked with partner governments in the region, the private sector, think tanks, the press, and U.S. Embassies to effectively explain the importance of empowering women entrepreneurs and business owners to better take advantage of trade and investment opportunities. USTR successfully completed a Memorandum of Understanding (MOU) with the government of Afghanistan on Women’s Economic Empowerment, which was well received and generated significant press coverage for positively addressing an important issue in the bilateral relationship. This MOU set the stage for talks with Central Asia and other South Asian partners, Pakistan, India, Sri Lanka and Bangladesh on how to jointly work toward empowering women, with a focus on women entrepreneurs and business owners. Empowering women and women entrepreneurs in Central and South Asia will be an important goal for USTR in the coming years.

### **Advancing U.S. Engagement with Central Asia**

USTR supported the Administration’s strategy towards Central Asia by assisting Turkmenistan in hosting the United States-Central Asia TIFA Council meeting in Ashgabat, Turkmenistan on November 11-14, 2013. Turkmenistan, Kazakhstan, the Kyrgyz Republic, Tajikistan, Uzbekistan as well as Afghanistan, an observer to the TIFA, attended the TIFA Council meeting. The United States led Working Group

meetings on customs, women's economic empowerment, and energy trade and conducted Bilateral Working Group consultations with each of the TIFA Parties individually. The next TIFA Council Meeting will take place in 2014 in Washington, D.C.

Tajikistan became a full member of the World Trade Organization on March 2, 2013. USTR played a key role in these negotiations and helped to ensure that Tajikistan committed to a comprehensive package of trade liberalizing measures that will advance its economic development. In 2013, the United States continued its technical assistance for this new WTO Member on trade-related issues and WTO implementation.

In 2013, the United States continued its intensive engagement with Kazakhstan, the largest economy currently actively negotiating to enter the WTO. USTR convened numerous bilateral meetings and had numerous bilateral letter exchanges with senior Kazakhstani authorities to advance Kazakhstan's WTO accession process. USTR discussed U.S. concerns about higher duties adopted by Kazakhstan under the common external tariff of the Russia-Kazakhstan-Belarus customs union, which entered into force on January 1, 2010, and Kazakhstan's future WTO market access commitments. Other major issues that remain the subject of negotiations include: Kazakhstan's localization policies in procurement by state-owned and state-controlled enterprises; trade-related investment measures that Kazakhstan enforces in the oil, gas, and mining industries; Kazakhstan's agricultural policies (including domestic support, export subsidies, value-added taxes on imports, and tariff-rate quotas (TRQs)); and Kazakhstan's commitments on sanitary and phytosanitary measures. USTR also participated in four Working Party meetings at the WTO aimed at revising Kazakhstan's Working Party report to reflect the changes that have taken place in Kazakhstan's trade regime and legal framework as a result of its entry into the customs union with the Russian Federation and Belarus.

### **Improving Trade and Investment Relations with Sri Lanka, Nepal, The Maldives and Bhutan**

USTR continues its engagement with Sri Lanka, Nepal, and The Maldives through the TIFA process as well as advancing a Trade and Investment Dialogue with Bhutan. Nepal is working to identify areas of cooperation with the United States on improving the trade and investment relationship. After years of interim governments, Nepal is looking to a more stable future where trade and investment can play a major role in its development.



# IV. OTHER TRADE ACTIVITIES

## A. Trade and the Environment

During the course of 2013, the Administration achieved significant results on trade and environment matters in multiple fora, including through regional and bilateral trade initiatives. In the TPP negotiations, the United States continued to press for commitments to address environmental issues, including conservation challenges in the Asia Pacific region, such as combating wildlife trafficking and illegal logging and addressing marine fisheries issues, as well as commitments to liberalize trade in environmental goods and services. In the T-TIP negotiations, the Administration is seeking ambitious environmental commitments including those relating to the protection and conservation of wildlife, marine fisheries, and forest resources. The Administration continued to prioritize implementation of the free trade agreements currently in force, including by negotiating and finalizing a bilateral action plan with Peru to advance forest sector reforms. In keeping with the increased integration of environmental considerations across multiple multilateral, regional, and bilateral fora, this report includes an assessment of recent developments on trade and environment in specific sections devoted to these various fora.

### 1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States has continued to explore fresh and innovative approaches to all aspects of the WTO's trade and environment work. The Administration also has sought to orient activities in the OECD Joint Working Party on Trade and Environment to focus on value-added contributions to ongoing WTO work, as well as strong analytical research on the interface between trade and clean energy policies.

USTR continues to participate in formulating and carrying out U.S. policy regarding various multilateral environmental agreements (MEAs) to enhance compatibility between activities under those agreements and U.S. trade policy. In 2013, USTR participated actively in negotiations to finalize a legally binding agreement on mercury, and in November the United States became the first country to ratify the Minamata Convention on Mercury. USTR also continued to play an active role in the ongoing United Nations Framework Convention on Climate Change negotiations. Additional examples of MEAs where USTR contributed to U.S. policy development include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the International Convention for the Conservation of Atlantic Tunas, International Maritime Organization conventions, 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 Convention on Biological Diversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. USTR also actively engaged in U.S. policy development under relevant regional fisheries management organizations and the International Tropical Timber Organization.

### 2. Bilateral and Regional Activities

As described in more detail in the Bilateral and Regional Negotiations and Agreements section of this report, USTR ensured concrete achievements supporting green growth and trade during 2013.

USTR continued to advance an ambitious set of environment proposals in the TPP negotiations, including with respect to effectively enforcing environmental laws, enhancing transparency and public participation, combating wildlife trafficking and illegal logging and associated trade, disciplining harmful fisheries subsidies that contribute to overfishing and overcapacity or support vessels engaged in illegal

fishing, and promoting trade in environmental goods and services. Together, these U.S. proposals offer the opportunity to forge a new high standard for environmental provisions in trade agreements.

During 2013, USTR was active in monitoring implementation of environment provisions in free trade agreements (FTAs). In particular, USTR worked closely with Peru to advance implementation of the Annex on Forest Sector Governance (Forest Annex) under the Peru TPA. Following an extensive review and response by the U.S. Government to a petition from an environmental group under the Forest Annex, USTR led negotiations to conclude a bilateral action plan in January 2013 to address key challenges identified in the review. The action plan sets forth a targeted set of actions for Peru to undertake, including implementing anti-corruption measures, improving systems to track and verify the chain of custody of timber exports, ensuring timely criminal and administrative proceedings for forestry-related crimes and infractions, and strengthening development of accurate annual operating plans for timber producers. The United States supported Peru's actions to implement the action plan through a number of ongoing environmental cooperation projects as well as planned activities that will further enhance implementation, such as training for prosecutors on environmental issues. USTR and other agencies also began a review of Peru's draft regulations to implement its new Forestry Law and continued to engage with Peru on the establishment of key oversight institutions in Peru's forestry sector. USTR, together with the State Department, also concluded negotiations with Peru on the terms of several documents necessary to establish an independent secretariat to consider citizen submissions that assert that a Party is failing to effectively enforce its environmental laws.

USTR also convened environmental affairs councils and related fora under the CAFTA-DR, Chile FTA, Colombia TPA, KORUS, and Peru TPA to discuss, monitor, and oversee implementation of FTA environmental obligations. USTR also ensured that these meetings included sessions open to the public, consistent with our commitment to transparency. USTR continued to convene meetings of the TPSC Subcommittee on FTA Environment Chapter Monitoring and Implementation to consider the implementation of environment chapter commitments by our FTA partners. Through the Subcommittee, USTR developed an interagency plan for monitoring our trading partners' implementation of their FTA environment chapter obligations. The new monitoring plan will strengthen the United States' ongoing efforts to ensure that our trading partners comply with their FTA obligations.

In APEC, the United States continued to advance work to combat illegal logging and promote trade in environmental goods and services. APEC economies agreed to establish a public-private partnership on environmental goods and services, which will contribute to APEC's work to address non-tariff barriers in this important sector. APEC economies also agreed to a capacity building plan to assist economies with implementing their commitments to reduce their tariffs to 5 percent or less by 2015 on the 54 products in the APEC List of Environmental Goods. The United States launched a work program on electronics stewardship in APEC to increase understanding of the environmental, economic, and social benefits of trade in used electronics and to promote safe handling of used electronics. The APEC Experts Group, which is charged with combating illegal logging and associated trade and promoting legal trade in forest products in the region, convened the first-ever public-private sector dialogue to discuss challenges, activities, and new technologies in the forestry sector, with participation from a broad range of business and civil society representatives. Additionally, USTR joined other agencies in participating in bilateral meetings with China and Indonesia under a separate MOU with each country on combating illegal logging and associated trade. The meetings provided an opportunity to share detailed information on our respective efforts to combat illegal logging and associated trade and on potential areas for collaboration.

## **B. Trade and Labor**

The Administration's trade policy agenda includes a strong commitment to ensure that workers and their families benefit from trade. The Administration has continued its efforts to improve respect for labor rights and to increase monitoring and enforcement of trade agreement labor provisions. The Administration also continues to enhance U.S. Government engagement with trade partners on labor rights through the formal mechanisms of trade agreements, trade programs, and other means. In 2013, inaugural Labor Affairs Council meetings were held under trade agreements with Colombia and the Republic of Korea, where high-level labor officials discussed workers' rights and employment issues and held open sessions to meet with labor stakeholders and the general public. Labor issues were also on the agenda of commission meetings under existing trade agreements, as well as meetings under Trade Investment Framework Agreements (TIFAs) and in multilateral fora, including the Asia Pacific Economic Cooperation (APEC) forum.

On April 26, 2013, the United States and Guatemala signed a robust enforcement plan to resolve concerns that were raised in the dispute settlement case brought by the United States against Guatemala under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). In May 2013, the United States requested consultations with Bahrain under the United States-Bahrain Free Trade Agreement to discuss the apparent targeting of trade unionists and leaders for dismissal after a general strike in March 2011 and labor laws that do not provide adequate protection on these issues. In June 2013, President Obama suspended the GSP trade benefits of Bangladesh based on that country's failure to take steps to afford internationally recognized worker rights. USTR also led the interagency development of an Action Plan, which provides clear steps that Bangladesh must take in order to address the worker rights concerns and regain its GSP benefits. The Administration also continued to work closely with the government of Colombia in 2013 as Colombia implements the Colombian Action Plan Related to Labor Rights, which was announced in April 2011. The Administration, among other things, provided strong support for Colombia's Labor Ministry and its greatly enhanced labor inspectorate. The Administration also pursued high-standard labor obligations through the continuing negotiations of TPP and new negotiations with the European Union as part of T-TIP.

As an essential component of the Administration's trade agenda, the Trade Adjustment Assistance (TAA) program assists American workers adversely affected by global competition and helps ensure that they are given the best opportunity to acquire skills and credentials to get good jobs (*for additional information, see Chapter V.B.7*).

### **1. Multilateral and Regional Fora**

In the Ministerial Declaration adopted during the WTO Ministerial Conference in Singapore (1996) and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), WTO Members renewed their commitment to observe internationally recognized core labor standards and took note of collaboration between the WTO and International Labor Organization (ILO) Secretariats.

The Administration has continued to promote the discussion of labor rights as one of the topics relevant to the effort to strengthen economic integration and to build high quality trade agreements in the Asia-Pacific region. In APEC, the United States has continued to support inclusion by APEC economies of labor and social issues in next generation trade agreements. In particular, in June 2013, in the APEC Committee on Trade and Investment, the United States organized and co-sponsored with Canada, Chile, Korea, and New Zealand a workshop in Medan, Indonesia to build the capacity of APEC economies to

negotiate labor provisions in their respective trade agreements. Representatives from nearly all APEC economies attended the workshop.

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere's labor ministers, held approximately every two years under the auspices of the Organization of American States to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by heads of state in the Summit of the Americas process. For additional information on the IACML, visit [http://www.sedi.oas.org/ddse/english/cpo\\_trab.asp](http://www.sedi.oas.org/ddse/english/cpo_trab.asp).

The 18th IACML was held in Colombia in October 2013 and marked the 50th anniversary of the conference. Labor ministers adopted a Declaration at the conference and endorsed a new two-year Plan of Action. The 2013 Declaration and Plan of Action include commitments in the areas of “professional training, employment services and active policies for youth access to the labor market; exploring ways to design and put forward a hemispheric mechanism that will facilitate the recognition of nominal contributions to social security in all countries of the region; employment as a central objective of public policies and as a pillar of equality; and, protection of workers’ rights and social dialogue.” In addition, the IACML held an Inter-Ministerial Dialogue with Ministries of Finance of the Western Hemisphere, to strengthen policy coordination on labor and employment issues.

## **2. Bilateral Agreements and Preference Programs**

### **FTAs**

U.S. trade agreements contain obligations concerning the consistency of each party's labor laws with international standards (with recent agreements obligating each party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work), as well as obligations not to fail to effectively enforce its labor laws, and not to waive or derogate from those laws in a manner affecting trade or investment. Additionally, the labor provisions obligate each party to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter and create labor cooperation and capacity building mechanisms through which the parties will work together to enhance opportunities to improve labor standards. The Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor, in consultation with USTR, serves as the contact point for purposes of administering responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation, including the labor cooperation mechanisms. For additional information on OTLA, its procedures, and the process for filing a submission, visit <http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>. The Procedural Guidelines are also available in Arabic, French, and Spanish.

The United States engages our trade partners on labor issues as part of our ongoing monitoring and implementation of U.S. trade agreements. For instance, as part of engagement efforts in 2013, USTR led an interagency delegation to Bahrain to initiate labor consultations under the FTA labor chapter to discuss the apparent targeting of trade unionists and leaders for dismissal after a general strike in March 2011 and labor laws that do not provide adequate protection on these issues. The delegation held extensive consultations with officials from Bahrain's Ministries of Labor, Trade, and Foreign Affairs, as well as labor unions and business representatives. The United States also worked with Jordan in 2013 to conclude an Implementation Plan Related to Working and Living Conditions of Workers, and signed a Memorandum of Understanding which designates an office within each country's Labor Ministry to serve as points of contact for the purpose of implementing labor cooperation under the agreement. The plan includes commitments by Jordan to increase access for unions in garment factories and improve standards

and oversight of dormitories for foreign workers. The United States also worked with trade partners to advance labor rights through technical cooperation efforts, particularly in Central America, Morocco, Peru, and Colombia in 2013 (*for additional information, see Chapter III.A*).

In 2013, the United States worked closely with Colombia to implement the Colombian Action Plan Related to Labor Rights, which focuses on improving protection of labor rights, preventing violence against trade unionists, and prosecuting perpetrators of such violence. Throughout the year, the Colombian government took numerous steps to meet Action Plan commitments, including hiring and training new labor inspectors and passing a new law to strengthen labor inspections and increase fines for labor law violations. USTR led an interagency delegation to Colombia during the year to monitor implementation of the Action Plan, and held extensive meetings with government officials and interested stakeholders. In June, government officials from the United States and Colombia convened the inaugural meeting of the Labor Affairs Council under the United States-Colombia Trade Promotion Agreement. Colombian Labor Minister Rafael Pardo and officials from USTR and the U.S. Department of Labor discussed the labor obligations of the agreement as well as progress under the Action Plan. The Council meeting concluded with a public session consistent with the parties' commitment to a participatory process (*for additional information, see Chapter III.A*).

In March 2013, government officials from the United States and Korea convened the first meeting of the Labor Affairs Council under the United States-Korea Free Trade Agreement. At the meeting, officials reviewed implementation of the labor chapter and the labor obligations of the trade agreement, and confirmed the establishment of the Council and contact points for labor issues. The two parties also discussed areas for future cooperation, including employment and labor statistics and supporting corporate compliance with international labor standards in global supply chains. The meeting also included a session that was open to the public.

On April 26, 2013, the United States and Guatemala signed an enforcement plan to resolve concerns that were raised in the dispute settlement case brought by the United States against Guatemala under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), in which Guatemala agreed to take significant actions to strengthen labor inspections, expedite and streamline the process of sanctioning employers and ordering remediation of labor violations, increase labor law compliance by exporting companies, improve the monitoring and enforcement of labor court orders, publish labor law enforcement information, and establish mechanisms to ensure that workers are paid what they are owed when factories close. Implementation of the Enforcement Plan was underway in 2013. On October 25, the United States and Guatemala agreed to further suspend the work of the arbitration panel in recognition that Guatemala had adopted a number of reforms consistent with the applicable deadlines under the Enforcement Plan, while noting the United States expects significant additional progress by Guatemala (*see Chapter III.A.3*). For additional information, visit <http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>.

Also in 2013, a public report addressing labor rights in the Dominican Republic was issued pursuant to the public submission provisions of the labor chapter of the FTA with that country (*for additional information, see Chapter III.A.3*). Under existing trade agreements, two submissions on labor rights were under review in 2013 involving Mexico and Honduras. The United States will issue public reports on these submissions in 2014.

## Other Bilateral Agreements and Preference Programs

President Obama certified to the U.S. Congress in October 2009 that Haiti met the necessary requirements to continue duty-free treatment for certain Haitian-made apparel and other articles under the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II). Pursuant to the requirements of HOPE II, Haiti established an independent labor ombudsman's office and a Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program, which is implemented through a U.S. Department of Labor-funded ILO Better Work program. The TAICNAR program, more commonly known as Better Work Haiti, assesses factory compliance with national laws and international standards relating to core labor rights and conditions of work and ensures that producers that wish to be eligible for duty-free treatment participate in the program. Significant progress has been made in implementing the TAICNAR program, including the provision of factory assessments and remediation assistance for all companies that produce HOPE II-eligible apparel. Pursuant to HOPE II requirements to identify producers who have failed to comply with the required labor standards, the U.S. Department of Labor, in consultation with USTR, identified three such producers in December 2011. The U.S. Government provided technical assistance to those producers during 2012 and 2013 and they have taken significant steps to address concerns. Consistent with the requirements of HOPE II, the ILO issued public reports on factory compliance in April 2013 and October 2013. USTR continues to work closely with the government of Haiti, the ILO, and other U.S. Government agencies on implementation of the program to monitor factories' compliance with core labor standards. For additional information, view the 2013 USTR Annual Report on the Implementation of the TAICNAR program at <http://www.ustr.gov/about-us/press-office/reports-and-publications/2013/hope-II-2013-annual>.

U.S. trade preference programs, including the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act, and the Generalized System of Preferences (GSP), require the application of statutory eligibility criteria pertaining to worker rights. In 2013, USTR held hearings on GSP worker rights-related petitions concerning Bangladesh, Georgia, Niger, Philippines, and Uzbekistan. In June 2013, the President suspended GSP benefits for Bangladesh in view of insufficient progress by the government of Bangladesh in affording Bangladeshi workers internationally recognized worker rights. All of the other petitions remained under review at year's end. In 2013, USTR and other U.S. Government officials continued to engage with all of these governments through U.S. embassies in those countries, their embassies in Washington, D.C., and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions.

The United States continued to engage with African countries on AGOA worker rights criteria through the AGOA annual eligibility review and bilateral and multilateral fora. In 2013, at the United States-Sub-Saharan Africa Trade and Economic Cooperation Forum in Ethiopia (AGOA Forum), the United States and Liberia co-hosted a panel on the linkages between labor rights, development, and trade. The session highlighted how effective protection of worker rights through trade preferences can result in positive returns on investment, increasing both productivity and household incomes.

The United States and China committed to a dialogue on labor issues in 2009 during the first United States-China Strategic and Economic Dialogue. The fourth meeting of the labor dialogue took place in Washington, D.C. in November 2013 during which government representatives discussed various labor rights issues including labor law enforcement strategies, dispute resolution, and collective bargaining. In December 2012, the United States and China also launched a new dialogue on workplace safety and health, and the United States hosted the second meeting of that dialogue in December 2013 in Washington, D.C. During the 2013 dialogue, senior officials from both governments discussed regulations and enforcement programs to improve occupational and mine safety and health as well as workers' rights and responsibilities in the workplace in both countries.

USTR also engaged with several countries on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. In June, USTR discussed labor issues with trade officials from Peru in the context of a meeting of the Free Trade Commission under the United States-Peru Trade Promotion Agreement. USTR also discussed labor issues with trade officials from Uzbekistan in a bilateral meeting during the November 2013 United States-Central Asia TIFA meeting.

## **C. Small and Medium Sized Business Initiative**

Under the Obama Administration, USTR has implemented an initiative to increase export opportunities for U.S. small and medium sized enterprises (SMEs), and has expanded efforts to ensure the specific export challenges and priorities of SMEs and their workers are reflected in our trade policy and enforcement activities. During 2013, USTR engaged on an interagency basis and with trading partners to develop and implement new and continuing initiatives that support small business exports.

This agency effort also supports the goals of the Administration's National Export Initiative (NEI) to double U.S. exports and to support millions of American jobs. The NEI highlights the importance of expanding the national base of SME exporters.

U.S. small businesses are key engines for our economic growth, jobs, and innovation. SMEs that export grow faster, add jobs faster, and pay higher wages than SMEs that serve only domestic markets. According to research by the U.S. International Trade Commission (USITC), direct and indirect exports by U.S. SMEs support an estimated four million jobs in the United States and account for over 40 percent of the total value of U.S. exports of goods and services. Nearly 300,000 U.S. SMEs exported goods in 2011 (latest data available), accounting for 98 percent of all identified exporters and helping demonstrate the export potential of small businesses.

USTR is focused on making trade work to the benefit of American small businesses, helping them increase their sales to customers abroad and create jobs at home. USTR does this by negotiating with foreign governments to open their markets, reducing trade barriers, and enforcing our existing trade agreements to ensure a level playing field for American workers and businesses of all sizes. Agency-wide, USTR is working to better integrate specific SME issues and priorities into our trade policy development and implementation, increase our outreach to small businesses around the country, and expand our collaboration and coordination with our interagency colleagues.

In 2013, USTR undertook significant actions in continued support of our SME objectives.

### **1. USTR SME-Related Trade Policy Activities**

Under the SME initiative, USTR's small business office and geographic and functional offices are developing initiatives and advancing efforts to enhance activities that could benefit SMEs. Several key aspects of USTR's trade policy agenda have particular potential to help SMEs boost exports. These include enhancing trade facilitation work – notably through the landmark WTO Trade Facilitation Agreement reached in December 2013. As President Obama has noted, “this new deal... will eliminate red tape and bureaucratic delay for goods shipped around the globe. Small businesses will be among the biggest winners, since they encounter the greatest difficulties in navigating the current system.” USTR is leading efforts to strengthen and enforce intellectual property rights, develop IPR tools to assist SMEs, target services barriers that are especially difficult for SMEs, and also explore ways to simplify government procurement rules. Tariff barriers, burdensome customs procedures, discriminatory or arbitrary standards, and lack of transparency relating to relevant regulations in foreign markets present particular challenges for our SMEs in selling abroad.

The ability to address SME concerns through the fact finding and consultation mechanisms built into our bilateral and regional trade agreements and dialogues is an important asset for the United States. For example:

- As the United States moves forward with negotiations to expand U.S. trade in the Asia-Pacific region through the Trans-Pacific Partnership (TPP), the United States is working with our TPP partners to support the growth and development of small businesses, by enhancing their ability to participate in and benefit from the export opportunities created under the Agreement. This includes commitments by all TPP Parties to develop and promote web-based information and resources about the TPP Agreement for small businesses, and coordination to ensure that small businesses are able to take advantage of the Agreement after it is implemented. SMEs will benefit from increased transparency, predictability, and ambitious and comprehensive market access in TPP partners.
- In the Asia Pacific Economic Cooperation (APEC) forum, APEC Leaders agreed in 2013 to establish a Supply Chain Connectivity Fund to carry forward targeted, focused capacity building in APEC economies to improve supply chain performance and move goods through the region faster, easier, and more cheaply. For example, these capacity building activities would include helping economies to further simplify customs procedures and document requirements, which will be of assistance to small and medium-sized businesses that often lack the resources necessary to navigate overly complex requirements to deliver their goods to overseas markets in the region.
- Under the United States-Korea FTA (KORUS), the United States and Korea established an SME Working Group to develop cooperative activities to help SMEs take better advantage of KORUS trade opportunities. To support this work, USTR requested in 2013 a first-ever U.S. International Trade Commission (USITC) report to examine the KORUS agreement's effects on exports by U.S. small and medium-sized businesses, which account for a significant share of U.S. exporters both to Korea and in general. The report found that most small companies responding expressed the view that the agreement had already proven helpful, and would benefit their companies even more over time.
- In 2013, the United States initiated negotiations under the Transatlantic Trade and Investment Partnership (T-TIP) with the European Union aimed, in part, on strengthening U.S.-EU cooperation to enhance the participation of SMEs in trade between the United States and the EU, as well as addressing in the agreement trade barriers that may disproportionately impact SMEs. As part of consultations with small businesses, USTR, the Small Business Administration, the Department of Commerce and the USITC teamed up to convene a series of 20 SME roundtables nationwide and a hearing in Washington D.C. The purpose of these events was to hear directly from SMEs around the country about specific concerns and trade barriers they face in exporting to the EU and how those might be addressed through T-TIP. This major outreach effort to small businesses also will help inform a USITC study requested by USTR to identify trade barriers in the EU that may disproportionately impact small and medium firms, and help ensure that the United States takes into full account the priorities of small businesses in the T-TIP negotiations. The USITC report will be publically released in early 2014.
- Under the auspices of the Transatlantic Economic Council, USTR, Commerce, and SBA along with the EU's Directorate-General for Trade and Directorate-General for Enterprise organized the 5th U.S.-EU Small and Medium Enterprise Workshop in Brussels, in October 2013, with the aim of exchanging best practices, identifying common trade barriers and facilitating increased small business participation in transatlantic trade. A strong delegation of U.S. small business

stakeholders, including members of the Industry Trade Advisory Committee for Small and Minority Business (ITAC 11) represented U.S. SME views at the two-day workshop and used the opportunity to communicate their ideas directly to EU officials.

- With respect to FTA partners in the Western Hemisphere, USTR is working with the U.S. Small Business Administration (SBA), the U.S. State Department and other agencies to support the Obama Administration's Small Business Network of the Americas (SBNA). USTR supported the implementation of the SBNA and welcomed the formal launch of the online platform linkage between U.S. Small Business Development Centers at <http://www.sbdcglobal.com> and Brazil's Service for Micro and Small Enterprises (SEBRAE) Central de Oportunidades, connecting both sides for joint webinar training and exploration of small business client matchmaking and partnerships. Helping more small firms take advantage of trade with Brazil is a key topic of discussion in the U.S.-Brazil Agreement on Trade and Economic Cooperation.
- Through the Administration's Middle East North Africa Trade and Investment Partnership (MENA TIP), USTR and USAID launched a U.S.-Tunisia Small and Medium Enterprise program to provide training for Tunisia in the U.S. Small Business Development Center model and technical assistance to SME firms, with the goal of fostering more small business partnerships and trade opportunities between our countries and in the region. The exchange of best practices to support small business is part of the Obama Administration's MENA TIP, which is aimed at enhancing our broader economic cooperation with Arab countries in transition.

## **2. USTR Interagency SME Activities**

Under the National Export Initiative, USTR participates in the Trade Promotion Coordinating Committee's (TPCC) Small Business Working Group, collaborating with agencies including the U.S. Department of Commerce, the Small Business Administration (SBA), the State Department, U.S. Export-Import Bank, the U.S. Department of Agriculture, and others across the Government to promote small business exports. The TPCC Small Business Working Group connects SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements.

USTR serves as Co-Chair of the TPCC SME Task Force on connecting SMEs to international trade opportunities. As a result of work by the Task Force, USTR, the U.S. Department of Commerce and the SBA launched the FTA Tariff Tool. This free, online tool (<http://export.gov/FTA/ftatarifftool/index.asp>) can help small businesses take better advantage of the reduction and elimination of tariffs under U.S. FTAs. The FTA Tariff Tool was expanded to include tariff information on textiles and apparel products as well as rules of origin under U.S. FTAs, and will eventually be expanded to include new regional free trade agreements such as TPP. USTR and other agencies also created an SME Exporter's Toolkit guide to U.S. Government exporting resources which reached tens of thousands of SME exporters in the U.S. Census Bureau newsletter.

## **3. USTR's SME Outreach and Consultations**

Throughout 2013, Ambassador Froman and senior USTR staff participated in numerous events around the country to hear directly from local small businesses, workers, and other stakeholders about the trade opportunities and challenges they face. The Small Business section of USTR's website also includes helpful links, fact sheets, and resources for SMEs, and blogs which highlight small business export success stories around the country and USTR trade policy efforts supporting small business. On an interagency basis, USTR is working with the TPCC to improve trade information relevant for SMEs and

highlight interagency programs to assist SMEs with their individual export needs on the U.S. Government's one-stop export platform (<http://www.export.gov>).

USTR staff regularly consults with the Industry Trade Advisory Committee for Small and Minority Business to seek its advice and input on U.S. trade policy negotiations and initiatives, and meet frequently with individual SMEs and associations representing SME members on specific issues. USTR also spoke at several SME events around the country and abroad in 2013, including at the American Association of Small Business Development Centers annual conference in Orlando, Florida; the Dallas Ft. Worth Asian-American Citizens Council in Dallas, Texas; a T-TIP roundtable in Boston, Massachusetts, organized by SBA and the Massachusetts Export Center; the National Association of Professional Asian American Women in Washington, D.C.; the Small Technology Business Summit in Washington, D.C.; the U.S. Chamber and National District Export Council SME Trade Barriers Workshop in Washington, D.C.; the Bahrain SME Society and Global Entrepreneurship Week sponsored by the U.S. Embassy in Bahrain; the Third Inter-American Dialogue of High-Level Micro, Small, and Medium-sized Enterprises Authorities sponsored by the Organization of American States and the State Department in Brasilia, Brazil; and other events aimed at apprising small businesses of international trade opportunities and encouraging them to begin or expand their exports.

## **D. Import Food Safety**

On January 4, 2011, President Obama signed the Food Safety Modernization Act. This legislation includes numerous provisions to strengthen the U.S. food safety system for both domestic and imported products. Several key regulations and programs that the Act provides have been published as proposed rules and notified to the WTO SPS Committee for comment. In addition, several other proposed rules and guidance documents are currently under development. The FDA's new regulations aim to improve the safety of the U.S. food supply, including food that is imported from foreign producers.

The United States has continued to address the safety of imported products through its work on SPS chapters in U.S. FTAs. These chapters establish standing committees of the parties to the FTA to enhance cooperation and consultation on SPS matters and improve the parties' understanding of each other's SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance.

The WTO SPS Committee provides an important forum for the United States to exchange information with its trading partners on countries' respective health and safety requirements and address concerns about the implementation of those requirements. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that food safety requirements are based on scientific principles and sound evidence.

### **1. APEC Food Safety Cooperation Forum and Partnership Training Institute Network**

Trade in food and agricultural products in the Asia-Pacific region is vital to U.S. interests, yet concerns about food safety in the region spiked in recent years following a series of high-profile food safety incidents. These incidents prompted APEC economies to agree to strengthen food safety standards and practices in the region and encourage adherence to international science-based standards to facilitate trade in the region and enhance food safety. In response, the APEC Subcommittee on Standards and Conformance established the Food Safety Cooperation Forum (FSCF) in 2007 with the goal of improving food safety regulatory systems in APEC economies in line with WTO Members' rights and obligations under both the SPS and TBT Agreements. In 2008, APEC economies called for increased capacity building to improve technical competence and understanding of food safety management among

stakeholders in the food supply chain through the public-private partnership initiative, the Partnership Training Institute Network (PTIN).

Since 2007, over \$6 million of public and private sector funds have been contributed for FSCF and PTIN activities. The FSCF and PTIN have identified priority capacity building needs and delivered over 30 programs in key areas (supply chain management, food safety incident management, laboratory competency, risk analysis, food safety regulatory systems) since their inception.

2013 marked the first year of implementation of an APEC multiyear project: Building Convergence in Food Safety Standards and Regulatory Systems for 2013-2015. APEC awarded the United States \$1.8 million to serve as the project sponsor for this work. In April 2013 at the second APEC Senior Officials Meeting (SOM 2), project implementation began. Initial activities included a workshop on best practices for SMEs, development of an incident management network for the region, and meetings of the FSCF and PTIN Steering Groups. The FSCF agreed to endorse new work on FSCF Regulatory Cooperation Roadmaps on Export Certificates and Pesticide Maximum Residue Limits at this meeting. Also in 2013, the PTIN conducted two laboratory capacity building needs assessment pilot projects with Chile and China. For Chile, this project included training for the detection of salmonella in seafood and the detection of veterinary drug residues. In addition to the two pilot projects USDA, in partnership with the Joint Institute for Food Safety and Applied Nutrition, sponsored a workshop on laboratory capacity building priority setting for APEC member economies in College Park, Maryland in December 2013.

Lastly, the PTIN continued to work closely with the World Bank through the newly established Global Food Safety Partnership (GFSP) which includes an initial three year plan of close collaboration in food safety capacity building. The GFSP released APEC PTIN modules on supply chain management in China, Vietnam, and Malaysia in May/June 2013 and an APEC PTIN module on aquaculture was delivered by the GFSP in Indonesia in June 2013.

## **E. Organization for Economic Cooperation and Development**

Thirty-four democracies in Europe, the Americas, the Middle East, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. The OECD is a grouping of economically significant countries and serves as a policy forum covering a broad spectrum of economic, social, environmental, and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries, both OECD Members and non-Members, reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and the efficient use of resources. A committee of Member government officials, supported by Secretariat staff, covers each substantive area. The emphasis is on discussion and peer review rather than negotiation. However, some OECD instruments, such as the Anti-Bribery Convention, are legally binding. Most OECD decisions require consensus among Member governments. The like-mindedness of the OECD's membership on the core values of democratic institutions, the rule of law, and open markets uniquely positions the OECD to serve as a valuable policy forum to address issues relevant to the global economy and the multilateral trading system. 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 WTO.

The United States has a longstanding interest in trade issues studied by the OECD. On trade and trade policy the OECD engages in meaningful research, provides a forum in which OECD Members can discuss complex and sometimes difficult issues, and communicates to the wider public the benefits that trade and open economies generate. Through its multi-disciplinary approach, the OECD offers a distinct advantage in analyzing the complex economic effects of trade liberalization. In recent years, *inter alia*

using economic modeling, OECD research and analysis has shown that trade liberalization is an engine for job creation in all countries, especially as the world moves toward economic recovery. The Trade Committee's work developing trade facilitation indicators provided powerful analytical evidence supporting the conclusion of the WTO negotiations on trade facilitation, demonstrating that the trade cost savings from implementing the agreement ranged between 10 percent for developed countries to 15 percent for developing countries. The OECD is also active in warning against the dangers of protectionist measures and how imports help firms to cut costs and improve efficiency.

## 1. Trade Committee Work Program

In 2013, the OECD Trade Committee, its subsidiary Working Party, and its joint working parties on environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. The Trade Committee met in May and November 2013, and its Working Party met in March, June, October, and December. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and deepen understanding of the rationale for progressive trade liberalization in a rules-based environment. The Trade Committee and its subsidiary groups paid significant attention to trade facilitation, global value chains, services trade, export restrictions, state owned enterprises, regional trade agreements, and export credits. The Trade page on the OECD website (<http://www.oecd.org/trade>) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were developed or completed under the Trade Committee during 2013, including:

- *Mapping Global Value Chains*, Koen De Backer, Sébastien Miroudot
- *Assessing the Trade-Related Sources of Productivity Growth in Emerging Economies*, Przemyslaw Kowalski, Max Büge
- *The Costs and Challenges of Implementing Trade Facilitation Measures*, Evdokia Moïsé
- *Global Value Chains and Developing Country Employment*, Ben Shepherd
- *Economics of Export Restrictions as Applied to Industrial Raw Materials*, K.C. Fung, Jane Korinek
- *Global Production Networks and Employment*, Ben Shepherd, Susan Stone
- *Quantitative Evidence on Transparency in Regional Trade Agreements*, Iza Lejárraga, Ben Shepherd
- *Multilateralising Regionalism*, Iza Lejárraga
- *Multilateralising Regionalism on Government Procurement*, Asako Ueno
- *Trade Costs - What Have We Learned?*, Evdokia Moïsé, Florian Le Bris
- *Different Partners, Different Patterns: Trade and Labour Market Dynamics in Brazil's Post-Liberalisation Period*, David Kupfer, Marta Castilho, Esther Dweck, Marcelo Nicoll
- *The Role of Services for Competitiveness in Manufacturing*, Hildegunn Kyvik Nordås, Yunhee Kim
- *State-Owned Enterprises*, Przemyslaw Kowalski, Max Büge, Monika Sztajerowska,
- *Export Restrictions*, Osvaldo R. Agatiello, Barbara Fliess
- *Mineral Resource Trade in Chile*, Jane Korinek
- *Trade Facilitation Indicators*, Evdokia Moïsé, Silvia Sorescu
- *Trade and Labour Market Adjustment*, Susan Stone, Patricia Sourdin, Clarisse Legendre
- *Estimating the Constraints to Agricultural Trade of Developing Countries*, Evdokia Moïsé, Claire Delpeuch, Silvia Sorescu, Novella Bottini, Arthur Foch

The Trade Committee continued its work developing the Services Trade Restrictiveness Index (STRI), a tool to measure the restrictiveness of barriers affecting trade in services. During 2013, the STRI Steering Group reviewed Secretariat and Member country inputs for populating the STRI dataset, and services experts meetings took place to review specific sectors. Consultations with non-Members also took place, and there is an active effort to include non-Member data in the STRI to ensure that it is a comprehensive tool for trade policy experts. Members have identified the STRI as a key deliverable for the 2014 Ministerial Conference. As of the end of 2013, work was completed or is nearing completion for the following key services sectors: computer, professional (legal, accounting, engineering, architectural), telecommunications, construction, distribution, transportation, audiovisual, and financial.

The OECD Trade Committee also focused work on export restrictions. It continued work on the *Inventory of restrictions of the export of minerals, metals and wood* and expects to pursue a final project in early 2014. This work focuses on identifying alternatives to export restrictions and documenting best practices for transparency with respect to export restrictions.

At the request of both the G20 and OECD Members, the Trade Committee continued its work on global value chains and measuring trade in terms of value-added content. Recent Trade Committee discussions focused on the productivity and employment aspects of global value chains, as well as how developing countries can better integrate into global value chains.

The OECD Ministerial Council Meeting took place in May 2013 in Paris. Deputy U.S. Trade Representative Ambassador Michael Punke participated in the Trade Session which focused on trade and jobs, trade facilitation, services trade, and fighting protectionism. OECD Members, Key Partners, accession candidate Russia, and Trade Committee observers Argentina and Hong Kong participated in the session. Participants underscored the importance of trade for job creation and focused on the need for progress in the WTO negotiations on a package of results at the 9th Ministerial Conference in Bali. Members encouraged on-going work concerning the STRI and measuring trade in value-added terms.

## **2. Trade Committee Dialogue with Non-OECD Members**

The OECD conducts wide-ranging activities to reach out to non-Member countries, business, and civil society, in particular through its series of workshops and “Global Forum” events held around the world each year. Non-Members may participate as committee observers when Members believe that participation will be mutually beneficial. Key Partners, Brazil, China, India, Indonesia, and South Africa, participate to varying degrees in OECD activities through the Enhanced Engagement program which seeks to establish a more structured and coherent partnership, based on mutual interest, between these five major economies and OECD Members. Argentina, Brazil, and Hong Kong (China) are regular invitees to the Trade Committee and its Working Party. The OECD also carries out a number of regional and bilateral cooperation programs with non-Members.

The OECD Trade Committee continued its contacts with non-Member countries in 2013. The Trade Committee invited Key Partners and G-20 countries to participate in special sessions of the May 2013 committee meeting discussions related to global value chains and measuring trade in value-added terms. This engagement facilitated discussions promoting the functioning and deepening of the multilateral trading system and increasing transparency of trade policies. OECD accession candidate Russia also continued trade-related work on its OECD accession process throughout 2013. Moreover, the Trade Committee approved accession road maps for both Colombia and Latvia.

In addition, the Trade Committee continued its dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including Members of the OECD's Business and Industry Advisory Council (BIAC) and Trade Union Advisory Council (TUAC).

### 3. Other OECD Work Related to Trade

Representatives of the OECD Member countries meet in specialized committees to advance ideas and review progress in specific policy areas, such as economics, trade, science, employment, education, and financial markets. There are about 200 committees, working groups, and expert groups. Additional information on OECD activities and publications related to trade can be found on the following OECD websites:

- Trade: <http://www.oecd.org/trade>
- Trade and development: <http://www.oecd.org/trade/dev>
- Trade and environment: <http://www.oecd.org/trade/env>
- Trade facilitation: <http://www.oecd.org/trade/facilitation>
- Agricultural trade: <http://www.oecd.org/agriculture/trade>
- Services trade: <http://www.oecd.org/trade/services>
- Anti-Bribery Convention: <http://www.oecd.org/corruption>
- Export credits: <http://www.oecd.org/trade/xcred>
- Employment, Labor and Social Affairs: <http://www.oecd.org/els>
- Fisheries: <http://www.oecd.org/fisheries>
- Regulatory Reform: <http://www.oecd.org/regreform>
- Steel: <http://www.oecd.org/sti/steel>

## F. Localization Barriers to Trade

In the last few years, a growing number of America's trading partners have imposed what are called "localization barriers to trade" - measures designed to protect, favor, or stimulate domestic industries, service providers, and/or intellectual property (IP) at the expense of goods, services, or IP from other countries. Localization barriers are measures that can serve as trade barriers when they unreasonably differentiate between domestic and foreign products, services, IP, or suppliers, and may or may not be consistent with WTO rules. Examples of localization barriers include:

- Local content requirements, *i.e.*, requirements to purchase domestically-manufactured goods or domestically-supplied services;
- Subsidies or other preferences that are only received if producers use local goods, locally-owned service providers, or domestically-owned or developed IP, or IP that is first registered in that country;
- Requirements to provide services using local facilities or infrastructure;
- Measures to force the transfer of technology or IP;
- Requirements to comply with country- or region-specific or design-based standards that create unnecessary obstacles to trade; and,
- Unjustified requirements to conduct or carry out duplicative conformity assessment procedures in-country.

Disadvantaging or excluding foreign goods, services, or IP in a market compared to domestic goods, services, or IP can distort trade, discourage foreign direct investment, and push other trading partners to impose similarly detrimental measures. Consequently, often over the long term, these measures can

actually stand in the way of the economic growth and competitiveness objectives that they were intended to achieve.

For these reasons, it has been longstanding U.S. trade and investment policy to advocate strongly against localization barriers and instead to encourage trading partners to pursue policy approaches that help their economic growth and competitiveness without discriminating against imported goods or services.

In 2013, USTR continued its leadership of the Trade Policy Staff Committee Task Force on Localization Barriers to Trade's work to develop and execute a more strategic and coordinated approach to address localization barriers. Building off the USTR initiatives already underway in this area, the Task Force worked closely with U.S. industry and other stakeholders, along with trading partners around the world, to carry out its mission and reduce market access challenges posed to U.S. goods, services, and IP by localization barriers. Specifically, USTR was successful in obtaining APEC Leaders' endorsement of a trade-enhancing model to create jobs, increase competitiveness, and promote economic growth, as an alternative to localization barriers. USTR also worked closely with OECD staff to launch new research on the impact of localization barriers on trade and investment and economic growth. Finally, the United States created, for the first time ever, a specific group in the T-TIP negotiations to develop concrete ways that the United States and the European Union can cooperate to address these issues bilaterally and multilaterally. In 2014, the United States will seek to build on the APEC and OECD initiatives, continue work on T-TIP, and take additional steps to continue to address localization barriers around the world.

## **G. Trade in Services Agreement**

Launched in April 2013, the Trade in Services Agreement (TiSA) is a new trade initiative focused exclusively on services. Drawing on best practices from around the world, TiSA is designed to encompass state-of-the-art trade rules aimed at promoting fair and open competition across the full spectrum of service sectors – from telecommunications and technology to distribution and delivery services.

Twenty-three economies are presently participating in TiSA negotiations: Australia, Canada, Chile, Colombia, Costa Rica, the European Union, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, the Republic of Korea, Switzerland, Taiwan, Turkey, and the United States. Negotiations are being held in Geneva, Switzerland, but there is no relationship between TiSA and the World Trade Organization.

TiSA participants represent almost two-thirds of world trade in services and a combined services market exceeding \$30 trillion, or more than half of the global economy. Efficiency gains in the services sector have a profound economic effect, as even a slight reduction in protectionist measures affecting service suppliers could substantially increase global GDP by providing more opportunities to specialize, innovate, and trade.

For the United States, improved access to international services markets offers significant benefits. Services account for three-quarters of U.S. GDP and four out of five jobs in the United States. Thanks to a vibrant and open domestic market, the United States is highly competitive in services trade, routinely recording an annual surplus on the order of \$200 billion. International sales of services by U.S. suppliers exceed \$1.8 trillion per year. With every \$1 billion in services exports supporting an estimated 4,000 U.S. jobs, promoting the expansion of services trade globally will pay dividends for the United States.

Four rounds of negotiations were held in 2013. Significant progress has been achieved in developing the core text of the agreement and initial market access offers. Work on new or improved trade rules is also accelerating, with proposals on topics ranging from e-commerce to financial services and regulatory transparency.

# V. TRADE ENFORCEMENT ACTIVITIES

## A. Enforcing U.S. Trade Agreements

### 1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements to which the United States is a party and pursues enforcement actions using dispute settlement procedures and applying the full range of U.S. trade laws when appropriate. Vigorous investigation efforts by USTR and relevant agencies, including the U.S. Departments of Agriculture, Commerce, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. The Interagency Trade Enforcement Center (ITEC), led by USTR in close collaboration with the U.S. Department of Commerce, brings together research, analytical resources, and expertise from across the Federal Government into one organization, significantly enhancing the capability of the United States to investigate foreign trade practices that are potentially unfair or adverse to U.S. commercial interests.

Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. USTR seeks to achieve this goal through a variety of means, including:

- Asserting U.S. rights through the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO bodies and committees charged with monitoring implementation and surveillance of agreements and disciplines;
- Vigorously monitoring and enforcing bilateral and plurilateral agreements;
- Invoking U.S. trade laws in conjunction with bilateral, plurilateral, and WTO mechanisms to promote compliance;
- Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements such as the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and,
- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and use or threat of use of dispute settlement mechanisms, including with respect to enforcement of labor laws, including ones that reflect basic widely recognized labor rights, and environmental laws.

Through the vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in worker rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits for U.S. firms, farmers and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO in 1994, the

United States has filed 103 complaints at the WTO, thus far successfully concluding 70 of them by settling 29 disputes favorably and prevailing in 41 others through litigation before WTO panels and the Appellate Body. The United States has obtained favorable settlements and favorable rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements involving rules on trade in goods, trade in services, and intellectual property protection.

### **Satisfactory Settlements**

By filing disputes, the United States aims to secure benefits for U.S. stakeholders rather than to engage in prolonged litigation. Therefore, whenever possible, the United States has sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

The United States has been able to achieve this preferred result in 29 disputes concluded so far, involving: Argentina's protection and enforcement of patents; Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's automotive investment measures; Brazil's patent law; Canada's antidumping and countervailing duty investigation on corn; China's value-added tax; China's use of prohibited subsidies for green technologies; China's treatment of foreign financial information suppliers; China's government support tied to promotion of Chinese brand names abroad; China's subsidies for so-called Famous Brands; China's support for wind power equipment; Denmark's civil procedures for intellectual property enforcement; Egypt's apparel tariffs; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Mexico's restrictions on hog imports; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' automotive regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box office taxes on motion pictures.

### **Litigation Successes**

When U.S. trading partners have not been willing to negotiate settlements, the United States has pursued its cases to conclusion, prevailing in 41 cases to date. In 2013, the United States prevailed in a dispute involving China's countervailing and antidumping duties on broiler parts from the United States. In prior years, the United States prevailed in cases involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; China's charges on imported automobile parts; China's measures restricting trading rights and distribution services for certain publications and audiovisual entertainment products; China's enforcement and protection of intellectual property rights; China's measures related to the exportation of raw materials; China's countervailing and antidumping duties on grain oriented flat-rolled electrical steel from the United States; China's measures affecting electronic payment services; the EU's subsidies to Airbus for large civil aircraft; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; the EU's moratorium on biotechnology products; the EU's non-uniform classification of LCD monitors; the EU's tariff treatment of certain information technology products; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's discriminatory measures on imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's restrictions on beef imports; Mexico's antidumping duties on high fructose corn syrup; Mexico's telecommunications barriers; Mexico's antidumping duties on rice; Mexico's

discriminatory soft drink tax; the Philippines' discriminatory taxation of imported distilled spirits; and Turkey's measures affecting the importation of rice.

USTR also works in consultation with other U.S. Government agencies to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and U.S. free trade agreements. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights protection and enforcement, and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems (*the application of these trade law tools is described in greater detail in Chapter V.B.*).

## **ITEC**

In his 2012 State of the Union Address, President Obama called for increased efforts to investigate unfair trading practices in countries around the world, including creation of a new trade enforcement unit. On February 28, 2012, the President signed Executive Order 13601, establishing the Interagency Trade Enforcement Center, or ITEC. ITEC serves as the primary forum within the Federal Government for executive departments and agencies to coordinate enforcement of international and domestic trade rules. ITEC levels the playing field for American workers and businesses by bringing a more aggressive "whole-of-government" approach to addressing unfair trade practices and foreign trade barriers, and significantly enhances the Government's capabilities to challenge such barriers and practices around the world. ITEC increases the efforts devoted to trade enforcement, as well as leverages existing resources more efficiently across the Administration. Personnel from various contributing Government agencies comprise a deep pool of analytical support for trade enforcement efforts. In a close, collaborative effort, USTR and the U.S. Department of Commerce have assembled ITEC staff from a variety of agencies including the U.S. Departments of Commerce, Agriculture, State, Treasury, and Justice, as well as the International Trade Commission and the intelligence community. The staff bring a diverse set of language skills and expertise including intellectual property rights, subsidy analysis, economics, agriculture, and animal health science.

In 2013, ITEC continued its work to fulfill the President's goals. For example, ITEC played a critical role in providing research and analysis regarding new and ongoing important matters (including China Rare Earths Export Restraints, Argentina Import Licensing, China Export Bases, and India Local Content Requirements for Solar Cells and Solar Panels) for which there were serious concerns regarding U.S. trade interests. In each instance, the United States initiated steps in the WTO to protect U.S. rights. In addition, ITEC is increasing its capabilities including the acquisition of foreign language-proficient trade experts. In coordination with other offices at USTR and other agencies, ITEC has identified priority projects for research and analysis regarding a number of countries and issues. ITEC staff has developed detailed work plans and is researching those projects intensively. These efforts are being supplemented by research activities conducted by other agencies in coordination with ITEC.

## **2. WTO Dispute Settlement**

U.S. enforcement successes in 2013 include prevailing in a dispute in which a WTO panel found that China breached numerous WTO obligations in conducting its investigations and imposing anti-dumping duties and countervailing duties on chicken "broiler product" imports from the United States.

The United States launched three new WTO disputes in 2013, requesting WTO consultations: with Indonesia on its licensing restrictions on imports of horticultural products, animals, and animal products; with India regarding its domestic content requirements for solar cells and solar modules in Phase I of its

National Solar Mission; and with Indonesia covering new measures issued since the filing of the first dispute that continue to restrict imports of horticultural products, animals, and animal products. USTR also requested and completed an arbitration to establish the reasonable period of time for China to comply with the WTO's findings in the dispute concerning China's imposition of antidumping and countervailing duties on imports of U.S. grain-oriented flat-rolled electrical steel.

Other ongoing enforcement actions include a dispute with India regarding its import prohibitions on various U.S. poultry products purportedly to prevent the entry of avian influenza into India; a challenge to China's export restraints, including export duties and export quotas, on rare earths, tungsten, and molybdenum; a challenge to China's imposition of antidumping duties and countervailing duties on imports of certain automobiles from the United States; a dispute with Argentina on import restrictions including the broad use of non-transparent and discretionary import licensing requirements and burdensome trade balancing commitments; ongoing consultations with China regarding its automobile and auto parts "export base" program, which appears to provide extensive prohibited export subsidies; and a compliance proceeding to determine whether the EU has complied with the WTO's recommendations to withdraw subsidies provided to Airbus, a manufacturer of large civil aircraft, or to remove their adverse effects.

The cases described in Chapter II of this report further demonstrate the importance of the WTO dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website: <http://www.ustr.gov/trade-topics/enforcement/overview-dispute-settlement-matters>.

### **3. Other Monitoring and Enforcement Activities**

#### **Subsidies Enforcement**

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies that have adverse effects not only in the importing country's market, but also in the subsidizing government's market and in third-country markets. Prior to the Subsidies Agreement coming into effect in 1995, the U.S. countervailing duty law was, in effect, the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global marketplace.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the U.S. Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce's Enforcement and Compliance (E&C), formerly known as Import Administration, is to enforce the countervailing duty (CVD) law, and in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The E&C's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether there is reason to believe they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit it to be reliably evaluated, USTR and Commerce confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During 2013, USTR and E&C staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by E&C officers stationed overseas (*e.g.*, in China), who help gather, clarify, and check the accuracy of information concerning foreign subsidy practices. State Department officials at posts where E&C staff are not present have also handled such inquiries.

The SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a CVD case or a WTO subsidies complaint. The website (<http://eset.trade.gov>) includes foreign governments' subsidies notifications made to the WTO, an overview of the SEO, helpful links, and an easily navigable tool that provides information about each subsidy program investigated by Commerce in CVD cases since 1980. This database is frequently updated, making information on subsidy programs quickly available to the public.

### **Monitoring and Challenging Foreign Antidumping, Countervailing Duty and Safeguard Actions**

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Subsidies Agreement permit WTO Members to impose antidumping (AD) or CVDs to offset injurious dumping or subsidization of products exported from one Member to another. The United States actively monitors, evaluates, and where appropriate, participates in ongoing AD and CVD cases conducted by foreign countries in order to safeguard the interests of U.S. industry and to ensure that Members abide by their WTO obligations in conducting such proceedings.

To this end, the United States works closely with U.S. companies affected by foreign countries' AD and CVD investigations in an effort to help them better understand Members' AD and CVD systems. The United States also advocates on their behalf in connection with ongoing investigations, with the goal of obtaining fair and objective treatment that is consistent with the WTO Agreements. In addition, with regard to CVD cases, the United States provides extensive information in response to questions from foreign governments regarding the subsidy allegations at issue in a particular case.

Further, E&C tracks foreign AD and CVD actions, as well as safeguard actions involving U.S. exporters, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of such actions. Information about foreign trade remedy actions affecting U.S. exports is accessible to the public via E&C's website at <http://enforcement.trade.gov/trcs/index.html>. The stationing of E&C officers to certain overseas locations and close contacts with U.S. Government officers stationed in embassies worldwide has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports. In addition, E&C promotes fair treatment, transparency, and consistency with WTO obligations through technical exchanges and other bilateral engagements.

During the past year, over 100 trade remedy actions involving exports from the United States were closely monitored, notable examples of which include: (Antidumping) China's separate investigations of coated bleached folding board, solar-grade polysilicon, and cellulose pulp; India's investigations of solar cells; the European Union's investigation of bioethanol; Morocco's investigation of polyvinyl chloride; South Africa's expiry review of chicken products; (Countervailing Duty) the European Union's investigation of bioethanol; China's investigation of solar-grade polysilicon; Peru's investigation of cotton; (Safeguards) Chile's separate investigations of maize and frozen pork; India's investigation of seamless pipes and tubes; Russia's investigation of combine harvesters; Taiwan's investigation of high and low density polyethylene; and Ukraine's investigation of passenger cars.

Members must notify, on an ongoing basis and without delay, their preliminary and final determinations to the WTO. Twice a year, WTO Members must also notify the WTO of all AD and CVD actions they have taken during the preceding six-month period. The actions are identified in semiannual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their AD and CVD laws and regulations. These notifications are accessible through the USTR and E&C website links to the WTO's website.

#### **4. Monitoring Foreign Standards-related Measures and SPS Barriers**

In July 2009, Ambassador Ron Kirk announced on behalf of the Obama Administration its intention to make enforcement of trade agreements a centerpiece of U.S. trade policy. As one step in response to that commitment, the Administration has deployed resources more effectively to identify and confront unnecessary or unjustified barriers stemming from sanitary and phytosanitary (SPS) measures as well as technical regulations, standards, and conformity assessment procedures (standards-related measures) that restrict U.S. exports of safe, high quality products. SPS measures, technical regulations, and standards serve a vital role in safeguarding countries and their people, including by protecting lives, health, safety, and the environment. Conformity assessment procedures are normal, legitimate day-to-day activities that contribute, *inter alia*, to increasing confidence between trading partners by ensuring that products traded internationally comply with underlying standards and technical requirements. However, it is important that SPS and standards-related measures do not act as discriminatory or otherwise unwarranted restrictions on market access for U.S. exports. For this reason, U.S. trade agreements provide that, although countries may adopt SPS and standards-related measures to meet legitimate objectives such as the protection of health and safety as well as the environment, the measures they adopt in pursuit of such objectives must not act as unnecessary obstacles to trade. Greater engagement with U.S. trading partners and increased monitoring of their practices can help ensure that U.S. trading partners are complying with their obligations. This helps facilitate trade in safe, high quality U.S. products.

As part of this intensified effort to identify and confront such barriers, in March 2010 USTR published two new reports, the Report on Technical Barriers to Trade (TBT) and the Report on Sanitary and Phytosanitary Measures. Both of these reports serve as tools to bring greater attention and focus to addressing SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports and thereby support efforts to gain market access for American farmers, ranchers, and businesses. USTR published the fourth TBT and SPS annual reports in April 2013. These annual reports are based on assessments from other U.S. Government agencies, including from commercial, agricultural, and foreign service officers stationed abroad, and submissions from industry and other interested stakeholders.

These reports also describe the actions that the United States has taken to address the specific trade concerns identified through these efforts, as well as ongoing processes for monitoring SPS and standards-related actions that affect trade. USTR's activities in the WTO SPS Committee and the WTO TBT

Committee are at the forefront of these efforts (*for additional information, see Chapter II.E.3 and Chapter II.E.8.*). USTR also engages on these issues through, *inter alia*, mechanisms established by free trade agreements, such as NAFTA, and through other regional and multilateral organizations, such as APEC and the OECD.

USTR will issue new, up-to-date TBT and SPS Reports in 2014 to continue to highlight the increasingly critical nature of these issues to U.S. trade policy, to identify and call attention to problems resolved during 2013, in part as models for resolving ongoing issues, and to signal new or existing areas in which more progress needs to be made. These updates and the actions highlighted therein will be based in part on the input USTR receives from stakeholders. In October 2013, USTR issued a *Federal Register* Notice requesting producers, growers, industry, and other members of the public to submit views on SPS and standards-related measures that act as significant barriers to U.S. exports.

## **B. U.S. Trade Laws**

### **1. Section 301**

Section 301 of the Trade Act of 1974 (Trade Act) is designed to address foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

#### **Operation of the Statute**

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government act, policy, or practice that may be burdening or restricting U.S. commerce and take appropriate action. USTR also may self-initiate an investigation.

In each investigation, USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires USTR to use the dispute settlement procedures that are available under that agreement. Section 304 of the Trade Act requires USTR to determine whether the acts, policies, or practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the acts, policies, or practices are determined to violate a trade agreement or to be unjustifiable, USTR must take action. If they are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, USTR must determine whether action is appropriate and if so, what action to take.

Actions that USTR may take under Section 301 include to: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or USTR considers

that the country fails to implement a WTO dispute panel recommendation, USTR must determine what further action to take under Section 301.

### **Developments during 2013**

During 2013, USTR self-initiated an investigation of acts, policies, and practices of the government of Ukraine with respect to intellectual property rights. As described below, there also were developments in 2013 relating to a previously initiated Section 301 investigation.

#### *Ukraine – Intellectual Property Rights*

The May 1, 2013, Special 301 Report identified Ukraine as a priority foreign country due to Ukraine's denial of adequate and effective protection of intellectual property rights and its denial of fair and equitable market access to persons that rely on intellectual property protection (*see Chapter V.B.2 for a further discussion*). Pursuant to the Special 301 designation and to section 302(b)(2) of the Trade Act, on May 30, 2013, the Trade Representative initiated a Section 301 investigation of the acts, policies, and practices of the government of Ukraine that resulted in the identification of Ukraine as a priority foreign country. Simultaneously, USTR also proposed a determination that those acts, policies, and practices are actionable under section 301(b) of the Trade Act.

The investigation covers three categories of acts, policies, and practices with regard to intellectual property rights. The first category involves Ukraine's administration of its system of collecting societies, which are the entities responsible for collecting and distributing royalties to U.S. and other rights holders. The second category involves the use by Ukrainian government agencies of unlicensed software. The third category involves Ukraine's failure to implement an effective and systemic means to combat widespread online infringement of copyright and related rights.

In the notice of initiation, USTR invited written comments on the issues in the investigation and provided notice of a public hearing. The hearing was held on September 9, 2013.

On November 25, 2013, the Trade Representative determined pursuant to Section 304(a)(3)(B) of the Trade Act that the investigation involves complex or complicated issues that require additional time, and that the investigation would be extended by three months.

#### *European Union – Measures Concerning Meat and Meat Products (Hormones)*

A directive of the European Communities (EC or European Union (EU)) prohibits the import into the EU of animals and meat from animals to which certain hormones have been administered (the "hormone ban"). This measure has the effect of banning most imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EU's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but it failed to do so. Accordingly, in May 1999, the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT 1994. The EC did not contest that it had failed to comply with its WTO obligations, but it objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was \$116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the EC

and its Member States of tariff concessions and related obligations under the GATT 1994 covering trade up to \$116.8 million per year. In a notice published in the *Federal Register* in July 1999, USTR announced that the United States was exercising this authorization by using authority under Section 301 to impose 100 percent *ad valorem* duties on a list of certain products of certain EC Member States.

In February 2005, a WTO panel was established to consider the EC's claims that it had brought its hormone ban into compliance with the EC's WTO obligations and that the increased duties imposed by the United States were no longer covered by the DSB authorization. The WTO panel concluded its work in 2008, and the panel report was appealed to the WTO Appellate Body. In October 2008, the Appellate Body confirmed that the July 1999 DSB authorization to the United States to suspend the application of tariff concessions and related obligations remained in effect.

In January 2009, USTR decided to modify the action taken in July 1999 by: (1) removing some products from the list of products subject to 100 percent *ad valorem* duties since July 1999; (2) imposing 100 percent *ad valorem* duties on some new products from certain EC member States; (3) modifying the coverage with respect to particular EC member States; and (4) raising the level of duties on one of the products that was being maintained on the product list. The trade value of the products subject to the modified action continued not to exceed the \$116.8 million per year level authorized by the WTO in July 1999. The effective date of the modifications was to be March 23, 2009.

In March 2009, USTR decided to delay the effective date of the additional duties (items two through four above) imposed under the January 2009 modifications in order to allow additional time for reaching an agreement with the EC that would provide benefits to the U.S. beef industry. The effective date of the removal of duties under the January modifications remained March 23, 2009. Accordingly, subsequent to March 23, 2009, the additional duties put in place in July 1999 remained in place on a reduced list of products.

In May 2009, the United States and the EC announced the signing of a Memorandum of Understanding (MOU) in the EC-Beef Hormones dispute. Under the first phase of the MOU, which concluded in August 2012, the EC was obligated to open a new beef tariff-rate quota (TRQ) for beef not produced with certain growth-promoting hormones in the amount of 20,000 metric tons at zero rate of duty. The United States in turn was obligated not to increase additional duties above those in effect as of March 23, 2009. The MOU provides for a possible second phase in which the EU would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all additional duties imposed in connection with the Beef Hormones dispute.

On August 3, 2012, the United States and the EU, by mutual agreement, entered into the second phase of the MOU. USTR met the phase 2 obligations of the United States by terminating the remaining additional duties in May 2011, in advance of the phase 2 start date. As provided in the MOU, the EU in turn expanded the TRQ for beef produced without certain growth promoting hormones.

Under the MOU, phase 2 originally was to last for a period of one year. In August 2013, USTR announced that the United States and the EU planned to extend phase 2 for an additional two years, or until August 2015. In October 2013, the United States and the EU formally amended the MOU to reflect the extension of phase 2.

The United States continues to have an authorization from the WTO DSB to suspend concessions on EU products. USTR will continue to monitor EU implementation of the MOU and other developments affecting market access for U.S. beef products. If EU implementation and other developments do not proceed as contemplated, USTR will consider additional actions under Section 301 of the Trade Act.

## 2. Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as “Priority Foreign Countries,” unless those countries are entering into good faith negotiations or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974, unless USTR determines that the investigation would be detrimental to U.S. economic interests.

In addition, USTR has created a Special 301 “Priority Watch List” and “Watch List.” Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List receive increased attention in bilateral discussions with the United States concerning problem areas.

Additionally, under Section 306 of the Trade Act of 1974, USTR monitors whether U.S. trading partners are in compliance with bilateral intellectual property agreements with the United States that are the basis for resolving investigations under Section 301. USTR may take action if a country fails to satisfactorily implement such an agreement.

The Special 301 list not only indicates those trading partners whose intellectual property protection and enforcement regimes most concern the United States, but also alerts firms considering trade or investment relationships with such countries that their IPR may not be adequately protected.

### 2013 Special 301 Review Results

On May 1, 2013, the United States Trade Representative announced the results of the 2013 Special 301 annual review. The 2013 Special 301 Report reflects the Obama Administration’s resolve to encourage and help maintain effective IPR protection and enforcement worldwide. The Report is the result of robust stakeholder input and interagency consultation. USTR requested written submissions from the public through a notice published in the *Federal Register* on December 31, 2012. The 2013 review yielded 41 comments from interested parties. The submissions received by USTR were made available to the public online at [www.regulations.gov](http://www.regulations.gov), docket number USTR-2012-0022. On February 20, 2013, USTR chaired a public hearing at which interested persons testified before the interagency Special 301 subcommittee. The hearing included testimony from 13 witnesses, including representatives from industry, non-governmental organizations, and foreign governments. A transcript of the hearing was posted at <http://www.ustr.gov>.

The 2013 Special 301 review process examined IPR protection and enforcement in 95 trading partners. Following extensive research and analysis, USTR listed 41 trading partners below as follows:

- Priority Foreign Country: Ukraine.
- Priority Watch List: Algeria, Argentina, Chile, China, India, Indonesia, Pakistan, Russia, Thailand, Venezuela.

- Watch List: Barbados, Belarus, Bolivia, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Israel, Italy, Jamaica, Kuwait, Lebanon, Mexico, Paraguay, Peru, Philippines, Romania, Tajikistan, Trinidad and Tobago, Turkey, Turkmenistan, Uzbekistan, Vietnam.

The most notable outcome of the 2013 review was the designation of Ukraine as a Priority Foreign Country (PFC). This marks the first time in eleven years – since Ukraine’s first designation as PFC - that a country has been named a PFC. The PFC designation is reserved for countries with the most egregious IPR-related acts, policies, and practices with the greatest adverse impact on relevant U.S. products, and those that are not entering into good faith negotiations or making significant progress in negotiations to provide adequate and effective IPR protection. The 2013 Special 301 review found Ukraine distinct from other trading partners both in its persistent failure to meet its commitments to improve IPR protection including commitments made in an Action Plan negotiated with the United States in 2010, and in the degree of deterioration in IPR protection, enforcement, and market access for persons relying on IPR in Ukraine. Ukraine’s actions and inactions are causing significant damage to U.S. IPR-intensive industries in Ukraine’s market and in other markets as well. On May 30, 2013, USTR initiated an investigation under Section 301 of the Trade Act of 1974 based on the grounds identified in the Special 301 Report as the basis for Ukraine’s designation as a PFC (*see Chapter V.B.1. for further information on this Section 301 investigation*).

When appropriate, USTR may conduct an Out-of-Cycle Review (OCR) to encourage progress on IPR issues of concern. OCRs provide an opportunity for heightened engagement with trading partners and others to address and remedy such issues. In the case of a country-specific OCR, successful resolution of identified IPR issues of concern can lead to a change in a trading partner’s status on the Special 301 list outside of the typical time frame for the annual Special 301 Report. In some cases, USTR calls for the OCR; in others, the trading partner governments can request an OCR based on projections for improvements in IPR protection and enforcement. Although Spain is not listed in the 2013 Special 301 Report, USTR determined that an OCR focused on whether Spain has met certain specific benchmarks related to tackling copyright piracy on the Internet would be appropriate. USTR also announced that it would conduct an OCR of El Salvador, which remained unlisted in 2013, to monitor progress on IPR protection and enforcement, in particular with respect to the implementation of new legislation on pharmaceuticals and with respect to enforcement efforts, among other concerns. Both reviews are ongoing; USTR expects to announce their results prior to the conclusion of the 2014 Special 301 review period.

USTR also conducts an OCR focused on online and physical notorious markets. Notorious Markets are physical or online marketplaces that have been the subject of enforcement action or that may merit further investigation for possible IPR infringements. USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin to publish the Notorious Markets List separately from the Special 301 Report, as an “Out-of-Cycle Review of Notorious Markets,” in order to increase public awareness and guide related enforcement efforts. The results of the 2013 Notorious Markets OCR were published in early 2014 and highlighted positive developments since the issuance of the previous Notorious Markets Review in December 2012. USTR noted that in 2013 several online markets closed or saw their business models disrupted as a result of enforcement efforts. For example, Rapidshare.com’s popularity declined significantly after a Czech Republic court found RapidShare.com liable for illegal distribution of a Czech director’s movies, a verdict that was upheld on appeal, and Canada-based IsoHunt.com, one of the largest BitTorrent indexes in the world, shut down as the result of a court case in the United States. In some instances, in an effort to legitimize their overall business, companies made the decision to close down problematic aspects of their operations, as China’s Xunlei.com did with its multi-platform site GouGou.com; others cooperated with authorities to address

unauthorized conduct on the site, as in the case of Warez-bb.org. Notwithstanding the progress made in 2013, several markets continued to operate despite legal rulings or enforcement actions against them. In Ukraine, the website Ex.ua, which offered unauthorized downloading and streaming of various content, was shut down on January 31, 2012, by criminal law enforcement authorities but was back online by February 2, 2013, and remains operational. Several additional online and physical markets based in Ukraine, India, China, and elsewhere were added to the Notorious Markets List as a result of the 2013 review.

### **3. Section 1377 Review of Telecommunications Agreements**

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review by March 31 of each year the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, to telecommunications products and services of U.S. firms, mutually advantageous market opportunities in that country.

The 2013 Section 1377 Review focused on a range of concerns, including: local content restrictions, access to networks of major suppliers of telecommunications services, increases in international call termination rates, particularly in Pakistan, and a variety of issues affecting the telecommunications equipment trade in Brazil, China, India, and Indonesia.

### **4. Antidumping Actions**

Under the antidumping law, duties are imposed on imported merchandise when the U.S. Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at “less than fair value”) and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, “by reason of” those imports. The antidumping law’s provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, the Trade and Competitiveness Act of 1988, and the 1994 Uruguay Round Agreements Act.

An antidumping investigation usually starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging, with respect to certain imports, the dumping and injury elements described above. If the petition meets the applicable requirements, Commerce initiates an antidumping investigation. In special circumstances, Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a “reasonable indication” of material injury or threat of material injury to a domestic industry, or material retardation of an industry’s establishment, “by reason of” the allegedly dumped imports. If this preliminary injury determination by the USITC is negative, the investigation is terminated and no duties are imposed; if it is affirmative, Commerce will make preliminary and final determinations concerning the allegedly dumped sales into the U.S. market. If Commerce’s preliminary determination is affirmative, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries and require importers to post a bond or cash deposit equal to the estimated weighted-average dumping margin.

If Commerce’s final determination regarding dumping is negative, the investigation is terminated and no duties are imposed. If affirmative, the USITC makes a final injury determination. If the USITC

determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the dumped imports, an antidumping order is issued and CBP collects antidumping duties on imported goods. If the USITC's final injury determination is negative, the investigation is terminated and the cash deposits are refunded or the bonds posted are released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO Antidumping Agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The United States initiated 38 antidumping investigations in 2013 and imposed 7 antidumping orders.

## **5. Countervailing Duty Actions**

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930, as amended by subsequent legislation including the Uruguay Round Agreements Act. As with the antidumping law, the USITC and the U.S. Department of Commerce (Commerce) jointly administer the CVD law, and U.S. Customs and Border Protection (CBP) collects and enforces CVD orders on imported goods.

The CVD law's purpose is to offset certain foreign government subsidies that benefit imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a U.S. industry or an entity filing on its behalf. The USITC is responsible for investigating material injury issues. The USITC makes a preliminary finding as to whether there is a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination. If the USITC's final determination is affirmative, Commerce will issue a CVD order. CBP collects CVDs on imported goods.

The United States initiated 19 CVD investigations and imposed 4 new CVD orders in 2013.

## **6. Other Import Practices**

### **Section 337**

Section 337 of the Tariff Act of 1930, as amended, makes it unlawful to engage in unfair acts or unfair methods of competition in the importation of goods or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, such as U.S. patents and trademarks.

The United States International Trade Commission (USITC) conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the USITC. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. A limited exclusion order covers only certain imports from particular named sources, namely some or all of the parties who are respondents in the proceeding. A general exclusion order, on the other hand, covers certain products from all sources. Cease and desist orders are generally directed to entities maintaining inventories of infringing goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. The four public interest considerations are the order's effect on public health and welfare, on competitive conditions in the U.S. economy, on the production of similar or directly competitive U.S. products, and on U.S. consumers. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, President Bush assigned these policy review functions, which are set out in Section 337(j)(1)(B), Section 337(j)(2), and Section 337(j)(4) of the Tariff Act of 1930, to the USTR. The USTR conducts these reviews in consultation with other agencies. Importation of the subject goods may continue during this review process if the importer pays a bond set by the USITC. If the President (or the USTR, exercising the functions assigned by the President) does not disapprove the USITC's action within 60 days, the USITC's order becomes final. If the President or the USTR disapproves or formally approves an order before the end of the 60-day review period, the order is nullified, or becomes final, as the case may be, on the date the President or the USTR notifies the USITC. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit, with possible appeal to the U.S. Supreme Court.

The USITC is also authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe there has been a violation of Section 337.

During calendar year 2013, the USITC instituted 43 new Section 337 investigations and two enforcement proceedings. The USITC also issued three general exclusion orders, four limited exclusion orders, and 30 cease and desist orders covering imports, as follows: *Certain Electric Fireplaces, Components Thereof, Certain Processes for Manufacturing or Relating to Same and Certain Products Containing Same*, 337-TA-791/826 (consolidated) (limited exclusion order); *Certain Electronic Digital Media Devices and Components Thereof*, 337-TA-796 (limited exclusion order and two cease and desist orders); *Certain LED Photographic Lighting Devices and Components Thereof*, 337-TA-804 (general exclusion order); *Certain Digital Photo Frames and Image Display Devices and Components Thereof*, 337-TA-807 (limited exclusion order and five cease and desist orders); *Certain Toner Cartridges and Components Thereof*, 337-TA-829 (general exclusion order and 16 cease and desist orders); *Certain Kinesiotherapy Devices and Components Thereof*, 337-TA-823 (general exclusion order and seven cease and desist orders); and *Certain Ink Application Devices and Components Thereof and Methods of Using Same*, 337-TA-832 (limited exclusion order). All but one of these orders (337-TA-794) became final after policy review.

On October 8, 2013, in allowing the Commission's determination in *Certain Electronic Digital Media Devices and Components Thereof*, Investigation Number 337-TA-796, to become final, U.S. Trade Representative Froman issued a statement regarding the clarity of the USITC's exclusion orders and the procedures followed by U.S. Customs and Border Protection in the interpretation and enforcement of

those orders. The statement noted that the Office of the Intellectual Property Enforcement Coordinator (IPEC) was conducting an interagency review aimed at strengthening the procedures and practices used during the enforcement of USITC exclusion orders, that USTR and other agencies were working with IPEC in this review, and that Ambassador Froman “look[ed] forward to receiving recommendations to address these issues on a systemic basis.”<sup>28</sup>

While the USITC also issued a limited exclusion order and cease and desist order in Investigation Number 337-TA-794, *Certain Electronic Devices, Including Wireless Communication Devices, Portable Music and Data Processing Devices, and Tablet Computers*, on August 3, 2013 U.S. Trade Representative Froman took the rare action of disapproving the USITC’s determination, thus making the orders null and void. In his letter to the USITC Chairman notifying the USITC of the disapproval, U.S. Trade Representative Froman noted that the devices that were the subject of the Commission’s determination incorporated technical standards that had been developed through voluntary consensus standards set by a standards developing organization, and that a Policy Statement issued by the U.S. Department of Justice and the U.S. Patent and Trademark Office<sup>29</sup> had “express[ed] substantial concerns, which I strongly share, about the potential harms that can result from owners of standards-essential patents (SEPs) who have made a voluntary commitment to offer to license SEPs on terms that are fair, reasonable, and non-discriminatory (FRAND), gaining undue leverage and engaging in ‘patent hold-up’, *i.e.*, asserting the patent to exclude an implementer of the standard from a market to obtain a higher price for use of the patent than would have been possible before the standard was set, when alternative technologies could have been chosen.” The letter indicated that “whether public interest considerations counsel against a particular exclusion order depends on the specific circumstances at issue,” and that the disapproval in this case was based on “various policy considerations discussed [in the letter] as they relate to the effect on competitive conditions in the U.S. economy and the effect on U.S. consumers.” The letter underscored that “[l]icensing SEPs on FRAND terms is an important element of the Administration’s policy of promoting innovation and economic progress and reflects the positive linkages between patent rights and standards setting.”<sup>30</sup>

## Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief to a domestic industry if increased imports are a substantial cause of serious injury or the threat of serious injury. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry; it may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving “critical circumstances” or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide

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<sup>28</sup> The statement is available at <http://www.ustr.gov/about-us/press-office/press-releases/2013/October/Froman-decision-USITC-investigation>.

<sup>29</sup> U.S. Department of Justice and U.S. Patent and Trademark Office, Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary FRAND Commitments (2013), available at <http://www.justice.gov/atr/public/guidelines/290994.pdf>.

<sup>30</sup> The full text of the letter is available at <http://www.ustr.gov/about-us/press-office/press-releases/2013/august/froman-decision-regarding>.

relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called “escape clause” – and the WTO Agreement on Safeguards.

As of January 1, 2014, the United States had no measures in place under Section 201. The United States did not impose any Section 201 measures during 2013, and did not commence any safeguard investigations.

## **Section 421**

The terms of China’s accession to the WTO included a unique China-specific safeguard mechanism that applied to all industrial and agricultural goods. The mechanism allowed a WTO Member to limit increasing imports from China that disrupt or threaten to disrupt its market if China does not agree to take action to remedy or prevent the disruption or threatened disruption.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implemented this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the USITC first had to make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directed that, if the USITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

On September 9, 2009, President Obama issued a determination imposing additional duties on U.S. imports of passenger vehicle and light truck tires from China. It was the first and only safeguard action taken by the United States under section 421. The safeguard action remained in place for its full three years. During that time, the United States successfully defended the action in the WTO, a decision that was affirmed by the WTO Appellate Body, the only safeguard measure so affirmed in the 19 year history of WTO dispute settlement.

China’s terms of accession also permitted a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into the first Member’s market. The trade diversion provision was implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

The safeguard mechanism and the related trade diversion provision in China’s WTO accession package were available until December 11, 2013. With the lapse of that WTO provision, the China-specific safeguard mechanism under section 421 of U.S. domestic law expired as well.

## **7. Trade Adjustment Assistance**

### **Overview and Assistance for Workers**

The Trade Adjustment Assistance (TAA) for Workers program is authorized under Title II of the Trade Act of 1974, as amended, and provides assistance to workers who have been adversely affected by foreign trade. The TAA program offers trade-affected workers important opportunities to retrain and retool for the 21st century economy in order to obtain quality employment and a middle class standard of living.

The TAA program offers the following services to eligible workers: training; weekly income support to enable participation in training; out-of-area job search and relocation allowances; employment and case management services; and wage insurance for some older workers. In FY 2013, \$756,353,000 was available to carry out the program. For a worker to be eligible to apply for TAA, the worker must be part of a group of workers that is the subject of a petition filed with the U.S. Department of Labor (DOL). Three workers of a company, a company official, a union or other duly authorized representative, or the American Job Center operator or partner may file a petition with DOL. In response to the filing, DOL conducts an investigation to determine whether foreign trade, that is an increase in imports or shifts in production or services to foreign countries, was an important cause of the workers' job loss or threat of job loss. If DOL determines that the workers meet the statutory criteria for group certification of eligibility for the workers in the firm to apply for TAA, DOL will issue a certification.

The TAA program is administered through agreements between DOL and states. Once covered by a certification, individual workers apply for benefits and services through the American Job Center network. American Job Centers can be located on the Internet at <http://www.servicelocator.org>, <http://www.jobcenter.usa.gov>, or by calling 1-877-US2-JOBS. Most benefits and services have separate eligibility criteria that individuals must meet in addition to group eligibility such as previous work history with the employer and exhaustion of unemployment insurance as part of the criteria for income support, and a reasonable expectation of employment following training as part of the criteria for approving a training program.

In FY 2013, DOL received 1,509 petition filings, issued 1,027 certifications of petitions, and an estimated 104,500 workers were eligible for TAA benefits; compared to 1,460 petition filings, 1,138 certifications of petitions, and an estimated 81,695 workers eligible in FY 2012.

### **Trade Adjustment Assistance for Farmers**

Through the Trade Adjustment Assistance (TAA) for Farmers Program, the U.S. Department of Agriculture (USDA) provides training and cash benefits to eligible producers of raw agricultural commodities and fishermen whose operations have been hurt by import competition. The program provides training specifically tailored to the needs of farmers and fishermen, enabling them to compete more effectively with producers of similar imported products. The training is intended to offer domestic producers an opportunity to improve their production, consider different marketing opportunities, and evaluate alternative enterprises.

Program benefits include an orientation workshop and a minimum of 12 hours of online or in-person training on the development of business plans. Eligible producers, who complete an approved initial and long-term business plan subsequent to the training, are entitled to receive cash payments to implement the plans. All producers must complete the program within 36 months from the date their respective petition is approved.

The TAA for Farmers Program was reauthorized and modified on February 17, 2009, by the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). In addition to reauthorizing the program, this legislation provided it with \$90 million per year in funding for Fiscal Years (FYs) 2009-2010, and \$22.5 million in funding for the first quarter of FY 2011. The Program officially expired on February 12, 2011. Approved FY 2009-2011 applicants were nonetheless permitted to continue receiving training and payments through September 2013.

On October 12, 2011, the U.S. Congress passed the Trade Adjustment Assistance Extension Act of 2011, which reauthorized the TAA for Farmers Program through the first quarter of FY 2014. However, the U.S. Congress has not appropriated funding for new participants for FY 2012, FY 2013, or FY 2014. As

a result, in FY 2012, FY 2013, and the first quarter of FY 2014, USDA did not accept any new petitions or applications for benefits.

### **Assistance for Firms and Industries**

The U.S. Economic Development Administration's (EDA) Trade Adjustment Assistance for Firms Program (the TAAF Program) is authorized by chapters 3 and 5 of title II of the Trade Act of 1974, as amended (19 U.S.C. § 2341 et seq.) (Trade Act). Public Law 93-618, as amended, provides for trade adjustment assistance for firms and industries (19 USC §§2341-2355; 2391). Section 233 of Public Law 112-40 authorizes the TAAF Program through December 31, 2014.

The TAAF Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the program, a firm must show that an increase in imports of like or directly competitive articles contributed importantly to the decline in sales or production and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of the U.S. Commerce Department is responsible for administering the TAAF Program and has delegated the statutory authority and responsibility under the Trade Act to the U.S. Department of Commerce's Economic Development Administration (EDA). The U.S. Economic Development Administration's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at [http://eda.gov/pdf/EDAs\\_regs-13\\_CFR\\_Chapter\\_III.pdf](http://eda.gov/pdf/EDAs_regs-13_CFR_Chapter_III.pdf)

In Fiscal Year (FY) 2013, EDA awarded a total of \$15,450,000 in TAAF Program funds to its national network of 11 Trade Adjustment Assistance Centers, each of which is assigned a different geographic service area. During FY 2013, EDA certified 105 petitions for eligibility and approved 114 adjustment proposals.

Additional information on the TAAF Program (including eligibility criteria and application process) is available at <http://www.eda.gov/programs.htm>.

## **8. United States Preference Programs**

### **Overview**

The United States has a number of programs designed to encourage economic development in lower income countries by offering non-reciprocal reduced duty and preferential duty-free U.S. market access to imports from countries covered by these programs. Individual countries may be covered by more than one preferential market access program. In such countries, exporters may choose among programs when seeking preferential access to the U.S. market. U.S. imports benefiting from preferential access under these programs totaled an estimated \$45.7 billion during January-November 2013, down about 27 percent from the same period in 2012. This compares to an overall 0.8 percent decrease in total U.S. goods imports for consumption from the world over the same period. The decrease was largely due to a 77 percent decline in U.S. imports under the Andean Trade Preference Act (ATPA) because the ATPA expired on July 31, 2013, and as such there were no imports after that date.

As a share of total U.S. goods imports for consumption, imports under non-reciprocal preference programs decreased from 3.0 percent in the first 11 months of 2012 to 2.2 percent in the first 11 months of 2013. Again, the decrease would appear to be attributable largely to the decline in ATPA imports. Each program's respective share of total U.S. preferential imports in the first 11 months of 2013 was as follows: (AGOA, excluding GSP), 52 percent; GSP, 38 percent; Andean Trade Preference Act (ATPA), 6

percent; and Caribbean Basin Initiative (CBI) and Caribbean Basin Trade and Partnership Act (CBTPA); 2 percent. Trade under each program (AGOA, GSP, ATPA and CBI/CBTPA) decreased in 2013, attributable in part to significant declines in oil imports under AGOA and changes in the status of beneficiary countries under ATPA and CBI/CBTPA. See the sections below for more information on developments related to specific preference programs.

## **Generalized System of Preferences**

### *History and Purposes*

The U.S. Generalized System of Preferences (GSP) program was established under the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.). Congress has extended the program 12 times, most recently, in October 2011. Authorization for the program expired on July 31, 2013. The Obama Administration supports congressional action to extend the GSP program.

The GSP program is designed to promote economic growth in the developing world by providing preferential duty-free entry for a wide range of products from designated beneficiary countries and territories. Duty-free treatment under the GSP program is not available for products that the President determines to be import-sensitive or that the statute excludes from the program. An underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and an important means of sustaining momentum for their economic reform and liberalization. The GSP program also helps to lower the cost of imported goods for U.S. businesses and consumers.

### *Beneficiaries*

As of January 1, 2014, there were 123 designated GSP beneficiary developing countries (BDCs) and territories, including 43 countries and territories that are “least-developed” beneficiary developing countries (LDBDCs), eligible for a broader range of duty-free benefits.

There was one change to the list of GSP beneficiaries in 2013. A Presidential Proclamation of July 2, 2013 announced the suspension of Bangladesh from GSP eligibility, effective September 3, 2013, based on that country’s failure to meet the statutory GSP eligibility requirement of taking steps to afford internationally recognized worker rights to workers in the country. In addition, on April 16, 2013, USTR initiated reviews of the Union of Burma and the Lao People’s Democratic Republic for possible designation as beneficiary developing countries. A public hearing on the eligibility of these two countries for GSP was held on June 4, 2013, and the two countries remained under review at year’s end.

Pursuant to presidential proclamations, one country – St. Kitts and Nevis – and two territories – Gibraltar and Turks and Caicos – were removed from GSP eligibility as of January 1, 2014, because their respective gross national incomes per capita exceeded statutory thresholds.

Through various mechanisms, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) take steps to afford workers internationally recognized worker rights; and (3) provide adequate and effective intellectual property rights protection and enforcement. U.S. industry has noted that a country’s participation in the GSP program helps to promote a business and investment environment that benefits U.S. investors as well as the beneficiary countries.

## *Eligible Products*

When the GSP program expired on July 31, 2013, approximately 5,000 products were eligible for duty-free treatment under GSP, with nearly 1,500 products reserved for LDBDCs only. The list of GSP-eligible products from all beneficiaries includes most dutiable manufactures and semi-manufactures; selected agricultural and fishery products; and many types of chemicals, minerals, and building materials that are not otherwise duty-free. The GSP statute precludes certain import-sensitive articles from receiving GSP treatment, including most non-silk textiles and apparel; watches; most footwear, handbags, and luggage; and some gloves and leather products. The products that receive preferential market access only when imported from LDBDCs include petroleum and certain chemicals, plastics, animal and plant products, prepared foods, beverages, rum, and tobacco products.

Although GSP benefits for textiles and apparel are limited, certain handmade folkloric products are among the textile products eligible for GSP treatment. Currently, the United States has agreements providing for certification and GSP eligibility of certain handmade, folkloric products with the following BDCs: Afghanistan, Botswana, Cambodia, Egypt, Jordan, Mongolia, Nepal, Pakistan, Paraguay, Thailand, Timor-Leste, Tunisia, Turkey, and Uruguay.

## *Program Results*<sup>31</sup>

- Value of Trade Entering the United States under the GSP program: The value of U.S. imports claimed under the GSP program in the first seven months of 2013 was approximately \$11.1 billion, a 6.6 percent decrease compared to the same period in 2012. By comparison, total U.S. imports from GSP beneficiary countries decreased by 9.8 percent, by value, over the same period.<sup>32</sup> The decrease in trade under GSP in 2013 may be attributable in part to the exclusion of certain products from countries that have met competitive need limitations as well as the suspension of benefits for Argentina in May 2012.

Top U.S. imports under the GSP program in the first seven months of 2013 (at the four-digit HTSUS level), by trade value, were motor vehicle parts, ferroalloys, new pneumatic rubber tires, crude petroleum oils and oils from bituminous minerals, jewelry of precious metal, corn maize, worked monumental or building stone and articles thereof, certain wires and cables, air conditioning machines, and electric motors and generators.

In 2013 (through July), based on trade value, the top five GSP BDC suppliers were, in order, India, Thailand, Brazil, Indonesia, and Turkey. Ten of the top 50 GSP BDCs in the first seven months of 2013 were LDBDCs. In order of GSP trade value, these were Angola, Cambodia, Bangladesh<sup>33</sup>, Zambia, Malawi, Solomon Islands, Nepal, Ethiopia, Madagascar, and Uganda.

- The GSP Program's Contribution to Economic Development in Developing Nations: The GSP program helps countries diversify and expand their exports, an important development goal. The 2013 data on exports to the United States indicate that some beneficiaries have made progress in diversifying and expanding their exports to the United States under the GSP program. Among the countries with significant increases in GSP trade in 2013 were the Republic of Congo, Zambia,

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<sup>31</sup> Import data presented in this section are derived from the U.S. International Trade Commission's Dataweb and are based on the seven months (January-July) prior to the lapse in Congressional authorization of the GSP program effective July 31, 2013. The U.S. International Trade Commission continues to collect data on GSP import claims while the program is without authorization in the event that the program is renewed with retroactive effect.

<sup>32</sup> Based on GSP-eligible countries as of July 1, 2013.

<sup>33</sup> The President suspended Bangladesh from GSP eligibility effective September 3, 2013.

Angola, Jamaica, and Pakistan. Diversification of exports under GSP also enhances the productive capacity and competitiveness of beneficiary countries with respect to their exports to markets other than the United States.

- Efforts to promote wider distribution of the use of GSP benefits among beneficiaries: As directed by the U.S. Congress, the Administration has sought to broaden the use of the GSP program's benefits among beneficiary countries. In 2013, USTR carried out GSP outreach activities for several countries, including Afghanistan, Pakistan, Kosovo, Georgia, and Turkey. For additional details and multiple-language GSP guides and country-specific analyses, go to "GSP in Use – Country Specific Information" under "Generalized System of Preferences" on the USTR website at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preferences-gsp/gsp-use-%E2%80%93-coun>.
- Benefits to the U.S. Economy: The GSP program helps not only beneficiary developing countries but also U.S. businesses and families. The program is a significant source of imports and products for U.S. businesses, including small and medium sized companies. The GSP program also helps reduce costs for U.S. manufacturers that utilize inputs that are not produced or available domestically thereby helping to improve the competitiveness of U.S. manufacturing.

#### *Annual Reviews*

An important element of the GSP program is its ability to adapt, product by product, to shifting market conditions; to the changing needs of producers, workers, exporters, importers, and consumers; and to concerns about individual beneficiaries' conformity with the statutory criteria for eligibility. Detailed information on elements of each Annual Review is available on the "Annual Reviews" pages on the USTR website at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-0>.

#### *Conclusion of the 2012 GSP Annual Review*

The results of the 2012 GSP Annual Review of product petitions were announced in a Presidential Proclamation dated June 27, 2013. Among other determinations, one petition for a competitive need limitation (CNL) waiver was granted, one product was excluded for Brazil based on CNLs, and the CNL waiver for a product from Indonesia was revoked. The Proclamation and a complete list of the results are available on the "GSP: 2012 Annual Review" page on the USTR website at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preferences-gsp/current-review>.

As part of the GSP 2012 Annual Review, the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) also considered several petitions to withdraw or limit a country's GSP benefits for not meeting certain GSP eligibility criteria. On February 22, 2013, USTR announced that it had closed, with no change to GSP benefits, the country practice case regarding intellectual property rights (IPR) protection in Lebanon in view of the progress made by the government of Lebanon in addressing IPR issues. On July 8, 2013, USTR announced that it had accepted for formal review a country practice petition on Ecuador, submitted as part of the 2012 Annual Review, regarding the recognition and enforcement of arbitral awards. USTR deferred a decision on the acceptance of a country practice petition on Russia regarding expropriation. Other outstanding country practice petitions that remained under review at year's end include petitions on Indonesia, Russia, Ukraine, and Uzbekistan with respect to IPR protection and petitions on Fiji, Georgia, Iraq, Niger, the Philippines, and Uzbekistan with respect to worker rights or child labor concerns. For a complete list of the country practice petitions that remained under review as of December 2013, go to <http://www.ustr.gov/sites/default/files/Active%20and%20Pending%20Country%20Practices%20Reviews.pdf>.

## 2013 GSP Annual Review

On July 29, 2013, a notice was published in the *Federal Register* launching the 2013 GSP Annual Review. That notice is available at <http://www.regulations.gov#!documentDetail;D=USTR-2013-0024-0001>. Petitions submitted in response to that notice may be found at the same web site. As long as the GSP program remains without authorization, USTR will take no formal action with respect to the petitions submitted for the 2013 Annual Review.

### **The African Growth and Opportunity Act**

The African Growth and Opportunity Act (AGOA), enacted in 2000, is a key element of U.S. economic policy in Africa, providing eligible sub-Saharan African countries with duty-free access to the U.S. market for over 1,800 products beyond those eligible under the GSP program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2014, 40 sub-Saharan African countries were eligible for AGOA benefits. For more information see <http://www.ustr.gov/about-us/press-office/press-releases/2013/December/Mali-Eligible-for-Trade-Benefits-Under-AGOA>.

AGOA requires the President to determine annually which of the sub-Saharan African countries listed in the Act are eligible to receive benefits under the Act. These decisions are supported by an annual interagency review, chaired by USTR, that examines whether each country already eligible for AGOA has met the eligibility criteria, or whether circumstances in ineligible countries have improved sufficiently to warrant their designation as an AGOA beneficiary country. The AGOA eligibility criteria include, among others, establishing or making continual progress in establishing a market-based economy, rule of law, poverty-reduction policies, a system to combat corruption and bribery, and protection of internationally recognized worker rights. AGOA also requires that eligible countries do not engage in activities that undermine U.S. national security or foreign policy interests, or engage in gross violations of international human rights. The annual review takes into account information drawn from U.S. Government agencies, the private sector, civil society, and prospective beneficiary governments. Through the AGOA eligibility review process, the annual AGOA Forum meeting (*see below*), and ongoing dialogue with AGOA partners, AGOA provides incentives to promote economic and political reform as well as trade expansion in AGOA-eligible countries. In December 2013, the annual AGOA country eligibility review resulted in President Obama designating 40 countries as eligible for AGOA benefits beginning January 1, 2014. The Republic of Mali, which in 2013 installed a democratically elected president following a coup that occurred in that country in 2012, was added to the list of AGOA-eligible countries.

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as the “AGOA Forum,” is an annual ministerial-level meeting with AGOA-eligible countries. In August 2013, the AGOA Forum was held in Addis Ababa, Ethiopia. U.S. Trade Representative Ambassador Michael Froman led the U.S. delegation which included senior officials from more than a dozen U.S. Government agencies. Ambassador Froman and other U.S. delegates met with numerous African trade ministers, leaders of African regional economic organizations, and representatives of the African and American private sectors and civil society to discuss issues and strategies for advancing trade, investment, and economic development in Africa as well as ways to increase two-way U.S.-African trade. During his remarks to Forum delegates, Ambassador Froman reaffirmed the Administration’s support for renewal of AGOA when it expires in 2015. To that end, he announced the launch of a comprehensive review of the AGOA program within the Executive Branch. Findings from this review will help develop recommendations to improve AGOA achieving its objectives and for the United States, and will inform administration discussions with the U.S. Congress regarding reauthorization of the program.

## **Andean Trade Preference Act**

The Andean Trade Preference Act (ATPA) was enacted in 1991 to promote broad-based economic development, diversify exports, and combat drug trafficking by providing sustainable economic alternatives to drug-crop production in Bolivia, Colombia, Ecuador, and Peru. In 2002, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) amended the ATPA to provide duty-free treatment for a number of products previously excluded under the original ATPA program. The most significant expansion of benefits was in the apparel sector.

On June 20, 2013, USTR issued the Seventh Report to the Congress on the Operation of the Andean Trade Preference Act as Amended. Benefits under the ATPA expired on July 31, 2013, and as such there are no current eligible beneficiary countries. Bolivia's eligibility for benefits was suspended effective December 2008. Further, in accordance with the statute, since the President did not determine that Bolivia satisfied the program's eligibility requirements in his June 30, 2009 report to the U.S. Congress, no benefits remain in effect under the program for Bolivia. In December 2010 the U.S. Congress removed Peru's beneficiary status under the ATPA effective January 1, 2011 since Peru had become a free trade agreement partner of the United States. Effective May 15, 2012, with the entry into force of the U.S.-Colombia Trade Promotion Agreement, Colombia was no longer a beneficiary country under the ATPA program. Ecuador ceased receiving benefits when the program expired on July 31, 2013.

## **Caribbean Basin Initiative**

During 2013, the Caribbean Basin Economic Recovery Act (CBERA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA) trade programs, collectively known as the CBI, remained a vital element in the United States' economic relations with its neighbors in Central America and the Caribbean. The CBI provides beneficiary countries and territories with duty-free access to the U.S. market. Current beneficiary countries are: Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. At the end of 2013, the President designated Curaçao, a successor political entity of the Netherlands Antilles, as an eligible beneficiary of CBERA and CBTPA.

On the date the CAFTA-DR entered into force for Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, each country ceased to be designated as a CBERA and CBTPA beneficiary. Similarly, Panama ceased to be designated as a CBERA and CBTPA beneficiary when the United States-Panama Trade Promotion Agreement entered into force on October 31, 2012.

Since its inception, the CBI has helped beneficiaries diversify their exports. In conjunction with economic reform and trade liberalization by beneficiary countries, the trade benefits of CBI have contributed to their economic growth. In December 2013, USTR submitted its biannual report to the U.S. Congress on the operation of the CBERA. The report can be found on the USTR website, <http://www.ustr.gov>.



# VI. TRADE POLICY DEVELOPMENT

## A. Trade Capacity Building (“Aid for Trade”)

The President’s approach to global development, as outlined in the U.S. global development policy released on September 22, 2010, addresses the new strategic context faced by the United States through the following three pillars:

- A policy focused on sustainable development outcomes that places a premium on broad-based economic growth, democratic governance, game-changing innovations, and systems for meeting basic human needs;
- A new operational model that positions the United States to be a more effective partner and to leverage U.S. leadership; and
- A modern architecture that elevates development and harnesses development capabilities spread across U.S. Government in support of common objectives – including a deliberate effort to leverage the engagement of and collaboration with other donors, foundations, the private sector, and NGOs – not just at the project level, but systemically.

USTR participated actively in the preparation of this strategy and remains active in its implementation. USTR has continued to work closely with the U.S. Department of State, USAID, MCC, USDA, and other U.S. Government agencies to support countries in their capacity to trade, as described in this section.

Trade policy and development assistance are key tools that together can help alleviate poverty and improve opportunities. Through “aid for trade,” the United States focuses on giving countries, particularly the least trade-active, the training and technical assistance needed to: make decisions about the benefits of trade arrangements and reforms; implement their obligations to bring certainty to their trade regimes; and enhance these countries’ ability to take advantage of the opportunities of the multilateral trading system and compete in a global economy. Accordingly, U.S. assistance addresses a broad range of issues so that communities, rural areas, and small businesses, including female entrepreneurs, benefit from ambitious reforms in trade rules that are being negotiated in the WTO and in other trade agreements.

An important element of this work involves coordinating U.S. Government technical assistance activities with those of international institutions in order to identify and take advantage of donor complementarities in programming and to avoid duplication. Such institutions include the WTO, the World Bank, the IMF, the regional development banks, and the United Nations. The United States, led by USTR at the WTO and by the Treasury Department at the international financial institutions, works in partnership with these institutions and other donors to ensure that, where appropriate, trade-related assistance is an integral component of development programs tailored to the circumstances within each developing country.

U.S. efforts build on our longstanding commitment to help partner countries benefit from the opportunities provided by the global trading system, both through bilateral assistance and multilateral institutions. U.S. bilateral assistance includes programs such as targeted assistance for developing countries participating in U.S. preference programs; coordination of assistance through Trade and Investment Framework Agreements (TIFAs); trade capacity building (TCB) working groups that are an integral part of preparing developing country partners for potential negotiations on Free Trade Agreements (FTAs); and Committees on TCB created to aid in the negotiation and/or implementation of a

number of FTAs, including the FTAs with the Dominican Republic and Central America, Colombia, Panama, and Peru, and for some partners in the ongoing Trans-Pacific Partnership negotiations. The United States also provides bilateral assistance to developing countries to enable them to work with the private sector and non-governmental organizations to transition to a more open economy, to prepare for WTO negotiations, and to abide by their trade obligations. Multilaterally, the United States has supported and will continue to support trade-specific assistance mechanisms like the Enhanced Integrated Framework for Trade-Related Assistance to Least-Developed Countries and the WTO's Global Trust Fund for Trade-Related Technical Assistance.

## **1. The Enhanced Integrated Framework**

The Enhanced Integrated Framework for Trade-Related Assistance to Least-Developed Countries (EIF) is a multi-organization, multi-donor program that operates as a coordination mechanism for trade-related assistance exclusively to least-developed countries (LDCs) with the overall objective of integrating trade into national development plans. Participating organizations include the WTO, World Bank, IMF, UNCTAD, UNDP, UNIDO, and the International Trade Center. The mechanism incorporates a country-specific diagnostic assessment, called the Diagnostic Trade Integration Study (DTIS), which aims to identify constraints to competitiveness, supply chain weaknesses, and sectors of greatest growth and/or export potential. The DTIS includes an action plan, consisting of a list of priority reforms identified by the DTIS, which is offered to multilateral and bilateral donors. Project design and implementation can be accomplished through the resources of the EIF Trust Fund or through multilateral or bilateral donor programs in the field (as the United States does through its development assistance programs).

The EIF aims to further the integration of the least trade-active countries into the multilateral trading system. Of the 49 LDCs, 47 have joined the EIF. As of December 2013, a total of 58 projects and 37 DTIS and DTIS updates were already under way in 43 countries. The EIF is supported by 23 donors. Institutionally, the EIF is overseen by a Board of Directors, composed of donor countries, least-developed countries, and participating international organizations. The EIF Secretariat, led by an executive director, is responsible for programmatic implementation, while the EIF Trust Fund Manager is responsible for financial aspects of the program.

The United States supports the EIF primarily through complementary bilateral assistance to EIF participating countries. USAID bilateral assistance to LDC participants supports initiatives both to integrate trade into national economic and development strategies and to address high priority capacity building needs designed to accelerate integration into the global trading system.

During the Ninth WTO Ministerial Conference in Bali, Ministers of least-developed countries and donor countries to the EIF highlighted continued support for the EIF and stressed the importance of the forthcoming evaluation in 2014 to determine the future of the program. The evaluation, which should be completed in November 2014, will undertake an independent, systematic, and objective assessment of the implementation of the EIF program, with a particular focus on the results and impact achieved by the program over the past five-years. The evaluation will also seek to identify lessons learned, challenges and opportunities to aid future strategic programming.

## **2. World Trade Organization-Related U.S. Trade-Related Assistance**

International trade can play a major role in the promotion of economic growth and the alleviation of poverty. WTO Members recognize that TCB can facilitate effective integration of developing countries into the international trading system and enable them to benefit further from global trade. The United States provides leadership in promoting trade and economic growth in developing countries through a

wide range of TCB activities. The United States also directly supports the WTO's trade-related technical assistance.

### **Global Trust Fund**

The United States supports the trade-related assistance activities of the WTO Secretariat through voluntary contributions to the DDA Global Trust Fund. With an additional contribution of \$1.092 million in 2013, total U.S. contributions for WTO technical assistance have amounted to over \$14 million since 2001.

### **WTO's Aid for Trade Initiative**

The WTO's 2005 Hong Kong Ministerial Declaration created a new WTO framework to discuss and prioritize Aid for Trade. In 2006, the Aid for Trade Task Force was created to operationalize aid for trade efforts and offer recommendations to improve the efficacy and efficiency of these efforts among WTO Members and other international organizations. The United States continues to be an active partner in the Aid for Trade discussion.

The Fourth Global Review of Aid for Trade was held in July 2013 and focused on Aid for Trade in the context of a global trading system increasingly characterized by national, regional, and global supply chains. The Global Review also considered related challenges that developing countries, and in particular LDCs, face in integrating and moving up value chains. The plenary sessions were structured around three broad themes: trade, development goals, and value chains; understanding value chains and development; and future perspectives on Aid for Trade. Additional side events were also organized by WTO Members, intergovernmental organizations, and non-governmental organizations, including a side event sponsored by the United States. USTR and USAID collaborated to organize a USAID-sponsored panel that showcased how, through its catalyzing role in the creation of the African Cashew Alliance (ACA) and the Global Shea Alliance (GSA), USAID helped to connect these two value chains to global end markets and helped the private sector add value in developing countries. Key themes that emerged from the Global Review included: the need to engage the private sector; the importance of services for adding value; the key role played by skills; the role that Aid for Trade could play in reducing investor risk; how Aid-for-Trade resources should leverage investment; the critical role of border management and transport services; and the importance of access to trade finance.

During the Ninth WTO Ministerial Conference in Bali, Ministers welcomed the progress on Aid for Trade and recognized the continuing need of Aid for trade for developing countries and in particular LDCs. Ministers reaffirmed their commitment to Aid for Trade. Members will undertake work in 2014 to update the Aid for Trade Work Program for 2014-2015.

### **WTO and Trade Facilitation**

The United States has provided substantial assistance over the years in the areas of customs and trade facilitation and remains committed to continued support in light of the WTO Trade Facilitation Agreement agreed at the Ninth WTO Ministerial Conference in Bali in December 2013. In July 2013, on the margins of the Fourth Global Review, 14 donor Members including the United States, along with eight international organizations, issued a statement reaffirming ongoing support for implementation of a WTO Trade Facilitation Agreement. U.S. support for developing countries' implementation of trade facilitation reforms has been conducted through various mechanisms. For example, the United States provides support for building trade and development corridors in Africa, including through the U.S. Government's Global Hunger and Food Security Initiative. In November 2011, the United States announced the Partnership for Trade Facilitation, a flexible funding mechanism that supports developing

countries' efforts to implement provisions of the WTO Trade Facilitation Agreement. In 2013 under the Partnership for Trade Facilitation, USAID partnered with 17 countries with the objective of streamlining the time and cost of importing and exporting goods.

### **WTO Accession**

The United States provides technical support to countries that are in the process of acceding to the WTO. In 2013, the United States provided WTO accession support to several countries, including Afghanistan, Azerbaijan, Bosnia and Herzegovina, Iraq, Kazakhstan, Laos, and Liberia. Among current accession applicants, Algeria, Belarus, Ethiopia, Lebanon, Serbia, and Uzbekistan also received U.S. technical assistance earlier in their accession processes. At the request of Turkmenistan's government, which is considering whether to request initiation of negotiations to accede the WTO, USAID organized seminars on WTO accession for officials and other economic stakeholders in March and again in July of 2013.

## **3. TCB Initiatives for Africa**

Through bilateral and multilateral channels, the United States has invested more than \$4.9 billion in trade-related projects in sub-Saharan Africa since 2001 to spur economic growth and fight poverty.

### **Africa Competitiveness and Trade Expansion Initiative**

The centerpiece of U.S. support for building trade capacity in Africa is the African Competitiveness and Trade Expansion (ACTE) Initiative which was announced in 2011. This initiative provides up to \$120 million over four years to improve Africa's capacity to produce and export competitive, value-added products, including those that can enter the United States duty free under the African Growth and Opportunity Act (AGOA), and to address supply-side constraints that impede African trade. ACTE supports the work of three regional trade hubs, helps drive economic development in African countries, and enhances trade opportunities for Africans and Americans alike.

In the summer of 2013, President Obama launched Trade Africa, a new partnership between the United States and sub-Saharan Africa that seeks to increase internal and regional trade within Africa and expand trade and economic ties between Africa, the United States, and other global markets. Trade Africa will initially focus on the East African Community (EAC) and will combine the negotiation of trade and investment agreements, U.S. and EAC private sector engagement, and trade capacity building support provided both directly by the United States and through new partnerships with international donors.

### **Assistance to West African Cotton Producers**

Since 2005, the United States has mobilized its development agencies to help the West African countries of Benin, Burkina Faso, Chad, Mali, and Senegal address obstacles they face in the cotton sector. The MCC, USAID, USDA, and the U.S. Trade and Development Agency continued to work with these nations as they sought to develop a coherent long-term development strategy to improve prospects in the cotton sector. Elements of such a strategy address key challenges such as improved productivity and domestic reforms. The United States will continue to coordinate with the WTO, World Bank, the African Development Bank, and others as part of the multilateral effort to address the development aspects of cotton. This includes USTR's active participation, in coordination with other U.S. Government agencies, in the WTO Secretariat's periodic meetings with donors and recipient countries to discuss the trade, development, and reform aspects of cotton.

A key element in U.S. assistance to the cotton sector in West Africa has been USAID's West Africa Cotton Improvement Program (WACIP). The program aimed to improve the production and marketing of cotton in five countries: Benin, Burkina Faso, Chad, Mali, and Senegal. WACIP was designed to help achieve the following objectives: (1) reduce soil degradation and expand the use of good agricultural practices; (2) strengthen private agricultural organizations; (3) establish a West African regional training program for ginners; (4) improve the quality of West African cotton through better classification of seed cotton and lint; (5) improve linkages between U.S. and West African research organizations involved with cotton; (6) improve the enabling environment for agricultural biotechnology; and (7) assist with policy/institutional reform. Under WACIP, National Advisory Committees composed of stakeholders in each country worked to identify specific policy priorities and projects that would meet the associated goals.

In 2010, WACIP was extended to April 2012. The first iteration of WACIP had a positive impact raising smallholder incomes and food security through increased cotton and rotational food crop yields. Some of the key successes under WACIP included a 17 percent increase in yields for seed cotton, as well as increases in yields for the other food crops that are grown in rotation with cotton, namely an 18 percent increase for maize and a 31 percent for cowpeas. Returns for seed cotton increased by 43 percent, for maize by 7 percent, and for cowpeas by 153 percent. As a result, WACIP was extended in 2013, while USAID restructured its food security program to support a follow-on program, the Cotton Partnership Program. The Cotton Partnership Program will be funded up to \$16 million over four years and activities under the new award are expected to start in early 2014.

The U.S. Government also provides complementary support to the cotton sector through other programs. MCC is implementing or has implemented compacts with Benin, Burkina Faso, Mali, and Senegal. The USDA also provides support to these countries through its Food for Progress program, which encourages development of the agriculture sector and market development. USDA further supports the West African cotton sector through its research and exchange programs, specifically the Borlaug Programs and the Cochran Program.

#### **4. Free Trade Agreement Negotiations**

In addition to the WTO programs and EIF, the United States helps U.S. FTA partners participate in negotiations, implement commitments, and benefit over the long term through TCB working groups. The FTA partners have also formed Committees on TCB to prioritize and coordinate TCB activities during the transition and implementation periods once an FTA enters into force. USAID and USDA, in Washington and in their field missions, along with a number of other U.S. Government assistance providers actively participate in these working groups and committees so that identified TCB needs can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The Committees on TCB also invite non-governmental organizations, representatives from the private sector, and international institutions to join in building the trade capacity of the countries in each region.

For example, trade capacity building is a fundamental feature of bilateral cooperation in support of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) and the United States-Peru Trade Promotion Agreement (PTPA). The CAFTA-DR provides for a Committee on TCB. The CAFTA-DR was signed in 2004 and entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. CAFTA-DR TCB Committee meetings have been attended by representatives of each of the CAFTA-DR Parties and by International Donor Organizations including the Inter-American Development Bank (IDB), the Economic Commission for Latin America and the Caribbean (ECLAC) and, as appropriate, by the Organization of American States (OAS). The meetings have provided an

opportunity for the Committee to review TCB strategies and priorities, as well as the TCB activities of U.S. donor agencies and the international institutions.

Like the CAFTA-DR, the PTPA includes a provision that creates a Committee on TCB to build on work done during the negotiations by the TCB working group. The purpose of the Committee is to assist Peru in refining and implementing its national TCB strategy, as well as to foster assistance to promote economic growth, reduce poverty, and adjust to liberalized trade. Peru presented its preliminary national trade capacity strategy to the TCB Committee in March 2009, addressing several specific objectives relating to implementation of the PTPA and highlighting areas such as telecommunications, intellectual property, and agricultural standards. Since that time, USAID/Peru has been working closely with its Peruvian government counterparts to ensure that its activities respond directly to Peru's trade capacity needs. To that end, USAID and USDA, along with Peruvian government agencies and universities, have been working together to strengthen Peru's agricultural sector through targeted capacity building in the areas of SPS regulatory and surveillance systems, agricultural research, and agricultural education.

Additionally, USAID launched a trade capacity building project in July of 2010 through which it worked with several Peruvian ministries and agencies to assist with the implementation of the PTPA and facilitate trade across a wide range of sectors. The activities focused on the following areas: implementation of the labor and intellectual property provisions; strengthening intellectual property enforcement training, patent processes, strengthening capacity to evaluate drug applications; and improving customs operations to comply with the PTPA and to facilitate trade. Activities under this USAID facility – referred to as *Facilitando Comercio* – were concluded in September 2013.

The United States and Peru are also working closely on a number of environmental cooperation programs with respect to the obligations in the PTPA Environment Chapter and its Annex on Forest Sector Governance (Forest Annex). The Governments signed an Environmental Cooperation Agreement (ECA) in association with the PTPA, which laid the foundation for this extensive collaboration. With funding from USAID, the United States has invested over \$60 million in environmental cooperation programs in Peru since 2009, the majority of which has been targeted at programs related specifically to implementation of the Environment Chapter and Forest Annex.

USTR also works closely with the U.S. Department of State and other agencies to track and guide the delivery of TCB assistance to Jordan, Morocco, Bahrain, and Oman (*for additional information on TCB-related activities under CAFTA-DR, the United States-Panama Trade Promotion Agreement, the United States-Morocco Free Trade Agreement, and the United States-Peru Trade Promotion Agreement, please refer to individual country and/or regional sections in Chapter III*).

## **5. Standards Alliance**

In November 2012, the United States launched a new U.S.-sponsored assistance facility called the “Standards Alliance” with the goal of building capacity among developing countries to implement the WTO Agreement on Technical Barriers to Trade (TBT Agreement). The Standards Alliance, initiated as a result of collaboration between USTR and USAID, provides resources and expertise to enable developing countries to strengthen implementation of the TBT Agreement. The focus of these efforts in developing countries is guided by USTR, and includes efforts: to improve practices related to notification of technical regulations and conformity assessment procedures to the WTO; to strengthen domestic practices related to adopting relevant international standards; and to clarify and streamline regulatory processes for products. This program aims to reduce the costs and bureaucratic hurdles U.S. exporters face in foreign markets and increase the competitiveness of American products, particularly in developing markets.

In May 2013, USAID and the American National Standards Institute (ANSI) entered into a public-private partnership that will coordinate private-sector subject matter experts from ANSI member organizations in the delivery of training and other technical exchange with interested Standards Alliance countries on international standards and best practice. In coordination with USTR, the USAID-ANSI partnership will include activities in up to ten markets representing a variety of geographical regions and levels of economic development. In consultation with TPSC member agencies and private sector experts, ANSI reviewed the applications received based on consideration of bilateral trade opportunities, available private sector expertise that may be leveraged, demonstrated commitment and readiness for assistance, and potential development impact. Participating countries/regions for the first year will include: Central America (CAFTA-DR, Panama), Colombia, EAC, Indonesia, Middle East/North Africa, Peru, Southern Africa Development Community, developing ASEAN members, and Yemen.

Standards Alliance programming accomplishments in 2013 include a bilateral workshop on Good Regulatory Practices with Indonesia in June 2013, and a series of programs with Peru held between July and September 2013 on standards development, conformity assessment, Good Regulatory Practices, and implementation of the TBT Agreement, and were conducted both in Peru and the United States.

## **B. Public Input and Transparency**

The Obama Administration has broadened opportunities for public input and increased the transparency of trade policy through initiatives carried out by USTR's Office of Intergovernmental Affairs and Public Engagement (IAPE). IAPE works with USTR's Office of Public and Media Affairs and with regional and functional offices across the agency to ensure that timely trade information is available to the public and disseminated widely to stakeholders. This is accomplished in part via USTR's interactive website; a weekly e-newsletter that is available through USTR's homepage at <http://www.ustr.gov>; online postings of *Federal Register* Notices soliciting public comment and input and publicizing Trade Policy Staff Committee (TPSC) public hearings; increasing transparency in all trade negotiations; managing the agency's outreach and engagement to a diverse set of all stakeholder sectors including small and medium-sized businesses, agriculture groups, environmental organizations, industry groups, labor unions, consumer advocacy groups, non-governmental organizations, academia, think tanks, trade associations and State and local Governments; and advocating the President's robust trade agenda to audiences at major domestic trade events and conferences. In addition to public outreach, IAPE is responsible for administering USTR's statutory advisory committee system created by the U.S. Congress under the Trade Act of 1974 as amended, as well as facilitating formal consultations with State and local Governments regarding the President's trade priorities and the status of current trade negotiations which may impact them. Each of these elements is discussed in turn below.

### **1. Public Outreach**

#### **E-Newsletter**

The public is invited to sign up on USTR's homepage to receive a regularly distributed e-mail newsletter, which highlights USTR's efforts to engage the public, open markets and enforce trade agreements around the world. The USTR e-newsletter reaches over 7,000 contacts. This is a useful tool for small businesses and stakeholders outside Washington, D.C., to stay informed about trade policy developments, stakeholder events, and new market opportunities.

## ***Federal Register* Notices Seeking Public Input/Comments Now Available Online for Inspection**

Throughout 2013, USTR issued *Federal Register* Notices online to solicit public comment and held public hearings at USTR regarding a wide array of trade policy initiatives. Public comments received in response to *Federal Register* Notices are available for inspection online at <http://www.regulations.gov>. Some examples of trade policy initiatives for which USTR has sought public comment during 2013 include the following:

- **Trade in Services Agreement (TiSA):** Three out of four Americans currently work in the service sector, and further opening services trade can support broader U.S. services exports and even American jobs. In March 2013, USTR solicited comments and input on U.S. negotiating objectives for TiSA. The proposed agreement would include a diverse group of 21 like-minded partners, from Costa Rica to Turkey, all interested in growing services trade with the United States and with each other. The testimony and written submissions enabled USTR to further develop and refine U.S. objectives and goals and assisted negotiators in identifying barriers that constrain and disrupt the international supply of services.
- **Transatlantic Trade and Investment Partnership Agreement (T-TIP):** Over the course of two days USTR officials heard from over 60 stakeholders on the proposed agreement between the United States and the European Union aimed at achieving a substantial increase in transatlantic trade and investment to generate economic benefits on both sides of the Atlantic. On March 29 and 30, 2013, at a public hearing, stakeholders had an opportunity give their input and comments on the U.S. negotiating objectives for T-TIP. Over 300 written submissions were received in response to this opportunity.
- **Japan's Participation in the Trans-Pacific Partnership (TPP):** In April 2013, USTR formally notified Congress of the Obama Administration's intent to include Japan in the TPP negotiations. With Japan's entry, TPP countries would account for nearly 40 percent of global GDP and about one-third of all world trade. In July 2013, as part of the 90-day consultation period with Congress and the public, USTR hosted a hearing to solicit comments on negotiating objectives with respect to Japan's participation in TPP negotiations and for the U.S.-Japan parallel negotiations to address automotive and other non-tariff measure issues.
- **Section 301 Investigation of Ukraine:** In USTR's annual Special 301 Report, which reviews the global state of intellectual property rights (IPR) protection and enforcement, Ukraine was designated as a Priority Foreign Country due to concerns about its IPR acts, policies, and practices. Interested persons were invited to submit written comments and participate in a public hearing in September 2013 regarding the resulting section 301 investigation of Ukraine's IPR policies and practices.

## **Policy Initiatives to Increase Transparency**

USTR continues to take steps in specific issue areas to increase transparency and augment opportunities for public input. For example:

- **Transparency in Trans-Pacific Partnership Negotiations:** USTR worked with each TPP partner to plan events as part of negotiating rounds that were open to registered stakeholder participation. These events included briefings from chief negotiators and provided multiple opportunities to provide input into the negotiations, including those with respect to chapters addressing environment, tobacco, investment, pharmaceuticals and intellectual property. In addition, USTR

created opportunities for the public and other interested stakeholders to receive real-time, detailed briefings from senior USTR officials and technical leads of the TPP negotiations at the conclusion of negotiating rounds.

- Inclusion of Stakeholders in the Transatlantic Trade and Investment Partnership (T-TIP) Negotiations. Stakeholder engagement events are an important opportunity for USTR and its trade negotiators to receive feedback on the ongoing talks, with the aim of ensuring the strongest possible outcomes for trade negotiations. In 2013, USTR hosted two separate forums during the U.S.-hosted rounds of the T-TIP. These events included over 350 global stakeholders, at each forum. Stakeholders were invited to give presentations, engage with negotiators, and to attend briefings hosted by the U.S. and EU Chief Negotiators. This is in addition to telephone calls USTR has hosted with large public participation from across the country on key trade issues on a regular basis. USTR also held stakeholder meetings specifically on issues related to the T-TIP that occur on a regular basis.

### **Open Door Policy**

USTR officials meet frequently with a broad array of stakeholder groups representing business, labor unions, environment, consumers, small businesses, public interest groups, State and local Governments, NGOs, think tanks, and universities to discuss specific trade policy issues, subject to negotiator availability and scheduling.

## **2. The Trade Advisory Committee System**

The trade advisory committee system, established by the U.S. Congress in 1974, was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The trade advisory committee system consists of 28 advisory committees, with a total membership of approximately 700 advisors. It includes committees representing sectors of industry, agriculture, labor, environment, public interest, state, and local interests. IAPE manages the system, in cooperation with other agencies, including the U.S. Departments of Agriculture, Commerce, and Labor, and the Environmental Protection Agency.

The trade advisory committees provide information and advice on U.S. negotiating objectives, the operation of trade agreements, and other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system is arranged in 3 tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); 5 policy advisory committees dealing with environment, labor, agriculture, Africa, and state and local issues; and 22 technical advisory committees in the areas of industry and agriculture. Additional information on the advisory committees can be found on the USTR website at <http://www.ustr.gov/about-us/intergovernmental-affairs/advisory-committees>.

In cooperation with the other agencies served by the advisory committees, USTR continues to look for ways to broaden the participation on committees to include a more diverse group of stakeholders, represent new interests, and fresh perspectives, and continues exploring ways to further expand representation while ensuring the committees remain effective. Since the White House implemented a policy to prohibit registered lobbyists from serving on advisory committees, USTR and the agencies that co-administer the advisory committees have been challenged to think creatively and seek new resources to meet the needs of the committees.

Recommendations for candidates for committee membership are collected from a number of sources, including members of the U.S. Congress, associations and organizations, publications, other Federal agencies, responses to *Federal Register* Notices, and self-nominated individuals who have demonstrated an interest in, and knowledge of, U.S. trade policy. Membership selection is based on qualifications, diversity of sectors represented and geography, and the needs of the specific committee to maintain a balance of the perspectives represented. Committee members are required to have a security clearance in order to serve and have access to confidential trade documents on a secure encrypted website. Committees meet regularly in Washington, D.C. to provide input and advice to USTR and other agencies. Members pay for their own travel and related expenses.

### **President's Advisory Committee on Trade Policy and Negotiations (ACTPN)**

The ACTPN consists of not more than 45 members who are broadly representative of the key economic sectors affected by trade. The President appoints ACTPN members to four-year terms not to exceed the duration of the charter. The ACTPN is the highest level committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

Members of ACTPN are appointed to represent a variety of interests including non-Federal Governments, environment, labor, industry, agriculture, technology, small business, service industries, retailers, and consumer interests. A current roster of members and the interests they represent is available on the USTR website.

### **Policy Advisory Committees**

Members of the five policy advisory committees are appointed by USTR or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee (IGPAC), the Trade and Environment Policy Advisory Committee (TEPAC), and the Trade Advisory Committee for Africa (TACA) are appointed and managed solely by USTR. Those policy advisory committees managed jointly with the U.S. Departments of Agriculture, and Labor are, respectively, the Agricultural Policy Advisory Committee (APAC), and the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC). Each committee provides advice based upon the perspective of its specific area and its members are chosen to represent the diversity of interests in those areas. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website.

#### *APAC*

The Secretary of Agriculture and the U.S. Trade Representative appoint members jointly. APAC members are appointed to represent a broad spectrum of agricultural interests including the interests of farmers, processors, renderers, retailers, and public advocacy from diverse sectors of agriculture, including fruits and vegetables, livestock, dairy, sweeteners, wine and tobacco. Members serve at the discretion of the Secretary of Agriculture and the U.S. Trade Representative. The Committee consists of approximately 35 members.

#### *IGPAC*

The IGPAC consists of approximately 35 members appointed from, and representative of, the various States and other non-Federal Governmental entities within the jurisdiction of the United States. These entities include, but are not limited to, the executive and legislative branches of State, County, and Municipal Governments. Members may hold elective or appointive office. Members are appointed by and serve at the discretion of the U.S. Trade Representative.

## *LAC*

The LAC consists of not more than 30 members from the U.S. labor community, appointed by the U.S. Trade Representative and the Secretary of Labor, acting jointly. Members represent unions from all sectors of the economy including steelworkers, farmers, automotive, aerospace, teachers, pilots, artists, machinists, service workers, and food and commercial workers. Members are appointed by, and serve at the discretion of, the Secretary of Labor and the U.S. Trade Representative.

## *TACA*

TACA consists of not more than 30 members, including, but not limited to, representatives from industry, labor, investment, agriculture, services, academia, and non-profit development organizations. The members of the Committee are appointed to be broadly representative of key sectors and groups with an interest in trade and development in sub-Saharan Africa, including non-profit organizations, producers, and retailers. Members of the committee are appointed by and serve at the discretion of the U.S. Trade Representative.

## *TEPAC*

TEPAC consists of not more than 35 members, including, but not limited to, representatives from environmental interest groups, industry (including the environmental technology and environmental services industries), services, academia, and non-Federal Governments. The Committee is designed to be broadly representative of key sectors and groups of the economy with an interest in trade and environmental policy issues. Members of the Committee are appointed by and serve at the discretion of the U.S. Trade Representative.

## **Technical and Sectoral Committees**

The 22 technical and sectoral advisory committees are organized into 2 areas: agriculture and industry. Representatives are appointed jointly by the U.S. Trade Representative and the Secretaries of Agriculture and Commerce, respectively. Each sectoral or technical committee represents a specific sector, commodity group, or functional area and provides specific technical advice concerning the effect that trade policy decisions may have on its sector or issue.

### *Agricultural Technical Advisory Committees (ATACs)*

There are six ATACs, focusing on the following products: Animals and Animal Products; Fruits and Vegetables; Grains, Feed, and Oilseeds; Processed Foods; Sweeteners and Sweetener Products; and Tobacco, Cotton, Peanuts, and Planting Seeds. Members of each Committee are appointed by and serve at the pleasure of the Secretary of Agriculture and the U.S. Trade Representative. Each of the committees consists of not more than 35 members. Members must represent a U.S. entity with an interest in agricultural trade and should have expertise and knowledge of agricultural trade as it relates to policy and commodity-specific products. In appointing members to the committees, balance is achieved and maintained by assuring that the members appointed represent industries and other entities across the range of interests which will be directly affected by the trade policies of concern to the committee (for example, farm producers, farm and commodity organizations, processors, traders, and consumers). Geographical balance on each committee will also be sought. A list of all the members of the committees and the diverse interests they represent is available on the USTR website.

### *Industry Trade Advisory Committees (ITACs)*

There are 16 industry trade advisory committees (ITACs). These committees are: Aerospace Equipment (ITAC 1); Automotive Equipment and Capital Goods (ITAC 2); Chemicals, Pharmaceuticals, Health/Science Products and Services (ITAC 3); Consumer Goods (ITAC 4); Distribution Services (ITAC 5); Energy and Energy Services (ITAC 6); Forest Products (ITAC 7); Information and Communication Technologies Services and Electronic Commerce (ITAC 8); Non-Ferrous Metals and Building Materials (ITAC 9); Services and Finance Industries (ITAC 10); Small and Minority Business (ITAC 11); Steel (ITAC 12); Textiles and Clothing (ITAC 13); Customs Matters and Trade Facilitation (ITAC 14); Intellectual Property Rights (ITAC 15); and Standards and Technical Trade Barriers (ITAC 16).

The ITAC Committee of Chairs was established to coordinate the work of the 16 ITAC committees and advise the Secretary of Commerce and the U.S. Trade Representative concerning the trade matters of common interest to the 16 ITACs. Members of this committee are the elected chairs from each of the 16 ITACs.

Members of the ITACs are appointed jointly by the Secretary of Commerce and the U.S. Trade Representative and serve at their discretion. Each of the Committees consists of not more than 50 members representing sectors including, but not limited to manufacturers, exporters, importers, service providers, producers, small and large business. Committee members should have knowledge and experience in their industry or interest area, and represent a U.S. entity that has an interest in trade matters related to the sectors or subject matters of concern to the individual committees. In appointing members to the Committees, balance is achieved and maintained by assuring that the members appointed represent industries and other U.S. entities across the range of interests in that sector, commodity group, or functional area which will be directly affected by the trade policies of concern to the Committee. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website.

## **3. State and Local Government Relations**

USTR maintains consultative procedures between Federal trade officials and State and local Governments. USTR's Office of IAPE informs the states, on an ongoing basis, of trade-related matters that directly relate to or may indirectly affect them. This is accomplished through a number of mechanisms, detailed below.

### **State Point of Contact System and IGPAC**

#### *State Points of Contact*

For day-to-day communications, pursuant to the NAFTA and Uruguay Round implementing legislation and Statements of Administrative Action, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each state designates a single contact point to disseminate information received from USTR to relevant state and local offices and assist in relaying specific information and advice from the states to USTR on trade-related matters. USTR has worked with this point of contact, as well as the Governor's representative in Washington, D.C. to regularly update through formalized briefings, calls, and working with state organizations and associations. Governors' staff receive USTR press releases, *Federal Register* Notices, and other pertinent information.

The SPOC network ensures that State Governments are promptly informed of Administration trade initiatives and it also enables USTR to consult with states and localities directly on trade matters which may affect them. SPOCs regularly receive USTR press releases, *Federal Register* Notices, and other pertinent information. USTR convenes a regular monthly conference call for SPOCs and members of the Intergovernmental Policy Advisory Committee (IGPAC) to keep State and local Governments apprised of timely trade developments of interest.

#### *Intergovernmental Policy Advisory Committee*

IGPAC makes recommendations to USTR and the Administration on trade policy matters from the perspective of State and local Governments. In 2013, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: implementation efforts on Trade Agreements with Colombia and South Korea; the Trans-Pacific Partnership; the Trans-Atlantic Trade and Investment Partnership; Russia's Accession to the WTO; the Trade in Services Agreement; enforcement mechanisms with China; and other matters. IGPAC members are also invited to participate in monthly teleconference call briefings along with State Points of Contact. Specific issues of interest to IGPAC and SPOCs include: specific chapters of the Trans-Pacific Partnership negotiations such as State-Owned Enterprises, Technical Barriers to Trade, Sanitary and Phytosanitary Measures and Pharmaceuticals, Trade Promotion Authority, Government Procurement, and Foreign Government Challenges to State Subsidies.

#### **Meetings of State and Local Associations**

USTR officials frequently participate in meetings of State and local Government associations to apprise them of relevant trade policy issues and solicit their views. USTR senior officials have met with the National Governors' Association, regional governors' associations such as the Council of Great Lakes Governors, the National Conference of State Legislatures, and other state commissions and organizations. Additionally, USTR officials have addressed gatherings of state and local officials and port authorities around the country.

#### **Consultations Regarding Specific Trade Issues**

USTR initiates consultations with particular states and localities on issues arising under the WTO and other U.S. trade agreements and frequently responds to requests for information from State and local Governments. Topics of interest included the negotiations of the Trans-Pacific Partnership, the Trade in Services Agreement and the Transatlantic Trade and Investment Partnership and implementation of approved trade agreements with Colombia and South Korea, the application of the WTO Government Procurement Agreement, General Agreement on Trade in Services issues, enforcement of trade agreements, and consultations with individual states regarding applicable trade remedy investigations.

### **C. Policy Coordination and Freedom of Information Act**

The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of U.S. trade policy, including on commodity matters (*e.g.*, coffee and rubber) and, to the extent they are related to trade, direct investment matters. Under the Trade Expansion Act of 1962, the U.S. Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first-line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through *Federal Register* Notices and public hearings. In 2013, the TPSC held public hearings regarding U.S. negotiation objectives for the Transatlantic Trade and Investment Agreement (May 2013), on the participation of Japan in the TPP (July 2013), and China's Compliance with its WTO Commitments (November 2013).

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred to the TPRG (Deputy USTR/Under Secretary level) or to the Deputies Committee of the National Security Council/National Economic Council. Issues of the greatest importance move to the Principals Committee of the NSC/NEC for resolution by the Cabinet, with or without the President in attendance.

Member agencies of the TPSC and the TPRG consist of the U.S. Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the U.S. Agency for International Development, the Small Business Administration, the National Economic Council, and the National Security Council. The U.S. International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

Separate from its policy coordination function, the Office of the U.S. Trade Representative is subject to The Freedom of Information Act (FOIA). Details of the program are available on the USTR website at <http://www.ustr.gov/about-us/reading-room/freedom-information-act-foia>. USTR received 97 new FOIA requests in 2013 and processed 82. USTR continues to raise the bar as to responsiveness, efficiency, and transparency in its administration of the FOIA.

# **ANNEX I**



# U.S. TRADE IN 2013

## I. 2013 Overview

The slowdown in real global economic growth from 4.1 percent in 2010 to 2.6 percent in 2012, and 2.3 percent in 2013 has presented challenges for global trade and U.S. trade in particular. In 2013, U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)<sup>1</sup> reached a record \$6.4 trillion,<sup>2</sup> however, the growth rate for U.S. trade (up 1.4 percent) was significantly lower than in either 2011 (up 12.4 percent) or 2012 (up 3.4 percent).<sup>3</sup> Similarly, the real growth rate in world trade of goods and services in 2013 (up 2.9 percent) remained significantly below the growth rates in 2011 (up 6.1 percent) and 2010 (up 12.8 percent), although it was slightly higher than the growth rate in 2012 (up 2.7 percent).<sup>4</sup>

In 2013, U.S. trade in goods and services alone increased by 1.2 percent<sup>5</sup> – U.S. trade of goods alone increased by 0.5 percent and U.S. trade of services increased by 3.7 percent. U.S. exports of goods and services were up by 2.8 percent in 2013. U.S. goods exports were up 1.9 percent and U.S. services exports were up by 5.0 percent. U.S. imports of goods and services were down by 0.1 percent in 2013. U.S. imports of goods were down by 0.4 percent and U.S. imports of services increased by 1.8 percent.

U.S. exports of goods and services over the past four years have made a significant contribution to the U.S. recovery from the Great Recession. Over the past 18 quarters of recovery (from the 3rd quarter of 2009 to the 4th quarter of 2013), U.S. real GDP was up nearly 2.4 percent at an annual rate, and exports of goods and services have contributed 0.8 percentage points (or 33 percent) to this growth. In 2013, U.S. goods and services exports were nearly 44 percent above the level of exports in 2009.

Historically, U.S. trade expansion over the past 43 years (1970 to 2013) was more rapid than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an average annual rate of 9.4 percent per year between 1970 and 2013 (from \$135 billion to \$6.4 trillion – figure 1)<sup>6</sup> as compared to U.S. GDP whose average annual growth over the same period was 6.6 percent. In real terms, the average annual growth in trade was 5.6 percent compared to the pace of GDP growth of 2.8 percent over the same period. As a share of the value of GDP, trade was up from 13 percent in 1970 to 38 percent in 2013 (figure 2), but was still below the record 40 percent reached in 2008.<sup>7</sup>

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<sup>1</sup> Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

<sup>2</sup> On a National Income Products Account basis.

<sup>3</sup> In this Chapter, earnings and payments on foreign investment are annualized based on the first 3 quarters of 2013.

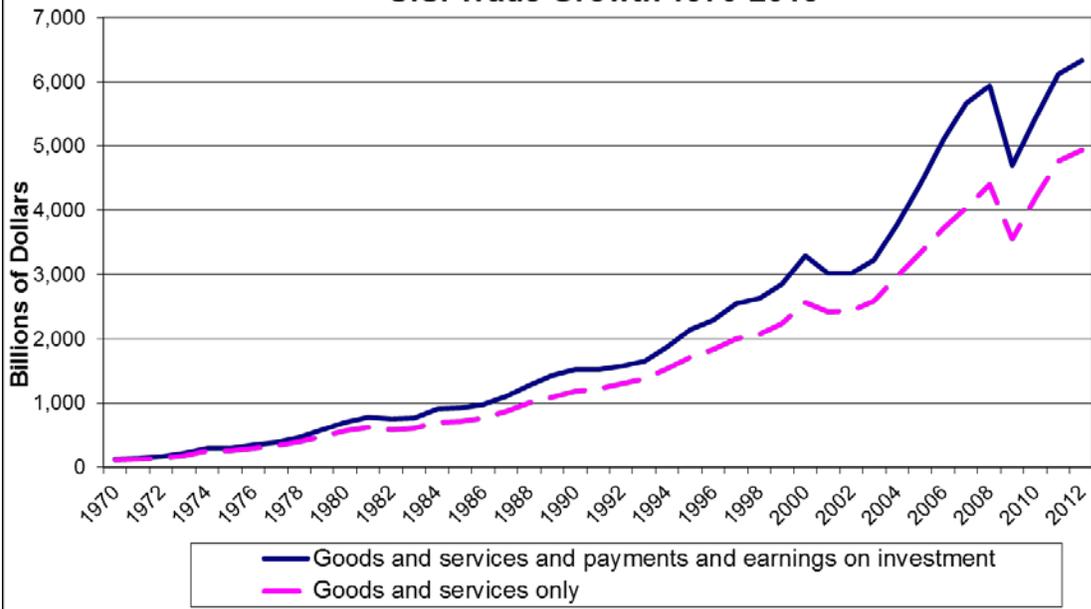
<sup>4</sup> According to the International Monetary Fund.

<sup>5</sup> On a balance of payments basis.

<sup>6</sup> Trade in goods and services alone has increased from \$116 billion in 1970 to \$5.0 trillion in 2013.

<sup>7</sup> For goods and services, excluding investment earnings and payments, U.S. trade represented 30 percent of the value of GDP in 2013, up from 11 percent in 1970.

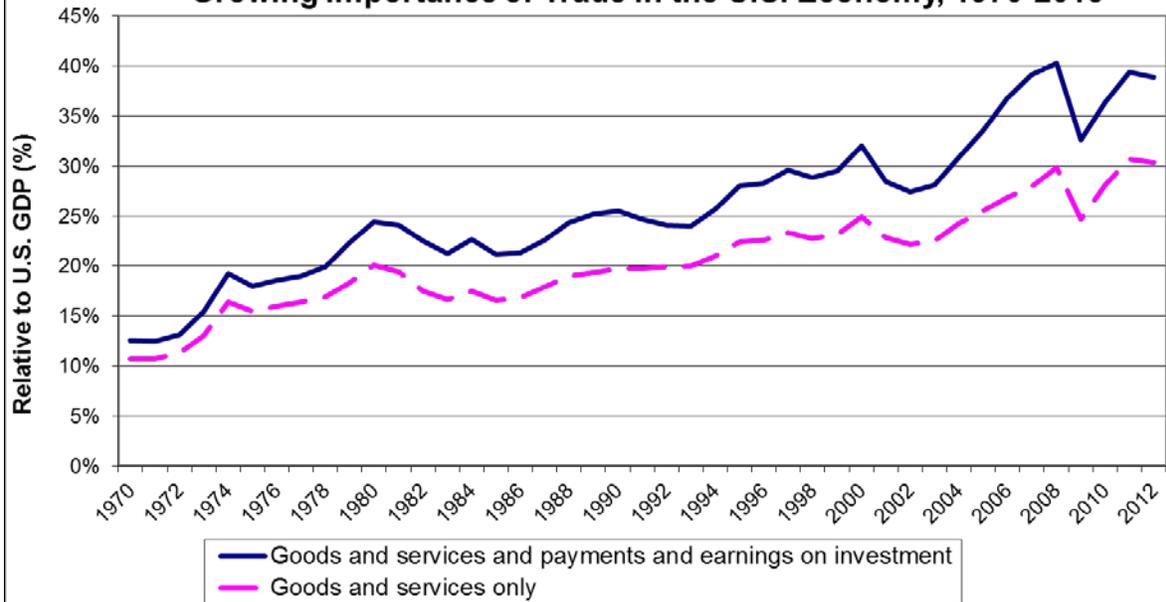
**Figure 1:  
U.S. Trade Growth 1970-2013**



Total exports + imports

Source: U.S. Department of Commerce

**Figure 2:  
Growing Importance of Trade in the U.S. Economy, 1970-2013**



Total exports + imports as a percentage of the value of U.S. GDP

Source: U.S. Department of Commerce

The total deficit on goods and services trade<sup>8</sup> (excluding earnings and payments on foreign investment) decreased by \$63 billion in 2013 to \$472 billion. The deficit was also about 33 percent lower than its pre-recession high of \$702 billion in 2008. As a share of GDP, the deficit decreased from 3.3 percent of GDP in 2012 to approximately 2.8 percent of GDP in 2013.

The U.S. deficit in goods trade alone decreased by \$38 billion from \$741 billion in 2012 (4.6 percent of GDP) to \$703 billion in 2013 (4.2 percent of GDP), while the services trade surplus increased by \$26 billion, from \$207 billion in 2012 (1.3 percent of GDP) to \$232 billion in 2013 (1.4 percent of GDP).

## **II. Goods Trade**

### **A. Export Growth**

Goods exports increased in 2013, by 1.9 percent to a record \$1.6 trillion (*table 1 and figure 3*). Manufacturing exports, which accounted for 87.4 percent of total goods exports, were up 2.4 percent in 2013, while agriculture exports, which accounted for 9.4 percent of total goods exports, were up 2.1 percent in 2013. Advanced technology exports, a subset of manufacturing exports, accounted for 20.2 percent of total goods exports and were up 4.7 percent in 2013. U.S. goods exports increased for all major end-use categories in 2013, with the largest increases in the autos and auto parts category, up 4.1 percent, and in the consumer goods category, up 3.7 percent. Petroleum exports were up 10.9 percent, while non-petroleum exports increased by 2.3 percent.

U.S. goods exports have more than doubled over the past 10 years. U.S. agricultural exports grew by 141.8 percent since 2003, while manufacturing exports grew by 113.4 percent since 2003. U.S. advanced technology exports grew by 77.7 percent. Of the major end-use categories, exports of industrial supplies and materials (up 193.7 percent) led growth in the 2003-2013 timeframe over both the foods, feeds, and beverages category (up 147.2 percent) and the consumer goods category (up 109.7 percent). Of the more than \$854 billion increase in goods exports since 2003, industrial supplies and materials accounted for 39 percent of the increase, and capital goods accounted for 28 percent.

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<sup>8</sup> On a balance of payments basis.

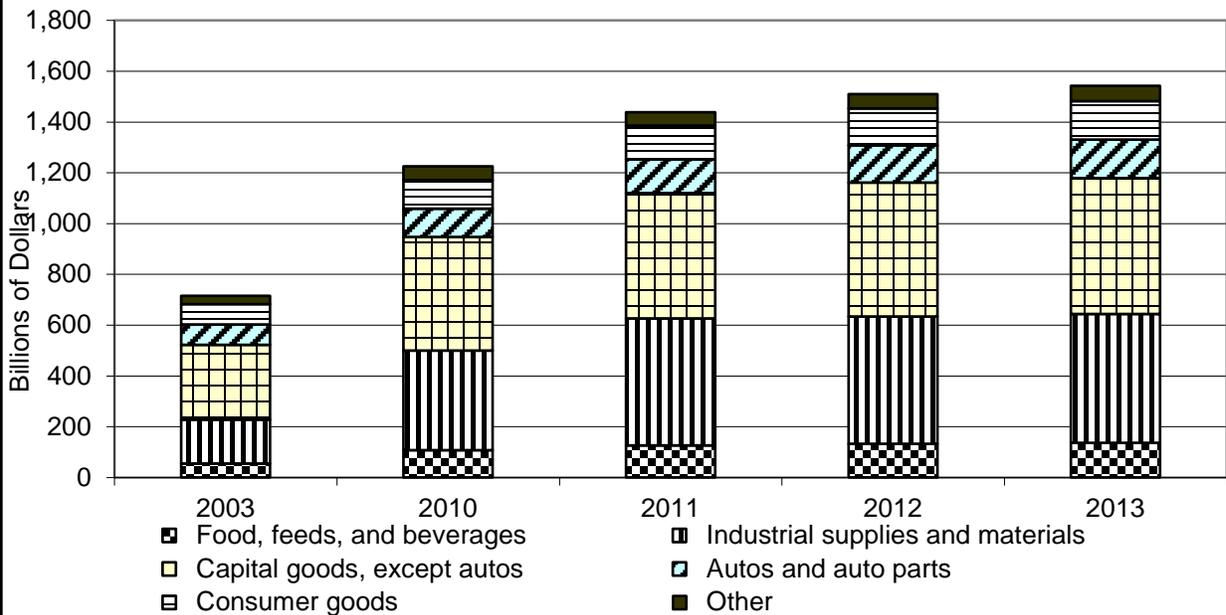
**Table 1**

**U.S. Goods Exports**

	2003	2010	2011	2012	2013	12-13	10-13	03-13
Exports:	<i>Billions of Dollars</i>					<i>Percent Changes</i>		
<b>Total (BOP basis)</b>	713.4	1,288.8	1,495.9	1,561.2	1,590.4	1.9%	23.4%	122.9%
<b>Food, feeds, and beverages</b>	55.0	107.7	126.2	132.8	136.0	2.4%	26.3%	147.2%
<b>Industrial supplies and materials</b>	173.0	391.7	500.5	501.1	508.2	1.4%	29.8%	193.7%
<b>Capital goods, except autos</b>	293.7	447.5	493.0	527.4	534.1	1.3%	19.3%	81.9%
<b>Autos and auto parts</b>	80.6	112.0	132.8	146.1	152.1	4.1%	35.8%	88.6%
<b>Consumer goods</b>	89.9	165.2	175.0	181.7	188.5	3.7%	14.1%	109.7%
<b>Other</b>	32.5	54.3	52.8	56.6	60.0	6.0%	10.4%	84.7%
<b>Addendum: Agriculture</b>	61.4	119.3	140.3	145.3	148.4	2.1%	24.4%	141.8%
<b>Addendum: Manufacturing</b>	647.0	1,101.4	1,275.8	1,348.2	1,380.5	2.4%	25.3%	113.4%
<b>Addendum: High Technology</b>	180.2	273.3	286.8	305.2	319.5	4.7%	16.9%	77.3%

**Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.**

**Figure 3:  
U.S. Goods Exports**



Source: U.S. Department of Commerce

**Table 2**  
**U.S. Goods Exports to Selected Countries/Regions**

Exports to:	2003	2010	2011	2012	2013	12-13	10-13	03-13
	<i>Billions of Dollars</i>					<i>Percent Changes</i>		
Canada	169.9	249.3	281.3	292.5	300.3	2.7%	20.5%	76.8%
Mexico	97.4	163.7	198.1	215.9	226.2	4.7%	38.2%	132.2%
China	28.4	91.9	104.0	110.5	122.0	10.4%	32.8%	330.1%
Japan	52.0	60.5	65.7	70.0	65.1	-6.9%	7.7%	25.3%
European Union (EU 28)	155.9	239.9	269.0	265.7	262.3	-1.3%	9.3%	68.2%
Asian Pacific Rim, except Japan and China	108.1	174.0	198.1	198.8	201.2	1.2%	15.6%	86.2%
Latin America, except Mexico	51.9	138.6	168.7	183.2	184.3	0.6%	33.0%	254.7%
Addendum: Advanced Economies*	478.9	723.7	818.5	834.1	834.7	0.1%	15.3%	74.3%
Addendum: Emerging Markets and Developing Economies*	245.9	554.8	661.8	711.6	744.2	4.6%	34.1%	202.7%
Addendum: FTA Countries	354.8	579.4	679.4	717.8	732.0	2.0%	26.3%	106.3%

\* As defined by the International Monetary Fund.

Source: U.S. Department of Commerce, Census basis.

In 2013, U.S. goods exports increased to most of the specified major markets led by an increase of 10.4 percent to China and 4.7 percent to Mexico. U.S. goods exports to the Pacific Rim (excluding China and Japan) and Latin America (excluding Mexico) increased slightly by 1.2 percent and 0.6 percent, respectively, while goods exports to Japan and the European Union declined by 6.9 percent and 1.3 percent, respectively (*table 2*). U.S. goods exports to the 20 FTA countries grew by 2.0 percent in 2013.<sup>9</sup> Over the last year, U.S. goods exports increased by 4.6 percent to emerging markets and developing economies, while U.S. goods exports to advanced economies increased by 0.1 percent. Since 2003, U.S. goods exports to emerging markets and developing economies have grown more than twice as fast as U.S. goods exports to advanced economies, 202.7 percent compared to 74.3 percent.<sup>10</sup> Due to this long-term higher-growth difference, the share of U.S. goods exports to emerging markets and developing economies grew from 33.9 percent in 2003 to 47.2 percent in 2013.

## B. Import Growth

U.S. goods imports decreased slightly by 0.4 percent in 2013, and were valued at \$2.3 trillion (*table 3 and figure 4*). U.S. manufacturing imports, which accounted for 80.7 percent of total goods imports, increased by 1.3 percent in 2013. Agriculture imports, accounting for 4.6 percent of total goods imports, increased by 1.1 percent, and advanced technology imports, accounting for 17.7 percent of total goods imports, increased by 1.2 percent in 2013.

<sup>9</sup> The 20 FTA countries currently entered into force accounted for 46.4 percent of total goods exports in 2013.

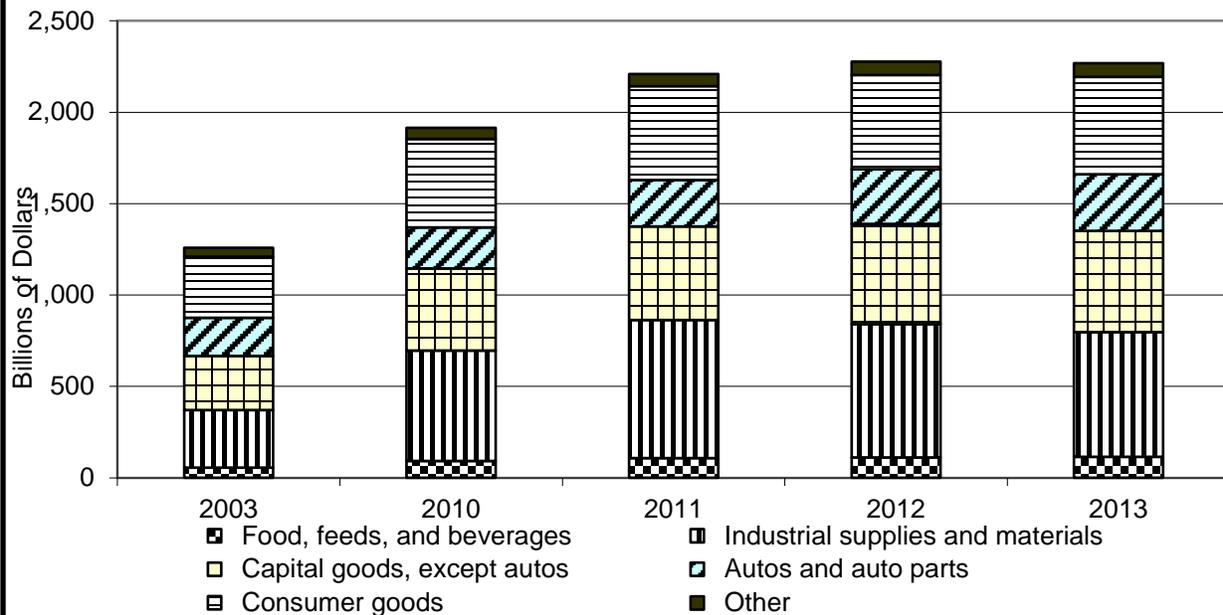
<sup>10</sup> Since 2003, U.S. exports to emerging markets and developing economies (excluding China) grew more than twice as fast as advanced economies (186.1 percent compared to 74.3 percent).

**Table 3**  
**U.S. Goods Imports**

	2003	2010	2011	2012	2013	12-13	10-13	03-13
<b>Imports:</b>	<i>Billions of Dollars</i>					<i>Percent Changes</i>		
<b>Total (BOP basis)</b>	1,264.3	1,939.0	2,240.0	2,302.7	2,293.5	-0.4%	18.3%	81.4%
<b>Food, feeds, and beverages</b>	55.8	91.7	107.5	110.3	115.2	4.5%	25.6%	106.3%
<b>Industrial supplies and materials</b>	313.8	603.1	755.8	730.4	681.4	-6.7%	13.0%	117.1%
<b>Capital goods, except autos</b>	295.9	449.4	510.9	548.6	553.8	1.0%	23.2%	87.2%
<b>Autos and auto parts</b>	210.1	225.1	254.6	297.8	308.8	3.7%	37.2%	47.0%
<b>Consumer goods</b>	333.9	483.2	514.1	516.3	533.2	3.3%	10.3%	59.7%
<b>Other</b>	47.6	61.3	65.2	71.9	75.1	4.4%	22.5%	57.9%
<b>Addendum: Agriculture</b>	47.5	82.0	99.1	103.2	104.4	1.1%	27.3%	119.9%
<b>Addendum: Manufacturing</b>	1,048.4	1,513.1	1,717.6	1,805.3	1,829.2	1.3%	20.9%	74.5%
<b>Addendum: High Technology</b>	207.0	354.3	386.5	396.1	400.9	1.2%	13.2%	93.6%

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

**Figure 4:**  
**U.S. Goods Imports**



Source: U.S. Department of Commerce

U.S. goods imports increased for nearly every major end-use category in 2013, with only the industrial supplies and materials category declining (down 6.7 percent). The growth of U.S. goods imports for the remaining major end-use categories ranged between an increase of 4.5 percent for the foods, feeds, and beverages category and 1.0 percent for the capital goods, except autos category. In 2013, U.S. imports of petroleum, a subset of the industrial supplies and materials category, decreased by 11.5 percent to \$367.3 billion, while imports of non-petroleum goods increased by 2.1 percent to \$1.9 trillion.

U.S. goods imports have increased by 81.4 percent since 2003, which was one-third lower than the 122.9 percent increase in goods exports. U.S. agriculture imports have increased by 119.9 percent since 2003, while imports of advanced technology products and manufactured goods have increased by 93.6 percent and 74.5 percent, respectively. For the major end-use categories, U.S. imports of industrial supplies and materials led growth since 2003 (up 117.1 percent), followed by foods, feeds, and beverages (up 106.3 percent), and capital goods, except autos (up 87.2 percent).

**Table 4**  
**U.S. Goods Imports from Selected Countries/Regions**

Imports from:	2003	2010	2011	2012	2013	12-13	10-13	03-13
	<i>Billions of Dollars</i>					<i>Percent Changes</i>		
<b>Canada</b>	221.6	277.6	315.4	323.9	332.1	2.5%	19.6%	49.9%
<b>Mexico</b>	138.1	230.0	262.9	277.6	280.5	1.1%	22.0%	103.2%
<b>China</b>	152.4	365.0	399.4	425.6	440.4	3.5%	20.7%	188.9%
<b>Japan</b>	118.0	120.6	128.9	146.4	138.5	-5.4%	14.9%	17.3%
<b>European Union (EU28)</b>	254.4	319.6	368.9	381.7	387.3	1.5%	21.2%	52.2%
<b>Asian Pacific Rim, except Japan and China</b>	148.5	168.4	189.3	190.2	192.0	0.9%	14.0%	29.3%
<b>Latin America, except Mexico</b>	78.8	131.4	174.3	171.8	158.4	-7.8%	20.5%	100.9%
<b>Addendum: Advanced Economies*</b>	718.5	875.0	993.1	1,031.2	1,037.9	0.6%	18.6%	44.4%
<b>Addendum: Emerging Markets and Developing Economies*</b>	538.6	1,038.9	1,214.9	1,244.1	1,229.6	-1.2%	18.4%	128.3%
<b>Addendum: FTA Countries</b>	463.0	658.7	759.9	788.3	799.0	1.4%	21.3%	72.6%

\* As defined by the International Monetary Fund.

Source: U.S. Department of Commerce, Census basis.

On a major country/region basis, the growth of U.S. goods imports from major markets in 2013 ranged between an increase of 3.5 percent from China and 1.0 percent from Mexico (*table 4*). However, U.S. goods imports from Japan declined by 6.7 percent, primarily due to a decline in U.S. imports of machinery, vehicles and parts and electrical machinery. U.S. goods imports from Latin America (excluding Mexico) also declined by 7.8 percent, primarily due to a decline in imports of petroleum (down 17 percent). U.S. goods imports from the 20 FTA countries grew by 1.2 percent in 2013.<sup>11</sup> The

<sup>11</sup> The 20 FTA countries currently entered into force accounted for 35.2 percent of total goods imports in 2013.

import growth from our FTA partners was slightly lower than U.S. export growth to these countries (2.0 percent).

In 2013, U.S. imports from advanced economies increased by 0.6 percent, while U.S. imports from emerging markets and developing economies declined by 1.2 percent. Since 2003, U.S. goods imports from emerging markets and developing economies have exhibited higher growth (nearly three times as much) than that from advanced economies, 128.3 percent compared with 44.5 percent.<sup>12</sup> Accordingly, the share of U.S. imports from emerging markets and developing economies has increased from 42.8 percent in 2003 to 54.2 percent in 2013.

### **III. Services Trade**

#### **A. Export Growth**

U.S. exports of services increased by 5.0 percent to a record \$682.0 billion in 2013 (*table 5 and figure 5*). U.S. services exports accounted for 30 percent of the level of U.S. goods and services exports in 2013.

All of the major services export categories exhibited increases in 2013. The growth of U.S. services exports was led by travel (up 10.6 percent), U.S. Government miscellaneous services (up 7.3 percent) and transfers under U.S. military sales (up 5.9 percent).

U.S. services exports have increased by 131.9 percent over the past decade. Of the \$387.8 billion increase in U.S. services exports between 2003 and 2013, the other private services category accounted for 46.3 percent of the increase, while the travel and the royalties and licensing fees categories accounted for 19.2 percent and 18.8 percent, respectively.

Detailed sectoral breakdowns for exports of the other private services category as well as exports to countries/regions are available only through 2012.

In 2012, 28.5 percent of U.S. exports of other private services were to business related parties (to a foreign parent or affiliate). The largest categories for U.S. exports of other private services to related and unrelated parties, in 2012 were: business, professional and technical services, \$153.1 billion; financial services, \$76.4 billion; and education, \$24.7 billion. The business, professional and technical services category were led by management, consulting, and public relations services (\$37 billion), research, development and testing services (\$26.7 billion), computer and information services (\$17.3 billion), and the installation, maintenance, and repair of equipment (\$15.2 billion).

Canada was the largest purchaser of U.S. private services exports in 2012, accounting for 9.7 percent (\$61.2 billion) of total U.S. private services exports. The next 5 largest purchasers of U.S. private services exports in 2012 were: the United Kingdom (\$58.3 billion), Japan (\$46.5 billion), China (\$30 billion), Ireland (\$28.3 billion), and Mexico (\$27.4 billion). Regionally, in 2012, the United States exported \$199.1 billion to the EU, \$170.4 billion to the Asia/Pacific region (\$93.9 billion excluding Japan and China), \$88.6 billion to NAFTA countries, and \$60.6 billion to Latin America (excluding Mexico).

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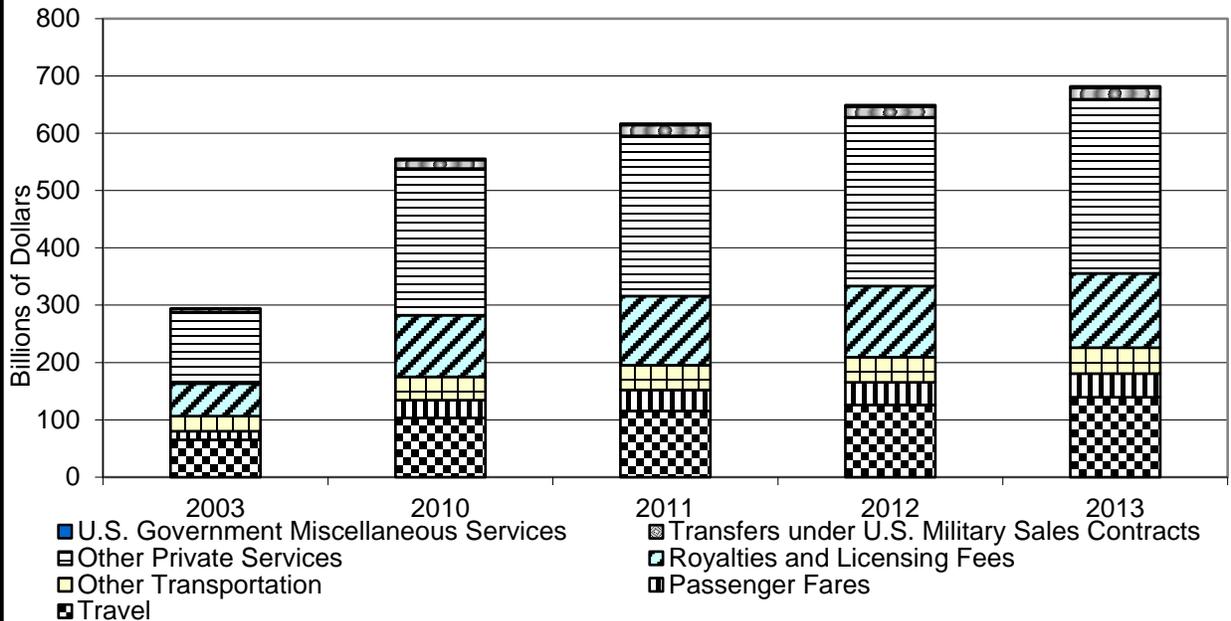
<sup>12</sup> Since 2003, U.S. imports from emerging markets and developing economies (excluding China) grew more than twice as fast as that from advanced economies (104.4 percent compared to 44.5 percent).

**Table 5**  
**U.S. Services Exports**

	2003	2010	2011	2012	2013	12-13	10-13	03-13
Exports:	<i>Billions of Dollars</i>					<i>Percent Changes</i>		
<b>Total (BOP basis)</b>	294.1	555.7	617.0	649.3	682.0	5.0%	22.7%	131.9%
<b>Travel</b>	65.2	103.5	115.6	126.2	139.6	10.6%	34.9%	114.2%
<b>Passenger Fares</b>	15.1	31.0	36.8	39.4	41.2	4.6%	33.0%	173.0%
<b>Other Transportation</b>	26.4	40.7	43.1	43.9	45.2	3.2%	11.2%	71.7%
<b>Royalties and Licensing Fees</b>	56.8	107.5	120.7	124.2	129.7	4.5%	20.6%	128.3%
<b>Other Private Services</b>	124.2	256.0	279.6	294.5	303.9	3.2%	18.7%	144.8%
<b>Transfers under U.S. Military Sales Contracts</b>	5.9	15.0	18.8	18.5	19.6	5.9%	31.0%	231.2%
<b>U.S. Government Miscellaneous Services</b>	0.6	2.1	2.4	2.7	2.9	6.8%	37.5%	354.9%

Source: U.S. Department of Commerce, Balance of Payments basis.

**Figure 5:**  
**U.S. Services Exports**



Source: U.S. Department of Commerce

## **B. Import Growth**

U.S. services imports increased by 1.8 percent to \$450.3 billion in 2013 (*table 6, figure 6*). This increase was less than the increase in services exports (up 5.0 percent). The passenger fares category showed the largest increase in 2013, up 8.1 percent. U.S. services imports accounted for roughly 16 percent of the level of U.S. goods and services imports in 2013.

U.S. services imports in 2013 have nearly doubled since 2003, up 85.8 percent, again lower than the growth in services exports during this same time period (up 132 percent). Of the \$208.0 billion growth in services imports since 2003, the other private services category accounted for 58.0 percent of the increase.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2012.

In 2012, 29.2 percent of U.S. imports of other private services were from business related parties (from a foreign parent or affiliate). The largest categories for U.S. imports of other private services from related and unrelated parties in 2012 were: business professional and technical services, \$116.2 billion; insurance services, \$52.6 billion; and financial services, \$17.0 billion. The business, professional and technical services category was led by research, development, and testing services (\$28.8 billion), management, consulting, and public relations services (\$27.2 billion), and computer and information services (\$25.7 billion).

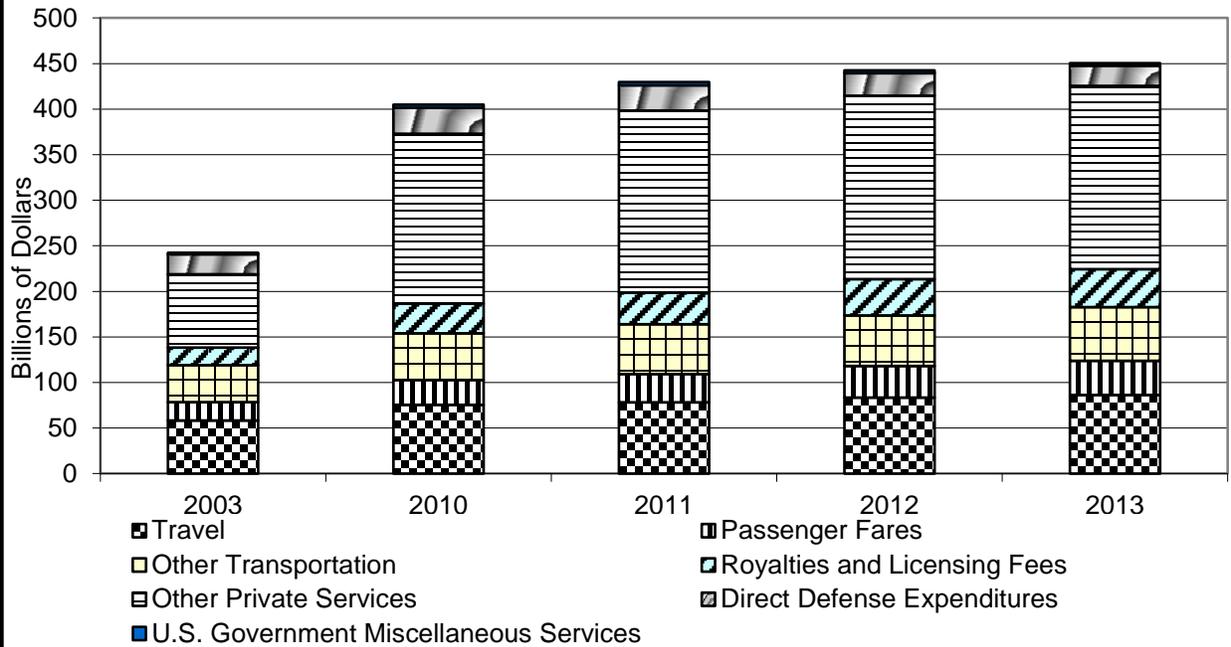
The United Kingdom remained our largest supplier of private services, accounting for 11.2 percent of total U.S. private services imports in 2012. The next 5 largest suppliers of U.S. private services imports in 2012 were: Canada (\$29.8 billion), Japan (\$26.9 billion), Bermuda (\$25.9 billion), Germany (\$25.7 billion), and Switzerland (\$21.1 billion). Regionally, the United States imported \$143.2 billion of services from the EU-27 in 2012, \$107.3 billion from the Asia/Pacific region (\$67.4 billion excluding Japan and China), \$44.9 billion from NAFTA, and \$24.6 billion from Latin America (excluding Mexico).

**Table 6**  
**U.S. Services Imports**

	2003	2010	2011	2012	2013	12-13	10-13	03-13
<b>Imports:</b>	<i>Billions of Dollars</i>					<i>Percent Changes</i>		
<b>Total (BOP basis)</b>	242.4	404.9	429.7	442.5	450.3	1.8%	11.2%	85.8%
<b>Travel</b>	58.3	75.5	78.2	83.5	86.3	3.4%	14.3%	48.0%
<b>Passenger Fares</b>	20.1	27.3	31.1	34.7	37.5	8.1%	37.4%	86.1%
<b>Other Transportation</b>	40.6	51.2	54.6	55.4	58.9	6.2%	15.0%	44.9%
<b>Royalties and Licensing Fees</b>	19.3	32.6	34.8	39.9	41.7	4.5%	28.0%	116.4%
<b>Other Private Services</b>	80.5	186.4	199.7	201.2	201.1	-0.1%	7.9%	149.9%
<b>Direct Defense Expenditures</b>	21.9	28.5	27.8	24.7	22.2	10.4%	-22.2%	1.3%
<b>U.S. Government Miscellaneous Services</b>	1.7	3.5	3.5	3.1	2.8	-11.2%	-20.3%	59.8%

Source: U.S. Department of Commerce, Balance of Payments basis.

**Figure 6:**  
**U.S. Services Imports**



Source: U.S. Department of Commerce

## IV. The U.S. Trade Deficit

In 2013, the U.S. goods and services deficit decreased by 11.8 percent (\$63 billion) to a level of \$471.5 billion (*table 7*). The U.S. deficit in goods trade alone decreased by \$38.3 billion to \$703.2 billion in 2013, while the U.S. surplus in services trade increased by \$24.8 billion to \$231.6 billion.

As a share of U.S. GDP, the goods and services trade deficit decreased to 2.8 percent of GDP in 2013 from 3.3 percent of GDP in 2012 (*table 8*). The goods trade deficit decreased from 4.6 percent of GDP in 2012 to 4.2 percent of GDP in 2013, while the services trade surplus increased slightly from 1.3 percent in 2012 to 1.4 percent of GDP in 2013.

The decrease in the overall deficit was due mostly to the decrease in petroleum deficit which declined by \$59.0 billion (20 percent). The U.S. deficit in petroleum accounted for 49.3 percent of the overall goods and services trade deficit in 2013, down from 54.5 percent in 2012. The non-petroleum goods and services deficit was down by 1.7 percent (\$4.2 billion) in 2013.

The regional distribution of the goods trade deficit for 2003, and 2010-2013 is shown in table 9.

<b>Table 7</b>					
<b>U.S. Trade Balances with the World</b>					
	<b>2003</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Balance:</b>	<i>Billions of Dollars</i>				
<b>Goods and Services (BOP Basis)</b>	-499.2	-499.4	-556.8	-534.7	-471.5
<b>Goods (BOP Basis)</b>	-550.9	-650.2	-744.1	-741.5	-703.2
<b>Services (BOP Basis)</b>	51.7	150.8	187.3	206.8	231.6
<b>Source: U.S. Department of Commerce</b>					

<b>Table 8</b>					
<b>U.S. Trade Balances as a Share of GDP</b>					
	<b>2003</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Share of GDP:</b>	<i>Percents</i>				
<b>Goods and Services (BOP Basis)</b>	-4.3	-3.3	-3.6	-3.3	-2.8
<b>Goods (BOP Basis)</b>	-4.8	-4.3	-4.8	-4.6	-4.2
<b>Services (BOP Basis)</b>	0.4	1.0	1.2	1.3	1.4
<b>Source: U.S. Department of Commerce</b>					

**Table 9**  
**U.S. Goods Trade Balances with Selected**  
**Countries/Regions**

	2003	2010	2011	2012	2013
<b>Balance:</b>	<i>Billions of Dollars</i>				
<b>Canada</b>	-51.7	-28.4	-34.1	-31.4	-31.7
<b>Mexico</b>	-40.6	-66.3	-64.8	-61.6	-54.3
<b>China</b>	-124.1	-273.0	-295.4	-315.1	-318.4
<b>Japan</b>	-66.0	-60.1	-63.2	-76.4	-73.4
<b>European Union (EU27)</b>	-98.5	-79.7	-99.9	-116.0	-125.1
<b>Asian Pacific Rim, except Japan and China</b>	-40.4	5.6	8.8	8.6	9.2
<b>Latin America, except Mexico</b>	-26.9	7.2	-5.5	11.4	25.8
<b>Addendum: Advanced Economies*</b>	-239.6	-151.3	-174.7	-197.1	-203.3
<b>Addendum: Emerging Markets and Developing Economies*</b>	-292.7	-484.1	-553.1	-532.5	-485.4
<b>Addendum: FTA Countries</b>	-108.2	-79.3	-80.5	-70.5	-67.1

\* As defined by the International Monetary Fund

Source: U.S. Department of Commerce



## **ANNEX II**



# BACKGROUND INFORMATION ON THE WTO

## *Doha Development Agenda*

1. Doha Ministerial Declaration (see table)
2. Doha Declaration on the TRIPS Agreement and Public Health (see table)
3. Doha Declaration on Implementation-Related Issues and Concerns (see table)
4. Amendment of the TRIPS Agreement
5. Hong Kong Ministerial Declaration
6. U.S. Submissions to the WTO in Support of the Doha Development Agenda
7. WTO Affinity Groups in the DDA (see table)
8. Bali Ministerial Declaration and Related Decisions (see table)

## *Institutional Issues*

1. Membership of the WTO
2. 2012 Budgets for the WTO
3. 2012 WTO Budget Contributions
4. Waivers Currently in Force
5. WTO Secretariat Personnel Statistics
6. WTO Accession Application and Status
7. Indicative List of Governmental and Non-Governmental Panelists
8. Appellate Body Membership
9. Where to Find More Information on the WTO

## DOHA DEVELOPMENT AGENDA

<b>Document Name</b>	<b>Document Number</b>
<u>Doha Ministerial Declaration</u>	WT/MIN(01)/DEC/1 (Nov. 20, 2001)
<u>Doha Declaration on the TRIPS Agreement and Public Health</u>	WT/MIN(01)/DEC/2 (Nov. 20, 2001)
<u>Doha Declaration on Implementation-Related Issues and Concerns</u>	WT/MIN(01)/17 (Nov. 20, 2001)
<u>Hong Kong Ministerial Declaration</u>	WT/MIN(05)/DEC (Dec. 2, 2005)
<u>WTO Affinity Groups in the DDA</u>	N/A
<u>Bali Ministerial Declaration</u>	WT/MIN(13)/DEC (Dec. 7, 2013)

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**AMENDMENT OF THE TRIPS AGREEMENT**

*Decision of 6 December 2005*

The General Council;

*Having regard* to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

*Conducting* the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

*Noting* the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and, in particular, the instruction of the Ministerial Conference to the Council for TRIPS contained in paragraph 6 of the Declaration to find an expeditious solution to the problem of the difficulties that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement;

*Recognizing*, where eligible importing Members seek to obtain supplies under the system set out in the proposed amendment of the TRIPS Agreement, the importance of a rapid response to those needs consistent with the provisions of the proposed amendment of the TRIPS Agreement;

*Recalling* paragraph 11 of the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;

*Having considered* the proposal to amend the TRIPS Agreement submitted by the Council for TRIPS (IP/C/41);

*Noting* the consensus to submit this proposed amendment to the Members for acceptance;

*Decides* as follows:

1. The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.
  2. The Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.
  3. The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.
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## ATTACHMENT

### PROTOCOL AMENDING THE TRIPS AGREEMENT

*Members of the World Trade Organization;*

*Having regard* to the Decision of the General Council in document WT/L/641, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

*Hereby agree* as follows:

- The Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement") shall, upon the entry into force of the Protocol pursuant to paragraph 4, be amended as set out in the Annex to this Protocol, by inserting Article 31*bis* after Article 31 and by inserting the Annex to the TRIPS Agreement after Article 73.
- Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.
- This Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.
- This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.
- This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.
- This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

*Done* at Geneva this sixth day of December two thousand and five, in a single copy in the English, French and Spanish languages, each text being authentic.

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## ANNEX TO THE PROTOCOL AMENDING THE TRIPS AGREEMENT

### *Article 31bis*

1. The obligations of an exporting Member under Article 31(f) shall not apply with respect to the grant by it of a compulsory licence to the extent necessary for the purposes of production of a pharmaceutical product(s) and its export to an eligible importing Member(s) in accordance with the terms set out in paragraph 2 of the Annex to this Agreement.
  2. Where a compulsory licence is granted by an exporting Member under the system set out in this Article and the Annex to this Agreement, adequate remuneration pursuant to Article 31(h) shall be paid in that Member taking into account the economic value to the importing Member of the use that has been authorized in the exporting Member. Where a compulsory licence is granted for the same products in the eligible importing Member, the obligation of that Member under Article 31(h) shall not apply in respect of those products for which remuneration in accordance with the first sentence of this paragraph is paid in the exporting Member.
  3. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products: where a developing or least-developed country WTO Member is a party to a regional trade agreement within the meaning of Article XXIV of the GATT 1994 and the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903), at least half of the current membership of which is made up of countries presently on the United Nations list of least-developed countries, the obligation of that Member under Article 31(f) shall not apply to the extent necessary to enable a pharmaceutical product produced or imported under a compulsory licence in that Member to be exported to the markets of those other developing or least-developed country parties to the regional trade agreement that share the health problem in question. It is understood that this will not prejudice the territorial nature of the patent rights in question.
  4. Members shall not challenge any measures taken in conformity with the provisions of this Article and the Annex to this Agreement under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994.
  5. This Article and the Annex to this Agreement are without prejudice to the rights, obligations and flexibilities that Members have under the provisions of this Agreement other than paragraphs (f) and (h) of Article 31, including those reaffirmed by the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and to their interpretation. They are also without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under the provisions of Article 31(f).
-

## ANNEX TO THE TRIPS AGREEMENT

1. For the purposes of Article 31*bis* and this Annex:
  - (a) "pharmaceutical product" means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address the public health problems as recognized in paragraph 1 of the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2). It is understood that active ingredients necessary for its manufacture and diagnostic kits needed for its use would be included<sup>13</sup>;
  - (b) "eligible importing Member" means any least-developed country Member, and any other Member that has made a notification<sup>14</sup> to the Council for TRIPS of its intention to use the system set out in Article 31*bis* and this Annex ("system") as an importer, it being understood that a Member may notify at any time that it will use the system in whole or in a limited way, for example only in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. It is noted that some Members will not use the system as importing Members<sup>15</sup> and that some other Members have stated that, if they use the system, it would be in no more than situations of national emergency or other circumstances of extreme urgency;
  - (c) "exporting Member" means a Member using the system to produce pharmaceutical products for, and export them to, an eligible importing Member.
2. The terms referred to in paragraph 1 of Article 31*bis* are that:
  - (a) the eligible importing Member(s)<sup>16</sup> has made a notification<sup>2</sup> to the Council for TRIPS, that:
    - (i) specifies the names and expected quantities of the product(s) needed<sup>17</sup>;
    - (ii) confirms that the eligible importing Member in question, other than a least-developed country Member, has established that it has insufficient or no manufacturing capacities in the pharmaceutical sector for the product(s) in question in one of the ways set out in the Appendix to this Annex; and
    - (iii) confirms that, where a pharmaceutical product is patented in its territory, it has granted or intends to grant a compulsory licence in accordance with Articles 31 and 31*bis* of this Agreement and the provisions of this Annex<sup>18</sup>;
  - (b) the compulsory licence issued by the exporting Member under the system shall contain the following conditions:

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<sup>13</sup> This subparagraph is without prejudice to subparagraph 1(b).

<sup>14</sup> It is understood that this notification does not need to be approved by a WTO body in order to use the system.

<sup>15</sup> Australia, Canada, the European Communities with, for the purposes of Article 31*bis* and this Annex, its member States, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States.

<sup>16</sup> Joint notifications providing the information required under this subparagraph may be made by the regional organizations referred to in paragraph 3 of Article 31*bis* on behalf of eligible importing Members using the system that are parties to them, with the agreement of those parties.

<sup>17</sup> The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

<sup>18</sup> This subparagraph is without prejudice to Article 66.1 of this Agreement.

- (i) only the amount necessary to meet the needs of the eligible importing Member(s) may be manufactured under the licence and the entirety of this production shall be exported to the Member(s) which has notified its needs to the Council for TRIPS;
- (ii) products produced under the licence shall be clearly identified as being produced under the system through specific labelling or marking. Suppliers should distinguish such products through special packaging and/or special colouring/shaping of the products themselves, provided that such distinction is feasible and does not have a significant impact on price; and
- (iii) before shipment begins, the licensee shall post on a website<sup>19</sup> the following information:
  - the quantities being supplied to each destination as referred to in indent (i) above; and
  - the distinguishing features of the product(s) referred to in indent (ii) above;
- (c) the exporting Member shall notify<sup>20</sup> the Council for TRIPS of the grant of the licence, including the conditions attached to it.<sup>21</sup> The information provided shall include the name and address of the licensee, the product(s) for which the licence has been granted, the quantity(ies) for which it has been granted, the country(ies) to which the product(s) is (are) to be supplied and the duration of the licence. The notification shall also indicate the address of the website referred to in subparagraph (b)(iii) above.

3. In order to ensure that the products imported under the system are used for the public health purposes underlying their importation, eligible importing Members shall take reasonable measures within their means, proportionate to their administrative capacities and to the risk of trade diversion to prevent re-exportation of the products that have actually been imported into their territories under the system. In the event that an eligible importing Member that is a developing country Member or a least-developed country Member experiences difficulty in implementing this provision, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in order to facilitate its implementation.

4. Members shall ensure the availability of effective legal means to prevent the importation into, and sale in, their territories of products produced under the system and diverted to their markets inconsistently with its provisions, using the means already required to be available under this Agreement. If any Member considers that such measures are proving insufficient for this purpose, the matter may be reviewed in the Council for TRIPS at the request of that Member.

5. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products, it is recognized that the development of systems providing for the grant of regional patents to be applicable in the Members described in paragraph 3 of Article 31*bis* should be promoted. To this end, developed country Members undertake to provide technical cooperation in accordance with Article 67 of this Agreement, including in conjunction with other relevant intergovernmental organizations.

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<sup>19</sup> The licensee may use for this purpose its own website or, with the assistance of the WTO Secretariat, the page on the WTO website dedicated to the system.

<sup>20</sup> It is understood that this notification does not need to be approved by a WTO body in order to use the system.

<sup>21</sup> The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

6. Members recognize the desirability of promoting the transfer of technology and capacity building in the pharmaceutical sector in order to overcome the problem faced by Members with insufficient or no manufacturing capacities in the pharmaceutical sector. To this end, eligible importing Members and exporting Members are encouraged to use the system in a way which would promote this objective. Members undertake to cooperate in paying special attention to the transfer of technology and capacity building in the pharmaceutical sector in the work to be undertaken pursuant to Article 66.2 of this Agreement, paragraph 7 of the Declaration on the TRIPS Agreement and Public Health and any other relevant work of the Council for TRIPS.

7. The Council for TRIPS shall review annually the functioning of the system with a view to ensuring its effective operation and shall annually report on its operation to the General Council.

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## APPENDIX TO THE ANNEX TO THE TRIPS AGREEMENT

### Assessment of Manufacturing Capacities in the Pharmaceutical Sector

Least-developed country Members are deemed to have insufficient or no manufacturing capacities in the pharmaceutical sector.

For other eligible importing Members insufficient or no manufacturing capacities for the product(s) in question may be established in either of the following ways:

(i) the Member in question has established that it has no manufacturing capacity in the pharmaceutical sector;

or

(ii) where the Member has some manufacturing capacity in this sector, it has examined this capacity and found that, excluding any capacity owned or controlled by the patent owner, it is currently insufficient for the purposes of meeting its needs. When it is established that such capacity has become sufficient to meet the Member's needs, the system shall no longer apply.

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**U.S. SUBMISSIONS TO THE WTO IN SUPPORT  
OF THE DOHA DEVELOPMENT AGENDA**  
(WTO Document Symbol in Parentheses)

**Committee on Agriculture, Special Session**

- Export Competition, Market Access and Domestic Support (JOB(02)/122)
- Joint EC-US Paper on Agriculture (JOB(03)/157)
- Proposal for Tariff-Rate Quota Reform (G/AG/NG/W/58)
- Proposal for Comprehensive Long-Term Agricultural Trade Reform (G/AG/NG/W/15)
- Note on Domestic Support Reform (G/AG/NG/W/16)
- Tariff Quota Administration (JOB(06)/188)
- Domestic Support Simulations – Simulations (JOB(06)/186)
- Tariff Quota Administration - Communication by the United States (JOB(06)/184)
- Comments on Food Aid (JOB(06)/183)
- Agriculture Domestic Support Simulations – Simulations (JOB(06)/151)
- Applied Tariff Simulations - Agriculture - Summary of Results (JOB(06)/152)
- United States Communication on Special Products (JOB(06)/137)
- United States Communication on Export Credits, Export Credit Guarantees or Insurance Programs (JOB(06)/119)
- United States Communication on State Trading Export Enterprises (JOB(06)/79)
- United States Communication on Domestic Support - Annex 2 - Domestic Support: The Basis for Exemption from the Reduction Commitments (JOB(06)/80)
- United States' Communication on Food Aid (JOB(06)/78)
- Market Access Simulations – Simulations (JOB(06)/63)
- US Communication on US Product-Specific Blue Box Limits (JOB(08)/10)
- Elements of Special Products Modalities - Communication from Australia, Canada, Costa Rica, Malaysia, New Zealand, Paraguay, Thailand, United States and Uruguay (JOB(08)/24)
- Agriculture Templates – An Approach and Initial Thoughts on Base Data and Base Data Templates (JOB(09)/104)
- Agriculture Templates - Domestic Support Base Data Templates (JOB(09)/115)
- Agriculture Templates - Market Access Base Data Templates (JOB(09)/125)
- Agriculture Templates - Market Access Doha Development Agenda (DDA) Tariff-Rate Quotas (TRQs) Template (JOB(09)/172)

**Council on Trade in Services, Special Session**

- Framework for Negotiation (S/CSS/W/4)
- Proposals for Negotiation (JOB(00)/8376)
- Accounting Services (S/CSS/W/20)
- Audiovisual and Related Services (S/CSS/W/21)
- Distribution Services (S/CSS/W/22)
- Higher (Tertiary) Education, Adult Education and Training (S/CSS/W/23)
- Energy Services (S/CSS/W/24)
- Environmental Services (S/CSS/W/25)
- Express Delivery Services (S/CSS/W/26)
- Financial Services (S/CSS/W/27)
- Legal Services (S/CSS/W/28)
- Movement of Natural Persons (S/CSS/W/29)
- Market Access in Telecommunications and Complementary Services (S/CSS/W/30)

- Tourism and Hotels (S/CSS/W/31)
- Transparency in Domestic Regulation (S/CSS/W/102)
- Advertising and Related Services (S/CSS/W/100)
- Desirability of a Safeguard Mechanism for Services: Promoting Liberalization of Trade in Services (S/WPGR/W/37)
- Modalities for the Special Treatment For Least-Developed Country Members in the Negotiations on Trade In Services – JOB(03)/133
- U.S. Government Points of Contact in Least-Developed Country Members (JOB (03)/33)
- Proposed Guide for Scheduling Commitments on Energy Services in the WTO (JOB(03)/89)
- Small and Medium Sized Enterprises (TN/S/W/5)
- Initial Offer (TN/S/O/USA)
- An Assessment of Services Trade and Liberalization in the United States and Developing Economies (TN/S/W/12)
- Joint Statement on Market Access in Services (JOB(04)/176)
- U.S. Proposal for Transparency Disciplines in Domestic Regulation: Building on Existing International Disciplines and Proposals (JOB(04)/128)
- Communication from the United States: Horizontal Transparency Disciplines in Domestic Regulation (JOB(06)/182)
- Outline of the U.S. position on a Draft Consolidated Text in the WPDR (JOB(06)/223)
- Classification in the Telecommunications Sector under the WTO-GATS Framework (TN/S/W/35 and S/CSC/W/45)
- Guidelines for Scheduling Commitments Concerning Postal and Courier Services, including Express Delivery (TN/S/W/30)
- Joint Statement on Liberalization of Logistics Services (TN/S/W/34)
- Joint Statement on Legal Services (TN/S/W/37 and S/CSC/W/46)
- Legal Services – Objectives for Further Liberalisation and Limitations to be Removed (JOB(05)/276)
- Joint Statement on Liberalization of Construction and Related Engineering Services (JOB(05)/130)
- Joint Statement on Liberalization of Financial Services (JOB(05)/17)
- Working Toward a Productive Information Exchange (in the Working Party on GATS Rules) (JOB(05)/5)
- Statement on Services of Common Interest in the Energy Sector (JOB(06)/17)
- Implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Trade in Services Negotiations (JOB(06)/77)
- Revised Services Offer (TN/S/O/USA/Rev.1)
- Review of Progress in Telecommunications Services (JOB(07)/199)
- Review of Progress in Postal and Courier Services, including Express Delivery Collective Request (JOB(07)/200)

### **Negotiating Group on Market Access**

- Tariffs & Trade Data Needs Assessment (TN/MA/W/2)
- Negotiations on Environmental Goods (TN/MA/W/3 and TN/TE/W/8)
- Modalities Proposal (TN/MA/W/18)
- Proposal on Modalities for Addressing Non-Tariff Barriers (NTBs) (TN/MA/W/18/Add.1)
- Revenue Implications of Trade Liberalization (TN/MA/W/18/Add.2)
- Vertical NTB Modality (TN/MA/W/18/Add.3)
- Contribution on an Environmental Goods Modality (TN/TE/W/38) & (TN/MA/W/18/Add.5)
- Liberalizing Trade in Environmental Goods (TN/MA/W/3, TN/MA/W/18/Add.4, Add.5, and Add.7)
- Non-Tariff Barrier Notifications (TN/MA/W/46/Add.8)
- Non-Tariff Barrier Notifications – Revision (TN/MA/W/46/Add.8/Rev.1)

- Non-Agricultural Market Access: Modalities (TN/MA/W/44)
- Contribution by Canada, European Communities and United States, Non-Agricultural Market Access: Modalities (JOB(03)/163)
- Progress Report: Discussions on Forestry NTBs (TN/MA/W/48/Add.1)
- Negotiating NTBs Related to Remanufacturing and Refurbishing (TN/MA/W/18/Add.11)
- A View To Harmonize Textile, Apparel, and Footwear Labeling Requirements (TN/MA/W/18/Add.12)
- Progress Report: WTO NAMA Discussions on Autos NTBs (TN/MA/W/18/Add.9)
- Tariff Elimination in the Gems and Jewelry Sector (TN/MA/W/61)
- Tariff Liberalization in the Forest Products Sector (TN/MA/W/64)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/59)
- Initial List of Environmental Goods (TN/MA/W/18/Add.7 or TN/TE/W/52)
- Treatment of Non Ad Valorem Technical Tariffs (TN/MA/W/18/Add.8)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/58)
- How to Create a Critical Mass Sectoral Initiative (TN/MA/W/55)
- U.S. Proposal on Negotiating NTBs Related to the Auto Sector (TN/MA/W/18/Add.6)
- Non-Tariff Barriers Building Codes and the Wood Products Sector (TN/MA/W/48)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/69)
- Open Access to Enhanced Healthcare (JOB(06)/35)
- Progress Report: NTB Discussions Related to Remanufactured and Refurbished Goods (TN/MA/W/18/Add.10) and (TN/MA/W/18/Add.10/Corr.1)
- Tariff Liberalisation in the Forest Products Sector (TN/MA/W/75)
- Negotiating Text on Textiles, Apparel, Footwear and Travel Goods Labeling Requirements (TN/MA/W/18/Add.14)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/72)
- Progress Report: Sectoral Discussions on Tariff Elimination in the Chemicals Sector (TN/MA/W/18/Add.1)
- Tariff Elimination in the Electronics/Electrical Sector JOB(06)/85
- Negotiating Proposal on Tariff Liberalisation in the Forest Products Sector JOB(06)/128
- Market Access for Environmental Goods TN/MA/W/70
- Negotiating Proposal on Tariff Elimination in the Gems and Jewellery Sector TN/MA/W/61/Add.2
- Swiss Dual Proposal JOB(05)/36
- Analytical Contributions June 2005 JOB(05)/97
- Room Document for Simulation Presentation March 06. Actual doc # unknown.
- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.15)
- Revised U.S. Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16)
- Regulation of Remanufactured Goods: Answers to Frequently Asked Questions (JOB(07)/60)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3/Add.2)
- Proposal for Modifications to "Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers" (TN/MA/W/88) NTBs (JOB(07)/145)
- Reducing Non-Tariff Barriers to Trade Related to Labeling of Textiles, Apparel, Footwear and Travel Goods – HS Classifications of Travel Goods (JOB(07)/59)
- Reducing Non-Tariff Barriers to Trade Related to Labelling of Textiles, Apparel, Footwear and Travel Goods - U.S. Responses to U.S. Questions (JOB(06)/266/Add.1)
- Non-Tariff Barriers to Trade Related to Textiles, Clothing and Footwear - U.S. answers to Questionnaire by the European Communities (JOB(07)/22)
- Communication from the European Communities and the United States on NTBs related to Textiles, Apparel, Footwear and Clothing (TN/MA/W/93)

- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.1)
- Illustrative Examples of Remanufactured Goods (JOB(07)/224)
- Negotiating Text on Non-Tariff Barriers Pertaining to the Electrical Safety and Electromagnetic Compatibility (EMC) of Electronic Goods (TN/MA/W/105 Rev.1)
- Negotiating Protocol on Enhanced Transparency on Export Licensing (TN/MA/W/15/Add.4/Rev.1)
- Communication from the United States on Automotive NTBs (JOB(08)/39)
- Non Paper on “Committee-First” for the “Horizontal Mechanism”, TN/MA/W/106 of 9 May 2008 (JOB(08)/45)
- Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (JOB (08)/46)
- Sectoral Negotiations in Non-Agricultural Market Access (NAMA) (TN/MA/W/97/Rev.1)
- Joint paper on Revised Draft Modalities for Non-Agricultural Market Access (NAMA) (TN/MA/W/95)
- Communication from the European Communities and the United States for an Anti-Concentration Clause in NAMA (TN/MA/W/96)
- Tariff Elimination in the Sports Equipment Sector (TN/MA/W/85)
- Answers by the Co-sponsors to Questions from the Republic of Korea on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/113)
- Answers to Frequently Asked Questions on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/114)
- Answers by the Co-sponsors to Questions from Singapore on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/116)
- Revised Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/93/Rev/1)
- Answers by the Co-sponsors to Questions from New Zealand, Switzerland, and China on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (JOB(09)/162)
- Compendium of Questions and Answers on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/123)
- Revised Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/105/Rev.2)
- Answers to Questions from Singapore on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/115)
- Answers to Questions from Thailand on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (JOB(09)/37)
- Answers to Questions from Canada on U.S. Autos and Electronics NTBs Negotiating Texts (JOB(09)/157)
- Compendium of Questions and Answers on Agreement on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/125)
- Revised Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/120)
- Answers to Questions from Singapore on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/121)
- Compendium of Questions and Answers on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/126)
- Answers by the Co-sponsors to Questions from the Republic of Korea on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/112)
- Answers by the Co-sponsors to Questions from Singapore on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/117)

- Revised Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.3)
- Answers by the Co-sponsors to Questions from Malaysia on the Ministerial Decision on Trade in Remanufactured Goods (JOB(09)/155)
- Answer by the Co-sponsors to Questions from China on Remanufacturing (TN/MA/W/122)
- Compendium of Questions and Answers on Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/124)
- Report on 4 November 2009 Remanufacturing Workshops (JOB(09)/179)
- Revised Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/Add.4/Rev.4)
- Answers by the Co-sponsors to Questions from Malaysia on Negotiating Text on Enhanced Transparency in Export Licensing (JOB(09)/127)
- Compendium on Questions and Answers on Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/130)

### **Negotiating Group on Rules**

- Fisheries Subsidies -- Joint communication from the United States, Australia, Chile, Ecuador, Iceland, New Zealand, Peru, and the Philippines (TN/RL/W/3)
- Fisheries Subsidies (TN/RL/W/21)
- OECD Steel Paper (TN/RL/W/24)
- Questions on Papers Submitted to Rules Negotiating Group (TN/RL/W/25)
- Basic Concepts of the Trade Remedies Rules (TN/RL/W/27)
- Special and Differential Treatment and the Subsidies Agreement (TN/RL/W/33)
- Second Set of Questions from the United States on Papers Submitted to the Rules Negotiating Group (TN/RL/W/34)
- Investigatory Procedures Under The Antidumping and Subsidies Agreements (TN/RL/W/35)
- Communication From The United States Attaching A Communiqué From The Organization For Economic Cooperation And Development (OECD) (TN/RL/W/49)
- Circumvention (TN/RL/W/50)
- Replies To Questions Presented To The United States On Submission TN/RI/W/27 (TN/RL/W/53)
- Third Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/54)
- Responses By The United States To Questions From Australia On Investigatory Procedures Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/71)
- Identification Of Certain Major Issues Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/72)
- Possible Approaches To Improved Disciplines On Fisheries Subsidies (TN/RL/W/77)
- Subsidies Disciplines Requiring Clarification And Improvement (TN/RL/W/78)
- Elements Of A Steel Subsidies Agreement (TN/RL/W/95)
- Identification of Additional Issues under the Anti-dumping and Subsidies Agreements (TN/RL/W/98)
- Fourth Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/103)
- Further Issues Identified Under The Anti-Dumping And Subsidies Agreements For Discussion By the Negotiating Group On Rules (TN/RL/W/130)
- Replies to the Questions from India on TN/RL/W/35 (TN/RL/W/147)
- Three Issues Identified by the United States (TN/RL/W/153)
- Accrual of Interest (TN/RL/W/168)
- Additional Views on the Structure of the Fisheries Subsidies Negotiations (TN/RL/W/169)
- Fisheries Subsidies (TN/RL/W/196) (co-sponsored with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan and Peru)

- Offsets for Non-Dumped Comparisons (TN/RL/W/208)
- Allocation of Subsidy Benefits Over Time (TN/RL/GEN/4)
- Exchange Rates (TN/RL/W/GEN/5)
- New Shipper Reviews (TN/RL/GEN/11)
- Allocation Periods for Subsidy Benefits (TN/RL/GEN/12)
- Prompt Access to Non-Confidential Information (TN/RL/GEN/13)
- Conduct of Verifications (TN/RL/GEN/15)
- All-Others Rate (TN/RL/GEN/16)
- Expensing Versus Allocating Subsidy Benefits (TN/RL/GEN/17/Rev.1)
- Preliminary Determinations (TN/RL/GEN/25)
- Circumvention (TN/RL/GEN/29)
- Fisheries Subsidies – Programmes for Decommissioning of Vessels and Licence Retirement (TN/RL/GEN/41)
- Further Submission on When and How to Allocate Subsidy Benefits Over Time (TN/RL/GEN/45)
- Further Comments on Lesser Duty Proposals (TN/RL/GEN/58)
- Causation (TN/RL/GEN/59)
- Submission on Circumvention (TN/RL/GEN/71)
- Identification of Parties (TN/RL/GEN/89) (co-sponsored with Brazil)
- Access to Non-Confidential Information (TN/RL/GEN/90)
- New Shipper Reviews (TN/RL/GEN/91)
- Expanding the Prohibited “Red Light“ Subsidy Category (TN/RL/GEN/94)
- Further Submission on Facts Available (TN/RL/GEN/105)
- Circumvention (TN/RL/GEN/106)
- Exchange Rates (TN/RL/GEN/107)
- Disclosure of Essential Preliminary Legal and Factual Considerations (Mandatory Preliminary Determinations) (TN/RL/GEN/108)
- Fisheries Subsidies (TN/RL/GEN/127)
- Causation (TN/RL/GEN/128)
- Definition of Domestic Industry for Perishable, Seasonal Agricultural Products (TN/RL/GEN/129)
- Allocation and Expensing of Subsidies Benefits (TN/RL/GEN/130)
- Collection of Anti-Dumping Duties under Article 9.3 (TN/RL/GEN/131)
- Conduct of On-the-Spot Investigations (TN/RL/GEN/132)
- Disclosure of Calculations in Preliminary and Final Determinations (TN/RL/GEN/133)
- Fisheries Subsidies: Proposed New Disciplines (TN/RL/GEN/145)
- Expanding the Prohibited Red Light Subsidy Category – Draft Text (TN/RL/GEN/146)
- Proposal on Offsets for Non-Dumped Comparisons (TN/RL/GEN/147)
- Fisheries Subsidies (TN/RL/W/235) (co-sponsored with Australia and New Zealand)
- Fisheries Subsidies – Articles I.2, II, IV, and V (TN/RL/GEN/165)

### **Dispute Settlement Body, Special Session**

- Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO-Related to Transparency (TN/DS/W/13)
- Negotiations on Improvements And Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/28)
- Further Contribution of The United States to The Improvement of The Dispute Settlement Understanding of the WTO Related to Transparency (TN/DS/W/46)
- Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement, Joint communication from United States and Chile (TN/DS/W/52)

- Some Questions for Consideration on Item(f) (TN/DS/W/74)
- Contribution of the United States on Some Practical Considerations in Improving the Dispute Settlement Understanding of the WTO Related to Transparency and Open Meetings (TN/DS/W/79)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/82)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum (TN/DS/W/82/Add.1)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum, Corrigendum (TN/DS/W/82/Add.1/Corr.1)
- Further Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO Related to Transparency - Revised Legal Drafting (TN/DS/W/86)
- Dispute Settlement Body - Special Session - Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding - Further Contribution of the United States on Improving Flexibility and Member Control - Addendum (TN/DS/W/82/Add.2)
- Flexibility and Member Control - Revised Textual Proposal by Chile and the United States (TN/DS/W/89)

### **Trade Facilitation**

- Article VIII - Fees and Formalities (G/C/W/384)
- Article X - Publication and Administration (G/C/W/400)
- Integrated and Comprehensive Approach to Special and Differential Treatment (G/C/W/451)
- Communication on Trade Facilitation (JOB(04)/103)
- Introduction to Proposals by the United States of America (TN/TF/W/11)
- Advance Binding Rulings (TN/TF/W/12)
- Proposal on Transparency and Publication (TN/TF/W/13)
- Communication from the United States (TN/TF/W/14)
- Express Shipments (TN/TF/W/15)
- Release of Goods (TN/TF/W/21)
- Consularization - Proposal from Uganda and the United States (TN/TF/W/22)
- Multilateral Mechanism - Proposal from India and the United States (TN/TF/W/57)
- United States Assistance on Trade Facilitation (TN/TF/W/71)
- Communication from Australia, Canada and the United States - Draft Text on Advance Rulings (TN/TF/W/125)
- Communication from Uganda and the United States – Consularization (TN/TF/W/86 and Add.1)
- Communication from Uganda and the United States – Consularization (TN/TF/W/104)
- Communication from the United States - Express Shipments (TN/TF/W/91)
- Communication from Chile, Peru, and the United States - Internet Publication (TN/TF/W/89)
- Communication from Australia, Canada, and the United States - Common Elements of Advance Rulings (TN/TF/W/80)
- Communication from the United States – Draft Text on Internet Publication (TN/TF/W/145)
- Communication from the United States – Draft Text on Expedited Shipments (TN/TF/W/144 and Rev.1,2 &3)
- Communication from the United States United States – Assistance on Trade Facilitation (TN/TF/W/151)
- Communication From Australia, Canada, Turkey And The United States – Draft Text On Advance Rulings (TN/TF/W/153 and Rev.1)
- Communication From Uganda And The United States – Prohibiting Consularization Requirements: Fulfilling A Longstanding Trade Facilitation Objective (TN/TF/W/156)

- Communication from the United States – Transition Provisions for Developing and Least-Developed Country Members (TN/TF/W/166)
- Communication by the United States - Draft Text on Penalty Disciplines (TN/TF/W/169)

### **Committee on Trade and Environment, Regular and Special Session**

- Sub-Paragraph 31 (i) of the Doha Declaration – Relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs) (TN/TE/W/20 and TN/TE/W/40)
- Sub-Paragraph 31 (ii) of the Doha Declaration - Procedures for information exchange between MEA Secretariats and relevant WTO committees and criteria for granting MEA observer status (TN/TE/W/5 and TN/TE/W/70)
- Sub-Paragraph 31(iii) of the Doha Declaration – Market access for environmental goods and services (TN/TE/W/8, TN/TE/W/34, TN/TE/W/38, TN/TE/W/52, TN/TE/W/64, TN/TE/W/65, JOB(06)140 and JOB(06)169, JOB(07)/54, and JOB(07)193)
- Paragraph 33 of the Doha Declaration (WT/CTE/W/227)

*Six dual submissions on Environmental Goods to the Committee on Trade and Environment Special Session and the Negotiating Group on Market Access are also listed under the Negotiating Group on Market Access.*

### **Council on TRIPS, Regular & Special Session**

- Questions and Answers: Comparison of Proposals (TN/IP/W/1)
- Issues for Discussion, Article 23.4 (TN/IP/W/2)
- Proposal for a Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits Based on Article 23.4 of the TRIPS Agreement (TN/IP/W/5)
- Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits (TN/IP/W/6)
- Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/340)
- Second Submission on Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/358)
- Implications of Article 23 Extension (IP/C/W/386)
- Moratorium to Address Needs of Developing and Least-Developed Members with No or Insufficient Manufacturing Capacities in the Pharmaceutical Sector (IP/C/W/396)
- Joint Proposal for a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/9)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/434)
- Technology Transfer Practices of the U.S. National Cancer Institute's Departmental Therapeutics Program (IP/C/W/341)
- Access to Genetic Resources: Regime of the United States' National Parks (IP/C/W/393)
- Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/10 and Add.1)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD and the Protection of Traditional Knowledge and Folklore (IP/C/W/449)
- Comments on Implementation of the 30 August 2003 Agreement (Solution) on the TRIPS Agreement and Public Health (IP/C/W/444)
- Relationship between the Trips Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/469)

### **Committee on Trade and Development, Special Session**

- Remarks on the Review of Special and Differential Treatment (TN/CTD/W/9)
- Monitoring Mechanism (TN/CTD/W/19)
- Approach to Agreement-Specific Proposals (TN/CTD/W/27)

### **Working Group on Transparency in Government Procurement**

- Capacity Building Questions (WT/WGTGP/W/34)
- Workplan Proposal (WT/WGTGP/W/35)
- Considerations Related to Enforcement of an Agreement on Transparency in Government Procurement (WT/WGTGP/W/38)

### **Work Program on Electronic Commerce**

- Work Program on Electronic Commerce (WT/GC/W/493/Rev.1)

### **Working Group on the Relationship between Trade and Investment**

- Covering FDI & Portfolio Investment in an Agreement (WT/WGTI/W/142)

### **Working Group on the Interaction between Trade and Competition Policy**

- Technical Assistance (WT/WGTCP/W/185)
  - Hardcore Cartels (WT/WGTCP/W/203)
  - Voluntary Cooperation (WT/WGTCP/W/204)
  - Transparency & Non-discrimination (WT/WGTCP/W/218)
  - Procedural Fairness (WT/WGTCP/W/219)
  - The Benefits of Peer Review in the WTO Competition Context (WT/WGTCP/W/233)
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## MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

As of December 31, 2013 (159 Members)<sup>22</sup>

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Albania	September 8, 2000	Czech Republic	January 1, 1995
Angola	November 23, 1996	Democratic Republic of the Congo	January 1, 1997
Antigua and Barbuda	January 1, 1995	Denmark	January 1, 1995
Argentina	January 1, 1995	Djibouti	May 31, 1995
Armenia	February 5, 2003	Dominica	January 1, 1995
Australia	January 1, 1995	Dominican Republic	March 9, 1995
Austria	January 1, 1995	Ecuador	January 21, 1996
Bahrain	January 1, 1995	Egypt	June 30, 1995
Bangladesh	January 1, 1995	El Salvador	May 7, 1995
Barbados	January 1, 1995	Estonia	November 13, 1999
Belgium	January 1, 1995	European Union	January 1, 1995
Belize	January 1, 1995	Fiji	January 14, 1996
Benin	February 22, 1996	Finland	January 1, 1995
Bolivia	September 12, 1995	France	January 1, 1995
Botswana	May 31, 1995	Gabon	January 1, 1995
Brazil	January 1, 1995	Georgia	June 14, 2000
Brunei Darussalam	January 1, 1995	Germany	January 1, 1995
Bulgaria	December 1, 1996	Ghana	January 1, 1995
Burkina Faso	June 3, 1995	Greece	January 1, 1995
Burundi	July 23, 1995	Grenada	February 22, 1996
Cambodia	October 12, 2004	Guatemala	July 21, 1995
Cameroon	December 13, 1995	Guinea	October 25, 1995
Canada	January 1, 1995	Guinea Bissau	May 31, 1995
Cape Verde	July 23, 2008	Guyana	January 1, 1995
Central African Republic	May 31, 1995	Haiti	January 30, 1996
Chad	October 19, 1996	Honduras	January 1, 1995
Chile	January 1, 1995	Hong Kong, China	January 1, 1995
China	December 11, 2001	Hungary	January 1, 1995
Colombia	April 30, 1995	Iceland	January 1, 1995
Congo	March 27, 1997	India	January 1, 1995
Costa Rica	January 1, 1995	Indonesia	January 1, 1995
Côte d'Ivoire	January 1, 1995	Ireland	January 1, 1995
Croatia	November 30, 2000	Israel	April 21, 1995
Cuba	April 20, 1995	Italy	January 1, 1995
Cyprus	July 30, 1995	Jamaica	March 9, 1995

<sup>22</sup>The accession package of Yemen was approved by the General Council on September 26, 2013. Yemen is securing acceptance of the package by its domestic authorities and will be a WTO Member 30 days after notifying the WTO Secretariat of its acceptance, probably in 2014.

<b>Government</b>	<b>Entry into Force/ Membership</b>	<b>Government</b>	<b>Entry into Force/ Membership</b>
Japan	January 1, 1995	Papua New Guinea	June 9, 1996
Jordan	April 11, 2000	Paraguay	January 1, 1995
Kenya	January 1, 1995	Peru	January 1, 1995
Korea, Republic of	January 1, 1995	Philippines	January 1, 1995
Kuwait	January 1, 1995	Poland	July 1, 1995
Kyrgyz Republic	December 20, 1998	Portugal	January 1, 1995
Latvia	February 10, 1999	Qatar	January 13, 1996
Lao Peoples' Democratic Republic	February 2, 2013	Romania	January 1, 1995
Lesotho	May 31, 1995	Russian Federation	August 22, 2012
Luxembourg	January 1, 1995	Rwanda	May 22, 1996
Macao, China	January 1, 1995	Saint Kitts and Nevis	February 21, 1996
Macedonia	April 4, 2003	Saint Lucia	January 1, 1995
Madagascar	November 17, 1995	Saint Vincent and the Grenadines	January 1, 1995
Malawi	May 31, 1995	Samoa	May 10, 2012
Malaysia	January 1, 1995	Saudi Arabia	December 11, 2005
Maldives	May 31, 1995	Senegal	January 1, 1995
Mali	May 31, 1995	Sierra Leone	July 23, 1995
Malta	January 1, 1995	Singapore	January 1, 1995
Mauritania	May 31, 1995	Slovak Republic	January 1, 1995
Mauritius	January 1, 1995	Slovenia	July 30, 1995
Mexico	January 1, 1995	Solomon Islands	July 26, 1996
Moldova	July 26, 2001	South Africa	January 1, 1995
Mongolia	January 29, 1997	Spain	January 1, 1995
Montenegro	April 29, 2012	Sri Lanka	January 1, 1995
Morocco	January 1, 1995	Suriname	January 1, 1995
Mozambique	August 26, 1995	Swaziland	January 1, 1995
Myanmar	January 1, 1995	Sweden	January 1, 1995
Namibia	January 1, 1995	Switzerland	July 1, 1995
Nepal	April 23, 2004	Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002
Netherlands (for the Kingdom in Europe and Netherlands Antilles)	January 1, 1995	Tajikistan	March 2, 2013
New Zealand	January 1, 1995	Tanzania	January 1, 1995
Nicaragua	September 3, 1995	Thailand	January 1, 1995
Niger	December 13, 1996	The Gambia	October 23, 1996
Nigeria	January 1, 1995	Togo	May 31, 1995
Norway	January 1, 1995	Tonga	July 27, 2007
Oman	November 9, 2000	Trinidad and Tobago	March 1, 1995
Pakistan	January 1, 1995	Tunisia	March 29, 1995
Panama	September 6, 1997	Turkey	March 26, 1995

<b>Government</b>	<b>Entry into Force/ Membership</b>	<b>Government</b>	<b>Entry into Force/ Membership</b>
Uganda	January 1, 1995	Vanuatu	August 24, 2012
Ukraine	May 16, 2008	Venezuela	January 1, 1995
United Arab Emirates	April 10, 1996	Vietnam	January 11, 2007
United Kingdom	January 1, 1995	Zambia	January 1, 1995
United States of America	January 1, 1995	Zimbabwe	March 5, 1995
Uruguay	January 1, 1995		

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**Consolidated 2013 Budget for the WTO Secretariat  
and the Appellate Body and its Secretariat**  
(in Swiss francs)

Section	2012	Increase/(Decrease) 2013	2013	Difference 2013
<b>A Sect 1 Work Years</b>				
(a) Salary	89,360,600	678,300	90,038,900	0.76%
(b) Pension	19,021,100	225,900	19,247,000	1.19%
(c) Common Staff Costs	18,619,800	(121,900)	18,497,900	(0.65%)
<b>Sect 2 Temporary Assistance</b>	<b>15,170,500</b>	<b>70,000</b>	<b>15,240,500</b>	<b>0.46%</b>
<b>B Sect 3 Communications</b>				
(a) Telecommunications	674,000	0	674,000	0.00%
(b) Postal Charges	1,105,700	(60,000)	1,045,700	-5.43%
<b>Sect 4 Building Facilities</b>				
(a) Rental	693,000	585,000	1,278,000	84.42%
(b) Utilities	1,929,000	(170,000)	1,759,000	(8.81%)
(c) Maintenance and Insurance	1,692,000	(200,000)	1,492,000	(11.82%)
<b>Sect 5 Permanent Equipment</b>				
(a) Permanent Equipment	1,310,000	100,000	1,410,000	7.63%
(b) Permanent Equipment Lease	44,000	0	44,000	0.00%
<b>Sect 6 Expendable</b>	<b>1,201,000</b>	<b>0</b>	<b>1,201,000</b>	<b>0.00%</b>
<b>Sect 7 Contractual Services</b>				
(a) Reproduction	1,470,600	(100,000)	1,370,600	(6.80%)
(b) Office Automation	3,365,000	0	3,365,000	0.00%
(c) Other	238,000	0	238,000	0.00%
(d) Security Outsourcing	3,963,000	0	3,963,000	0.00%
<b>C Sect 8 Staff Overheads</b>				
(a) Training	1,525,000	0	1,525,000	0.00%
(b) Insurance	3,116,000	200,000	3,316,000	6.42%
(c) Joint Services	255,000	0	255,000	0.00%
(d) Miscellaneous	66,000	0	66,000	0.00%
<b>Sect 9 Missions</b>				
(a) Missions Official	1,651,000	100,000	1,751,000	6.06%
(b) Missions Technical	1,406,000	0	1,406,000	0.00%
<b>Sect 10 Trade Policy Courses</b>	<b>2,960,100</b>	<b>(108,800)</b>	<b>2,851,300</b>	<b>(3.68%)</b>
<b>Sect 11 Various</b>				
(a) Representation and Hospitality	299,000	500	299,500	0.17%
(b) Dispute Settlement Panels	987,000	0	987,000	0.00%
(c) Experts	50,000	0	50,000	0.00%
(d) Appellate Body Members	793,500	0	793,500	0.00%
(e) Library	600,000	0	600,000	0.00%
(f) Publications	780,000	1,000	781,000	0.13%
(g) Public Information Activities	300,000	0	300,000	0.00%
(h) External Auditors	50,000	0	50,000	0.00%
(i) Ministerial Operating Fund	600,000	0	600,000	0.00%
(j) ISO	57,000	0	57,000	0.00%
(k) Other	140,000	0	140,000	0.00%
(l) Appellate Body Operating Fund	1,600,000	0	1,600,000	0.00%
<b>D Sect 12 ITC</b>	<b>18,911,000</b>	<b>0</b>	<b>18,911,000</b>	<b>0.00%</b>
<b>Grand Total</b>	<b>196,003,900</b>	<b>1,200,000</b>	<b>197,203,900</b>	<b>0.61%</b>

**2013 Budget for the WTO Secretariat**  
(in Swiss francs)

Section	2012	Increase/(Decrease) 2013	2013	Difference 2013
<b>A Sect 1 Work Years</b>				
(a) Salary	87,006,100	586,500	87,592,600	0.67%
(b) Pension	18,523,000	203,800	18,726,800	1.10%
(c) Common Staff Costs	18,084,600	(71,200)	18,013,400	(0.39%)
<b>Sect 2 Temporary Assistance</b>	<b>15,104,900</b>	<b>70,000</b>	<b>15,174,900</b>	<b>0.46%</b>
<b>B Sect 3 Communications</b>				
(a) Telecommunications	667,500	0	667,500	0.00%
(b) Postal Charges	1,105,700	(60,000)	1,045,700	-5.43%
<b>Sect 4 Building Facilities</b>				
(a) Rental	693,000	585,000	1,278,000	84.42%
(b) Utilities	1,916,000	(170,000)	1,746,000	-8.87%
(c) Maintenance and Insurance	1,687,000	(200,000)	1,487,000	-11.86%
<b>Sect 5 Permanent Equipment</b>				
(a) Permanent Equipment	1,285,000	100,000	1,385,000	7.78%
(b) Permanent Equipment Lease	44,000	0	44,000	0.00%
<b>Sect 6 Expendable</b>	<b>1,181,000</b>	<b>0</b>	<b>1,181,000</b>	<b>0.00%</b>
<b>Sect 7 Contractual Services</b>				
(a) Reproduction	1,455,600	(100,000)	1,355,600	(6.87%)
(b) Office Automation	3,355,000	0	3,355,000	0.00%
(c) Other	238,000	0	238,000	0.00%
(d) Security Outsourcing	3,963,000	0	3,963,000	0.00%
<b>C Sect 8 Staff Overheads</b>				
(a) Training	1,500,000	0	1,500,000	0.00%
(b) Insurance	3,104,000	200,000	3,304,000	6.44%
(c) Joint Services	255,000	0	255,000	0.00%
(d) Miscellaneous	64,000	0	64,000	0.00%
<b>Sect 9 Missions</b>				
(a) Missions Official	1,601,000	100,000	1,701,000	6.25%
(b) Missions Technical	1,406,000	0	1,406,000	0.00%
<b>Sect 10 Trade Policy Courses</b>	<b>2,960,100</b>	<b>(108,800)</b>	<b>2,851,300</b>	<b>(3.68%)</b>
<b>Sect 11 Various</b>				
(a) Representation and Hospitality	298,000	500	298,500	0.17%
(b) Dispute Settlement Panels	987,000	0	987,000	0.00%
(c) Experts	50,000	0	50,000	0.00%
(e) Library	590,000	0	590,000	0.00%
(f) Publications	780,000	1,000	781,000	0.13%
(g) Public Information Activities	300,000	0	300,000	0.00%
(h) External Auditors	50,000	0	50,000	0.00%
(i) Ministerial Operating Fund	600,000	0	600,000	0.00%
(j) ISO	57,000	0	57,000	0.00%
(k) Other	140,000	0	140,000	0.00%
<b>D Sect 12 ITC</b>	<b>18,911,000</b>	<b>0</b>	<b>18,911,000</b>	<b>0.00%</b>
<b>Grand Total</b>	<b>189,962,500</b>	<b>1,136,800</b>	<b>191,099,300</b>	<b>0.60%</b>

**2013 Budget for the Appellate Body and its Secretariat**  
(in Swiss francs)

Section	2012	Increase/(Decrease) 2013	2013	Difference 2013
<b>A</b>				
<b>Sect 1 Work Years</b>				
(a) Salary	2,354,500	91,800	2,446,300	3.90%
(b) Pension	498,100	22,100	520,200	4.44%
(c) Common Staff Costs	535,200	(50,700)	484,500	(9.47%)
<b>Sect 2 Temporary Assistance</b>	<b>65,600</b>	<b>0</b>	<b>65,600</b>	<b>0.00%</b>
<b>B</b>				
<b>Sect 3 Communications</b>				
(a) Telecommunications	6,500	0	6,500	0.00%
<b>Sect 4 Building Facilities</b>				
(b) Utilities	13,000	0	13,000	0.00%
(c) Maintenance and Insurance	5,000	0	5,000	0.00%
<b>Sect 5 Permanent Equipment</b>				
(a) Permanent Equipment	25,000	0	25,000	0.00%
<b>Sect 6 Expendable</b>	<b>20,000</b>	<b>0</b>	<b>20,000</b>	<b>0.00%</b>
<b>Sect 7 Contractual Services</b>				
(a) Reproduction	15,000	0	15,000	0.00%
(b) Office Automation	10,000	0	10,000	0.00%
<b>C</b>				
<b>Sect 8 Staff Overheads</b>				
(a) Training	25,000	0	25,000	0.00%
(b) Insurance	12,000	0	12,000	0.00%
(d) Miscellaneous	2,000	0	2,000	0.00%
<b>Sect 9 Missions</b>				
(a) Missions Official	50,000	0	50,000	0.00%
<b>Sect 11 Various</b>				
(a) Representation and Hospitality	1,000	0	1,000	0.00%
(d) Appellate Body Members	793,500	0	793,500	0.00%
(e) Library	10,000	0	10,000	0.00%
(l) Appellate Body Operating Fund	1,600,000	0	1,600,000	0.00%
<b>Grand Total</b>	<b>6,041,400</b>	<b>63,200</b>	<b>6,104,600</b>	<b>1.05%</b>

### Scale of Contributions for 2013

Member	2013 Contribution CHF	2013 Contribution %	Interest earned in 2011 for 2013 CHF	2013 net Contribution CHF
Albania	54,740	0.028%	(55)	54,685
Angola	459,425	0.235%	(348)	459,077
Antigua and Barbuda	29,325	0.015%	0	29,325
Argentina	737,035	0.377%	(475)	736,560
Armenia	31,280	0.016%	(13)	31,267
Australia	2,447,660	1.252%	(2,497)	2,445,163
Austria	2,328,405	1.191%	(2,340)	2,326,065
Bahrain	179,860	0.092%	(184)	179,676
Bangladesh	224,825	0.115%	(123)	224,702
Barbados	29,325	0.015%	(18)	29,307
Belgium	4,250,170	2.174%	(4,015)	4,246,155
Belize	29,325	0.015%	(19)	29,306
Benin	29,325	0.015%	(11)	29,314
Bolivia	62,560	0.032%	0	62,560
Botswana	58,650	0.030%	(52)	58,598
Brazil	2,209,150	1.130%	(1,171)	2,207,979
Brunei Darussalam	68,425	0.035%	(80)	68,345
Bulgaria	336,260	0.172%	(384)	335,876
Burkina Faso	29,325	0.015%	(19)	29,306
Burundi	29,325	0.015%	0	29,325
Cambodia	74,290	0.038%	(49)	74,241
Cameroon	70,380	0.036%	(33)	70,347
Canada	5,434,900	2.780%	(6,826)	5,428,074
Cape Verde	29,325	0.015%	(28)	29,297
Central African Republic	29,325	0.015%	0	29,325
Chad	41,055	0.021%	0	41,055
Chile	760,495	0.389%	(337)	760,158
China, People's Republic of	15,047,635	7.697%	(5,077)	15,042,558
Colombia	453,560	0.232%	(413)	453,147
Congo	52,785	0.027%	0	52,785
Costa Rica	156,400	0.080%	(190)	156,210
Côte d'Ivoire	107,525	0.055%	0	107,525
Croatia	303,025	0.155%	(334)	302,691
Cuba	146,625	0.075%	(95)	146,530
Cyprus	123,165	0.063%	(117)	123,048
Czech Republic	1,429,105	0.731%	(1,587)	1,427,518
Democratic Republic of the Congo	78,200	0.040%	0	78,200
Denmark	1,802,510	0.922%	(2,029)	1,800,481
Djibouti	29,325	0.015%	0	29,325
Dominica	29,325	0.015%	0	29,325
Dominican Republic	158,355	0.081%	(45)	158,310
Ecuador	205,275	0.105%	(195)	205,080
Egypt	582,590	0.298%	(521)	582,069
El Salvador	84,065	0.043%	(66)	83,999
Estonia	181,815	0.093%	(224)	181,591
European Union	0	0.000%	0	0
Fiji	29,325	0.015%	(3)	29,322

<b>Member</b>	<b>2013 Contribution CHF</b>	<b>2013 Contribution %</b>	<b>Interest earned in 2011 for 2013 CHF</b>	<b>2013 net Contribution CHF</b>
Finland	1,180,820	0.604%	(1,372)	1,179,448
Former Yugoslav Republic of Macedonia	58,650	0.030%	0	58,650
France	8,156,260	4.172%	(7,604)	8,148,656
Gabon	41,055	0.021%	0	41,055
Gambia	29,325	0.015%	0	29,325
Georgia	52,785	0.027%	(12)	52,773
Germany	16,723,070	8.554%	(20,295)	16,702,775
Ghana	103,615	0.053%	0	103,615
Greece	920,805	0.471%	(16)	920,789
Grenada	29,325	0.015%	0	29,325
Guatemala	136,850	0.070%	(130)	136,720
Guinea	29,325	0.015%	(9)	29,316
Guinea(Bissau)	29,325	0.015%	0	29,325
Guyana	29,325	0.015%	(6)	29,319
Haiti	29,325	0.015%	0	29,325
Honduras	93,840	0.048%	(60)	93,780
Hong Kong, China	5,022,395	2.569%	(5,806)	5,016,589
Hungary	1,233,605	0.631%	(1,109)	1,232,496
Iceland	82,110	0.042%	(106)	82,004
India	3,520,955	1.801%	(1,473)	3,519,482
Indonesia	1,548,360	0.792%	(1,440)	1,546,920
Ireland	2,207,195	1.129%	(1,369)	2,205,826
Israel	846,515	0.433%	(859)	845,656
Italy	6,746,705	3.451%	(4,986)	6,741,719
Jamaica	72,335	0.037%	(4)	72,331
Japan	9,014,505	4.611%	(7,079)	9,007,426
Jordan	156,400	0.080%	(139)	156,261
Kenya	105,570	0.054%	(73)	105,497
Kingdom of Saudi Arabia	2,248,250	1.150%	(2,237)	2,246,013
Korea, Republic of	5,405,575	2.765%	(2,646)	5,402,929
Kuwait	615,825	0.315%	(223)	615,602
Kyrgyz Republic	31,280	0.016%	(35)	31,245
Latvia	156,400	0.080%	(179)	156,221
Lesotho	29,325	0.015%	0	29,325
Liechtenstein	46,920	0.024%	(55)	46,865
Lithuania	279,565	0.143%	(65)	279,500
Luxembourg	805,460	0.412%	(752)	804,708
Macao, China	183,770	0.094%	(146)	183,624
Madagascar	29,325	0.015%	(18)	29,307
Malawi	29,325	0.015%	0	29,325
Malaysia	2,033,200	1.040%	(2,132)	2,031,068
Maldives	29,325	0.015%	(33)	29,292
Mali	29,325	0.015%	(7)	29,318
Malta	78,200	0.040%	(81)	78,119
Mauritania	29,325	0.015%	0	29,325
Mauritius	58,650	0.030%	(64)	58,586
Mexico	3,427,115	1.753%	(3,273)	3,423,842
Moldova	37,145	0.019%	(29)	37,116
Mongolia	33,235	0.017%	(21)	33,214

<b>Member</b>	<b>2013 Contribution CHF</b>	<b>2013 Contribution %</b>	<b>Interest earned in 2011 for 2013 CHF</b>	<b>2013 net Contribution CHF</b>
Montenegro	29,325	0.015%	0	29,325
Morocco	369,495	0.189%	(307)	369,188
Mozambique	41,055	0.021%	(43)	41,012
Myanmar, Union of	64,515	0.033%	(34)	64,481
Namibia	48,875	0.025%	(43)	48,832
Nepal	33,235	0.017%	0	33,235
Netherlands	6,095,690	3.118%	(6,972)	6,088,718
New Zealand	430,100	0.220%	(523)	429,577
Nicaragua	44,965	0.023%	0	44,965
Niger	29,325	0.015%	0	29,325
Nigeria	715,530	0.366%	(394)	715,136
Norway	1,691,075	0.865%	(926)	1,690,149
Oman	306,935	0.157%	(140)	306,795
Pakistan	353,855	0.181%	(352)	353,503
Panama	185,725	0.095%	(100)	185,625
Papua New Guinea	48,875	0.025%	0	48,875
Paraguay	89,930	0.046%	(18)	89,912
Peru	349,945	0.179%	(21)	349,924
Philippines	709,665	0.363%	(797)	708,868
Poland	2,168,095	1.109%	(2,069)	2,166,026
Portugal	955,995	0.489%	0	955,995
Qatar	477,020	0.244%	(201)	476,819
Romania	711,620	0.364%	(683)	710,937
Russian Federation	4,066,400	2.080%	0	4,066,400
Rwanda	29,325	0.015%	(18)	29,307
Saint Kitts and Nevis	29,325	0.015%	(8)	29,317
Saint Lucia	29,325	0.015%	(2)	29,323
Saint Vincent and the Grenadines	29,325	0.015%	(8)	29,317
Samoa	29,325	0.015%	0	29,325
Senegal	44,965	0.023%	(34)	44,931
Sierra Leone	29,325	0.015%	0	29,325
Singapore	4,430,030	2.266%	(4,918)	4,425,112
Slovak Republic	764,405	0.391%	(619)	763,786
Slovenia	365,585	0.187%	(414)	365,171
Solomon Islands	29,325	0.015%	0	29,325
South Africa	1,071,340	0.548%	(1,181)	1,070,159
Spain	4,772,155	2.441%	(1,231)	4,770,924
Sri Lanka	134,895	0.069%	(14)	134,881
Suriname	29,325	0.015%	0	29,325
Swaziland	29,325	0.015%	(6)	29,319
Sweden	2,412,470	1.234%	(2,113)	2,410,357
Switzerland	2,623,610	1.342%	(2,851)	2,620,759
Chinese Taipei	3,065,440	1.568%	(3,599)	3,061,841
Tanzania	72,335	0.037%	0	72,335
Thailand	2,140,725	1.095%	(2,351)	2,138,374
Togo	29,325	0.015%	0	29,325
Tonga	29,325	0.015%	(22)	29,303
Trinidad and Tobago	127,075	0.065%	(99)	126,976
Tunisia	248,285	0.127%	(85)	248,200

<b>Member</b>	<b>2013 Contribution CHF</b>	<b>2013 Contribution %</b>	<b>Interest earned in 2011 for 2013 CHF</b>	<b>2013 net Contribution CHF</b>
Turkey	1,861,160	0.952%	(1,777)	1,859,383
Uganda	43,010	0.022%	(2)	43,008
Ukraine	789,820	0.404%	(435)	789,385
United Arab Emirates	2,232,610	1.142%	(1,219)	2,231,391
United Kingdom	8,453,420	4.324%	(10,064)	8,443,356
United States	22,891,095	11.709%	(1,065)	22,890,030
Uruguay	95,795	0.049%	(17)	95,778
Vanuatu	29,325	0.015%	0	29,325
Venezuela	727,260	0.372%	0	727,260
Viet Nam	785,910	0.402%	(642)	785,268
Zambia	58,650	0.030%	(1)	58,649
Zimbabwe	37,145	0.019%	(18)	37,127
<b>TOTAL</b>	<b>195,500,000</b>	<b>100.00%</b>	<b>(144,352)</b>	<b>195,355,648</b>

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**WAIVERS CURRENTLY IN FORCE**  
(as of December 31, 2013)

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2013 <sup>56</sup>
<b>Granted in 2013</b>				
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions <sup>57</sup>	WT/L/900	26 November 2013	31 December 2014	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions <sup>58</sup>	WT/L/901	26 November 2013	31 December 2014	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions <sup>59</sup>	WT/L/902	26 November 2013	31 December 2014	-
European Union – Application of Autonomous Preferential Treatment to Moldova – Extension of Waiver	WT/L/903	26 November 2013	31 December 2015	-

<sup>56</sup> Applicable if so stipulated in the corresponding waiver Decision.

<sup>57</sup> The Members which have requested to be covered under this waiver are: Argentina; China; European Union; Iceland; and, Malaysia.

<sup>58</sup> The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Philippines; Singapore; Switzerland; Thailand; United States; and, Uruguay.

<sup>59</sup> The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea, Republic of; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Philippines; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and, United States.

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2013 <sup>60</sup>
<b>Previously granted – in force in 2013</b>				
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions <sup>61</sup>	WT/L/873	11 December 2012	31 December 2013	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions <sup>62</sup>	WT/L/874	11 December 2012	31 December 2013	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions <sup>63</sup>	WT/L/875	11 December 2012	31 December 2013	-
Kimberly Process Certification Scheme for Rough Diamonds - Extension of Waiver <sup>64</sup>	WT/L/876	11 December 2012	31 December 2018	-
Cuba – Article XV:6 – Extension of waiver	WT/L/850	14 February 2012	31 December 2016	WT/L/895
Preferential Treatment to Services and Service Suppliers of Least developed countries	WT/L/847	17 December 2011	17 December 2026	-
Canada – CARIBCAN	WT/L/835	30 November 2011	31 December 2013	WT/L/898
European Union - Application of Autonomous Preferential Treatment to the Western Balkans	WT/L/836	30 November 2011	31 December 2016	WT/L/896
European Union – Preferences for Pakistan	WT/L/851	14 February 2012	31 December 2013	WT/L/883

<sup>60</sup> Applicable if so stipulated in the corresponding waiver Decision.

<sup>61</sup> The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; China; Croatia; European Union; Iceland; India; Malaysia; and Uruguay.

<sup>62</sup> The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Philippines; Singapore; Switzerland; Thailand; United States; and Uruguay.

<sup>63</sup> The Members which have requested to be covered under this waiver are: Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea, Republic of; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States.

<sup>64</sup> Annex: Australia, Botswana, Brazil, Canada, Croatia, European Union, India, Israel, Japan, Korea, Mexico, New Zealand, Norway, Philippines, Russian Federation, Singapore, Chinese Taipei, Thailand, Turkey, United States, and Bolivarian Republic of Venezuela.

<b>WAIVER</b>	<b>DECISION</b>	<b>DATE of ADOPTION of DECISION</b>	<b>GRANTED UNTIL</b>	<b>REPORT in 2013<sup>60</sup></b>
<b>Previously granted – in force in 2013</b>				
Preferential Tariff Treatment for Least-Developed Countries – Decision on Extension of waiver	WT/L/759	27 May 2009	30 June 2019	-
United States – Andean Trade Preference Act – Renewal of waiver	WT/L/755	27 May 2009	31 December 2014	WT/L/890
United States – African Growth and Opportunity Act	WT/L/754	27 May 2009	30 September 2015	WT/L/889
United States - Caribbean Basin Economic Recovery Act – Renewal of waiver	WT/L/753	27 May 2009	31 December 2014	WT/L/888
European Communities – Application of Autonomous Preferential Treatment to Moldova	WT/L/722	7 May 2008	31 December 2013	WT/L/882
United States – Former Trust Territory of the Pacific Islands	WT/L/694	27 July 2007	31 December 2016	WT/L/887
Implementation of Para. 6 of the Doha Declaration on the TRIPS Agreement and Public Health	WT/L/540 and Corr.1	30 August 2003	See WT/L/540 and Corr.1	IP/C/66
Least-Developed Country Members – Obligations under Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products	WT/L/478	8 July 2002	1 January 2016	-

**Number of WTO Staff Members by Country on January 1, 2014**  
(as per information available on January 1, 2014)

<b>Country</b>	<b>Senior</b>	<b>Professional</b>	<b>Support</b>	<b>Total</b>
Albania			1	1
Argentina		5	6	11
Australia		9	2	11
Austria		5		5
Bangladesh		1		1
Barbados		1		1
Belgium		1	4	5
Benin		2		2
Bolivia		3		3
Brazil	1	9	2	12
Bulgaria		3		3
Burundi		1		1
Canada		20	1	21
Chad		1		1
Chile		1	2	3
China	1	11	1	13
Colombia		8	2	10
Congo, The Democratic Republic of the		1	1	2
Costa Rica		2		2
Côte d'Ivoire			1	1
Croatia		1		1
Cuba			1	1
Denmark		1	1	2
Ecuador		3		3
Egypt		5		5
Estonia		1		1
Finland		2	3	5
France		51	126	177
Germany	1	23	2	26
Ghana		2		2
Greece		3	2	5
Guatemala		1		1
Guinea		2		2
Honduras			1	1
Hungary		1	1	2
India		11	1	12
Ireland		5	7	12
Italy		16	3	19
Jamaica		1		1
Japan		4		4
Jordan		1		1
Kenya		1		1
Korea, Republic of		4		4
Malawi		1		1
Malaysia		2		2
Mauritius		1	1	2
Mexico		6	1	7

Country	Senior	Professional	Support	Total
Morocco		3		3
Nepal		1	1	2
Netherlands		5	1	6
New Zealand		1	1	2
Nigeria	1	2		3
Norway		1	1	2
Pakistan		2		2
Paraguay			1	1
Peru		2	6	8
Philippines		8	5	13
Poland		2	2	4
Portugal		2	2	4
Romania		1	1	2
Russia		1		1
Rwanda		1		1
Saint Lucia		1		1
Senegal		1	1	2
Sierra Leone		1		1
South Africa		1		1
Spain		20	19	39
Sri Lanka		1	2	3
Sweden		3		3
Switzerland		16	20	36
Tanzania		1		1
Thailand		1		1
Trinidad and Tobago		1		1
Tunisia		3	2	5
Turkey		3		3
Uganda		4		4
United Kingdom		27	37	64
United States of America	1	26	4	31
Uruguay		3	4	7
Venezuela		4	1	5
Viet Nam		1		1
Zambia		1		1
Zimbabwe		1	1	2
<b>Grand Total</b>	<b>5</b>	<b>385</b>	<b>285</b>	<b>675</b>

Note: Senior Management includes the Director-General and Deputies Director-General.

Source: WTO Secretariat as of 1 January 2014

**WTO ACCESSION APPLICATIONS AND STATUS**  
(as of January 1, 2014)<sup>1</sup>

Applicant	Status of Multilateral and Bilateral Work
Afghanistan* (2004)	Fourth Working Party (WP) meeting held in July 2013 and the fifth meeting is expected in early 2014. Bilateral market access negotiations are well advanced and completion of this accession is expected in 2014. The United States is providing technical assistance through the United States Agency for International Development (USAID), including drafting documentation, training, legal drafting, and institution building.
Algeria (1987)	Algeria resumed accession negotiations in 2013 with a WP meeting held in April to review an updated draft WP report and to resume of market access negotiations. Next meeting likely in first quarter of 2014.
Andorra (1997)	Inactive. Last WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers.
Azerbaijan (1997)	Eleventh WP meeting scheduled for February 2013. Bilateral market access negotiations on goods and services will take place at that time, as well as review of agricultural support data.
The Bahamas (2001)	Second WP meeting was held in June 2012. The next WP meeting is envisaged for the first quarter of 2014. Bilateral market access negotiations are ongoing on the basis of an initial market access offer on goods, circulated in March 2012, and a revised market access offer on services, circulated in August 2013.
Belarus (1993)	Belarus' last WP meeting was in May 2005. Informal Chairman's Consultations took place in May 2013 based on an updated Factual Summary. At the meeting, Belarus was asked to submit updated documentation and revised market access offers for goods and services. Based on inputs received, the WTO Secretariat was asked to revise the Factual Summary. The next WP meeting will be scheduled as soon as Belarus provides the requested materials. This will include additional information on Belarus' participation in a Customs Union (CU) with Russia and Kazakhstan.
Bhutan * (1999)	Inactive. Fourth WP meeting held in January 2008 to review additional documentation and conduct market access negotiations for goods and services. Bhutan has not requested further work on its WTO accession since that time, and no WP meetings are scheduled.
Bosnia and Herzegovina (1999)	The Eleventh and Twelfth WP meetings convened 2013, the first in March and the second in June. Few issues remain concerning the application of WTO rules, but some of the legislation implementing WTO provisions still must be enacted. The most recent version of the Draft WP Report was circulated in May 2013. Bilateral market access negotiations with interested WTO Members are close to completion. The next WP meeting is expected to be the final meeting, and could take place in 2014.
Comoros * (2007)	Comoros circulated its Memorandum on the Foreign Trade Regime (MFTR), i.e., the initial documentation necessary to activate the accession negotiations, to WTO Members on October 25, 2013. Once replies to Members written questions on that document are circulated, a first WP meeting will be scheduled.
Equatorial* Guinea (2008)	Application accepted at February 2008 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.

\* Designates "least developed country" applicant.

<sup>1</sup> "Applicant" column includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

Applicant	Status of Multilateral and Bilateral Work
Ethiopia* (2003)	The third meeting of Ethiopia's WP was held in March 2012. The next meeting will be scheduled as soon as Ethiopia submits the required inputs (i.e. replies to Members' questions) for the preparation of the Elements of the Draft WP Report. Bilateral market access negotiations are underway on goods, based on Ethiopia's initial offer circulated in the first half of 2012. Ethiopia must still provide its initial market access offer on services.
Iran (2005)	The MFTR was circulated in November 2009. Replies to the written questions from WTO Members on that document were circulated in 2011. Before a WP meeting can be convened, consultations with Members would need to be undertaken by the Chairperson of the General Council for the designation of a Chairperson of the Working Party.
Iraq (2004)	Iraq's last WP meeting was held in April 2008. A third meeting will be scheduled following Iraq's submission of initial market access offers for goods and services and written responses to questions and comments from the previous meeting.
Kazakhstan (1996)	The WP advanced to its final stages in four WP meetings (March, June, July, and October) during 2013. Kazakhstan continued to make progress towards completion of its WTO accession process, but was unable to fully resolve the handful of remaining issues on agriculture, market access and WTO rules by the end of the year. WTO Members submitted questions, comments, and drafting suggestions on the most recently updated and revised draft WP report in December. In addition, final consolidation and verification of Kazakhstan's goods and services market access schedules was blocked, as discussions with WTO Members continued to adjust both Kazakhstan's WTO bindings on goods to better reflect the Customs Union common external tariff (CET) and the scope of the negotiated services commitments. Kazakhstan provided updated information on agricultural supports and export subsidies, but Members were reluctant to grant additional flexibility on the level of support. Finally, significant work remained to complete legislative implementation of WTO provisions. Kazakhstan seeks to complete its process in 2014.
Lebanon (1999)	Inactive. There have been no WP meetings on Lebanon's WTO accession since October 2009. Lebanon's efforts on legislative implementation remain blocked by domestic political issues, delaying completion of the accession process. Lebanon has provided an improved offer on services market access but there has been no movement on goods. The next WP meeting will be convened after Lebanon submits the necessary inputs.
Liberia* (2007)	Liberia's first WP meeting was held in July 2012. The next meeting will be convened after Liberia submits its replies to Members questions and comments.
Libya (2004)	Application accepted at July 2004 General Council meeting. No documentation or market access offers circulated to date.
Sao Tome and Principe* (2005)	Application accepted at May 2005 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Serbia (2005)	The 13th Meeting of the WP was held in June 2013 and negotiations on the text of the draft WP report and largely complete. Bilateral market access negotiations with interested Members are substantially concluded, pending agreement on some agricultural tariffs. The next and likely final meeting of the WP will be convened when outstanding domestic legislative action (pertaining to, inter alia, commodity reserves; commodity exchange; GMOs; and services) has been completed by Serbia.
The Seychelles (1995)	The Fourth and Fifth meetings of Seychelles' WP were held in June and November, respectively. Comprehensive questions and drafting suggestions on the draft WP report submitted at the end of the year identified remaining outstanding issues. Bilateral market access negotiations with Members and drafting efforts for implementing legislation also made progress in 2013. Seychelles seeks to complete its WTO accession process in 2014.
Sudan* (1995)	Inactive. Second WP meeting held March 10, 2004. Market access offers for goods and services were last tabled in October 2006.

Applicant	Status of Multilateral and Bilateral Work
Syria (2010)	Application for accession to the WTO first circulated in October 2001. Application accepted at May 2010 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Uzbekistan (1995)	Inactive. Third WP meeting held in October 2005 to review additional documentation and initial market access offers. No meetings held since that time.
Yemen * (2000)	Yemen's draft Accession Package was adopted, ad referendum, at the Eleventh and final meeting of the WP, on 26 September 2013. WTO Members approved the Accession of Yemen to the Ninth WTO at the 9th Ministerial Conference in Bali, and it is expected that Yemen will complete its ratification procedures and become the 160 <sup>th</sup> WTO Member in 2014.

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**INDICATIVE LIST OF GOVERNMENTAL AND  
NON-GOVERNMENTAL PANELISTS**  
*Revision*

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

The attached is a revised consolidated list of governmental and non-governmental panelists.<sup>65</sup> The list is based on the previous indicative list issued on 3 October 2013 (WT/DSB/44/Rev.26). It includes additional names approved by the DSB at its meeting on 22 October 2013<sup>66</sup> and reflects deletions from the previous list as proposed by Members. Any future modifications or additions to this list submitted by Members will be circulated in periodic revisions of this list.

For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

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<sup>65</sup> Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (CTNC Division).

<sup>66</sup> See document: WT/DSB/W/514.

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
ARGENTINA	CORTI, Mr. Arístides H. M.	Trade in Goods
	LUNAZZI, Mr. Gustavo Nerio	Trade in Goods
	MONTOYA, Ms. Beatriz I.	Trade in Goods
	NUÑEZ, Mr. Fernando B.	Trade in Goods
	PIZZANO, Mr. Germán A.	Trade in Goods and Services
	SERRA, Mr. Adrián	Trade in Goods and Services
AUSTRALIA	CHESTER, Mr. Douglas Owen	TRIPS
	CHURCHE, Mr. Milton	Trade in Goods
	DEADY, Mr. Stephen	Trade in Goods
	FARBENBLOOM, Mr. Simon	Trade in Goods and Services
	GALLAGHER, Mr. Peter	Trade in Goods; TRIPS
	GOSPER, Mr. Bruce	Trade in Goods
	HOLMES, Ms. Patricia Ann	Trade in Goods
	JENNINGS, Mr. Mark	Trade in Goods; TRIPS
	MITCHELL, Mr. Andrew	Trade in Goods and Services; TRIPS
	MORETTA, Mr. Remo	Trade in Goods and Services
	MULGREW, Mr. Michael	Trade in Goods
	MYLER, Mr. Paul	Trade in Goods and Services
	O'CONNOR, Mr. Paul Richard	Trade in Goods
	RAPER, Ms. Cathy	Trade in Goods and Services
	SIN FAR LEE, Ms. Stephanie	Trade in Goods
	SPENCER, Mr. David	Trade in Goods
	VOON, Ms. Tania Su Lien	Trade in Goods and Services; TRIPS
	WITBREUK, Ms. Trudy	Trade in Goods and Services
	YOUNG, Ms. Elizabeth	Trade in Goods
BOLIVARIAN, REPUBLIC OF VENEZUELA	ESCOBAR, Mr. José Benjamín	Trade in Services
	MARQUEZ, Mr. Guillermo	Trade in Services
	ROJAS PENSO, Mr. Juan Francisco	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
BOLIVIA, PLURINATIONAL STATE OF	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
BRAZIL	ABREU, Mr. Marcelo de Paiva	Trade in Goods and Services
	BARRAL, Mr. Welber Oliveira	Trade in Goods
	BARTHEL-ROSA, Mr. Paulo	Trade in Goods
	BASSO, Ms. Maristela	Trade in Goods; TRIPS
	LEMME, Ms. Marta Calmon	Trade in Goods
	MAGALHÃES, Mr. José Carlos	Trade in Goods
	MARCONINI, Mr. Mario	Trade in Services
	MOURA ROCHA, Mr. Bolívar	Trade in Services
	NAIDIN, Ms. Leane Cornet	Trade in Goods
	RIOS, Ms. Sandra Polônia	Trade in Goods
	THORSTENSEN, Ms. Vera Helena	Trade in Goods
CAMEROON	NGANGJOH HODU, Mr. Yenkong	Trade in Goods and Services; TRIPS
CANADA	BERNIER, Mr. Ivan	Trade in Goods and Services
	BRADFORD, Mr. Meriel V. M.	Trade in Goods and Services
	BROWN, Ms. Catherine Anne	Trade in Goods and Services; TRIPS
	CLARK, Mr. Peter James	Trade in Goods and Services
	CLOSE, Ms. Patricia Margaret	Trade in Goods
	DE MESTRAL, Mr. Armand	Trade in Goods
	EYTON, Mr. Anthony T.	Trade in Goods
	GHERSON, Mr. Randolph	Trade in Goods
	GOODWIN, Ms. Kirsten M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. Anthony L.	Trade in Goods and Services
	HERMAN, Mr. Lawrence L.	Trade in Goods
	HINES, Mr. Wilfred Roy	Trade in Goods
	MacMILLAN, Ms. Kathleen E.	Trade in Goods
	McRAE, Mr. Donald Malcolm	Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
CANADA (cont'd)	OSTRY, Ms. Sylvia	Trade in Goods
	RITCHIE, Mr. Gordon	Trade in Goods
	THOMAS, Mr. Christopher	Trade in Goods and Services
	WINHAM, Mr. Gilbert R.	Trade in Goods
CHILE	BIGGS, Mr. Gonzalo	Trade in Goods
	ERNST, Mr. Felipe	Trade in Goods and Services
	ESPINOZA, Mr. Alvaro	Trade in Goods
	MATUS, Mr. Mario	Trade in Goods
	MLADINIC, Mr. Carlos	Trade in Goods
	PEÑA, Ms. Gloria	Trade in Goods
	SAEZ, Mr. Sebastián	Trade in Goods and Services
	SATELER, Mr. Ricardo	TRIPS
	SOSA, Ms. Luz	Trade in Goods and Services
	TIRONI, Mr. Ernesto	Trade in Goods
CHINA	CHEN, Mr. Yusong	Trade in Goods and Services; TRIPS
	DONG, Mr. Shizhong	Trade in Goods and Services;
	E, Mr. Defeng	Trade in Goods
	GONG, Mr. Baihua	Trade in Goods and Services;
	HAN, Mr. Liyu	Trade in Goods; TRIPS
	HONG, Mr. Xiaodong	Trade in Services
	HUANG, Mr. Dongli	Trade in Goods; TRIPS
	LI, Mr. Enheng	Trade in Goods and Services
	LI, Ms. Yongjie	Trade in Goods and Services
	LI, Mr. Zhongzhou	Trade in Goods
	SHI, Ms. Xiaoli	Trade in Goods
	SUO, Mr. Bicheng	Trade in Goods
	YANG, Mr. Guohua	Trade in Goods; TRIPS
	ZENG, Mr. Lingliang	Trade in Goods
	ZHANG, Ms. Liping	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
CHINA (cont'd)	ZHANG, Mr. Naigen	TRIPS
	ZHANG, Mr. Xiangchen	Trade in Goods and Services; TRIPS
	ZHANG, Mr. Yuqing	Trade in Goods and Services; TRIPS
	ZHU, Ms. Lanye	Trade in Services; TRIPS
COLOMBIA	IBARRA PARDO, Mr. Gabriel	Trade in Goods
	JARAMILLO, Mr. Felipe	Trade in Goods and Services
	LOZANO FERRO, Ms. Olga Lucia	Trade in Goods; TRIPS
	OROZCO GOMEZ, Ms. Angela María	Trade in Goods
	OROZCO, Ms. Claudia	Trade in Goods
	PRIETO, Mr. Diego	Trade in Goods and Services
	ROJAS ARROYO, Mr. Santiago	Trade in Goods; TRIPS
	TANGARIFE, Mr. Marcel	Trade in Goods; TRIPS
CÔTE D'IVOIRE	GOSSET, Ms. Marie	Trade in Goods; TRIPS
CUBA	CABALLERO RODRÍGUEZ, Mr. Eumelio	Trade in Goods and Services
	HERNÁNDEZ, Mr. Arnaldo	Trade in Goods and Services
	MARZIOTA DELGADO, Mr. Ernesto Antonio	Trade in Goods and Services
DJIBOUTI	PIQUEMAL, Mr. Alain	Trade in Goods and Services; TRIPS
ECUADOR	ESPINOSA CAÑIZARES, Mr. Cristian	Trade in Goods and Services;
	MONTAÑO HUERTA, Mr. César	Trade in Goods and Services;
	PINOARGOTE CEVALLOS, Mr. Alfredo	Trade in Goods
EGYPT	FAWZY, Mr. Abdelrahman	Trade in Goods and Services
	HATEM, Mr. Samy Affify	Trade in Goods
	RIAD, Mr. Tarek Fouad	Trade in Goods and Services; TRIPS
	SHAHIN, Ms. Magda	Trade in Goods and Services; TRIPS
	SHARAF ELDIN, Mr. Ahmed	Trade in Goods; TRIPS
	ZAHARAN, Mr. Mohamed Mounir	Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
EUROPEAN UNION		
AUSTRIA	BENEDEK, Mr. Wolfgang	Trade in Goods
	REITERER, Mr. Michael G. K.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. Franz	Trade in Goods
BELGIUM	DIDIER, Mr. Pierre	Trade in Goods
	PAUWELYN, Mr. Joost	Trade in Goods and Services; TRIPS
	VAN DER BORGHT, Mr. Kim	Trade in Goods
	VANDER SCHUEREN, Ms. Paulette	Trade in Goods and Services
	WOUTERS, Mr. Jan	Trade in Goods and Services
	ZONNEKEYN, Mr. Geert A.	Trade in Goods
CZECH REPUBLIC	PALEČKA, Mr. Peter	Trade in Goods and Services
DENMARK	NIELSEN, Mr. Karsten Vagn	Trade in Goods; TRIPS
	NIELSEN, Ms. Laura	Trade in Goods and Services
	OLSEN, Ms. Birgitte Egelund	Trade in Goods
	SMIDT, Mr. Steffen	Trade in Goods and Services
EUROPEAN UNION	BRAKELAND, Mr. Jean-François	Trade in Goods and Services
	CARL, Mr. Mogens Peter	Trade in Goods and Services; TRIPS
	KUIJPER, Mr. Pieter Jan	Trade in Goods and Services; TRIPS
	WHITE, Mr. Eric	Trade in Goods and Services; TRIPS
FINLAND	HIMANEN, Mr. Vesa	Trade in Goods
	LUOTONEN, Mr. Yrjö Kim David	Trade in Goods
FRANCE	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS
	BOISSON DE CHAZOURNES, Mrs. Laurence	Trade in Goods and Services
	JENNY, Mr. Frédéric Yves	Trade in Goods and Services; TRIPS
	METZGER, Mr. Jean-Marie	Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
FRANCE (cont'd)	MONNIER, Mr. Pierre	Trade in Goods and Services; TRIPS
	RIEGERT, Mr. François	Trade in Goods
	RUIZ-FABRI, Ms. Hélène	Trade in Goods and Services
	STERN, Ms. Brigitte	Trade in Goods
GERMANY	DELBRÜCK, Mr. Kilian	Trade in Goods
	HERRMANN, Mr. Christoph Walter	Trade in Goods; TRIPS
	HILF, Mr. Meinhard	Trade in Goods and Services
	MENG, Mr. Werner	Trade in Goods, TRIPS
	PETERSMANN, Mr. Ernst-Ulrich	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. Stefan	Trade in Goods
GREECE	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS
HUNGARY	HALGAND DANI, Ms. Virág	Trade in Goods and Services; TRIPS
	LAKATOS, Mr. Andrés	Trade in Goods and Services
IRELAND	MATTHEWS, Mr. Alan Henry	Trade in Goods
ITALY	GIARDINA, Mr. Andrea	Trade in Goods and Services
	MALAGUTI, Ms. Maria Chiara	Trade in Goods and Services; TRIPS
	MENSI, Mr. Maurizio	Trade in Goods
LITHUANIA	ALISAUSKAS, Mr. Raimondas	Trade in Goods and Services
MALTA	BONELLO, Mr. Michael C.	Trade in Services
NETHERLANDS	BRONCKERS, Mr. Marco	Trade in Goods and Services; TRIPS
	GENEE, Mr. Otto	Trade in Goods; TRIPS
	HOEKMAN, Mr. Bernard Marco	Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
POLAND	PIETRAS, Mr. Jaroslaw	Trade in Services
PORTUGAL	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS
ROMANIA	BERINDE, Mr. Mihai	Trade in Goods
	CAMPEANU, Ms. Victoria	Trade in Goods
	FRATITA, Ms. Carmen Florina	Trade in Goods
SPAIN	DÍAZ MIER, Mr. Miguel Ángel	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ Mr. Juan Pablo	Trade in Goods and Services
	PÉREZ SANCHEZ, Mr. José Luis	Trade in Goods and Services; TRIPS
	RIGO, Mr. Andrés	Trade in Services
SWEDEN	AHNLID, Mr. Anders Gustav Ragnar	Trade in Goods and Services; TRIPS
	ANELL, Mr. Lars	Trade in Goods; TRIPS
	KLEEN, Mr. Peter	Trade in Goods
	TAURIAINEN, Mr. Teppo Markus	Trade in Goods and Services; TRIPS
UNITED KINGDOM	BETHLEHEM, Mr. Daniel	Trade in Goods and Services; TRIPS
	JOHNSON, Mr. Michael David Clarke	Trade in Goods
	MUIR, Mr. Tom	Trade in Goods and Services; TRIPS
	PLENDER, Mr. Richard	Trade in Goods
	QURESHI, Mr. Asif Hasan	Trade in Goods
	ROBERTS, Mr. Christopher William	Trade in Goods and Services
	ROBERTS, Mr. David F.	Trade in Goods
	SAROOSHI, Mr. Dan	Trade in Services
	TOULMIN, Mr. John Kelvin	Trade in Services
GHANA	NIMAKO-BOATENG, Ms. Gertrude	Trade in Goods and Services
	OPOKU AWUKU, Mr. Emmanuel	Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
HONG KONG, CHINA	CARTLAND, Mr. Michael David	Trade in Goods and Services
	CHEUNG, Mr. Peter Kam Fai	TRIPS
	LEUNG, Ms. Ada Ka Lai	TRIPS
	LITTLE, Mr. David	Trade in Goods and Services
	MILLER, Mr. Tony J.A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANNSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
INDIA	AGARWAL, Mr. Vinod Kumar	Trade in Goods; TRIPS
	AGRAWAL, Mr. Rameshwar Pal	Trade in Goods and Services; TRIPS
	BHANSALI, Mr. Sharad	Trade in Goods
	BHATNAGAR, Mr. Mukesh	Trade in Goods
	BHATTACHARYA, Mr. G. C.	Trade in Goods
	CHANDRASEKHAR, Mr. Kesava Menon	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. Sumanta	Trade in Goods and Services; TRIPS
	DAS, Mr. Abhijit	Trade in Goods
	DAS, Mr. Bhagirath Lal	Trade in Goods
	DASGUPTA, Mr. Jayant	Trade in Goods
	GOPALAN, Mr. Rajarangamani	Trade in Goods
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KHER, Mr. Rajeev	Trade in Goods and Services; TRIPS
	KHULLAR, Mr. Rahul	Trade in Goods and Services; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services
	MOHANTY, Mr. Prasant Kumar	Trade in Goods
	MUKERJI, Mr. Asoke Kumar	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. Srinivasan	Trade in Goods; TRIPS
	PARTHASARATHY, Mr. R.	Trade in Goods; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
INDIA (cont'd)	PRABHU, Mr. Pandurang Palimar	Trade in Goods; TRIPS
	PRASAD, Ms. Anjali	Trade in Goods and Services; TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. Pemmaraju Sreenivasa	Trade in Goods
	REGE, Mr. Narayan Vinod	Trade in Goods
	SABHARWAL, Mr. Narendra	TRIPS
	SAJJANHAR, Mr. Ashok	Trade in Goods
	SESHADRI, Mr. V.S.	Trade in Goods
	SHARMA, Mr. Lalit	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. Krishnan	Trade in Goods; TRIPS
	YADAV, Mr. Amit	Trade in Services
	ZUTSHI, Mr. B. K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. Magen	Trade in Goods
	BROUDE, Mr. Tomer	Trade in Goods and Services; TRIPS
	GABAY, Mr. Mayer	TRIPS
	HARAN, Mr. Ephraim F.	Trade in Services
	HARPAZ, Mr. Guy	Trade in Goods and Services; TRIPS
	HOROVITZ, Mr. Dan	Trade in Goods and Services
	POLINER, Mr. Howard Zvi	TRIPS
	REICH, Mr. Arie	Trade in Goods and Services; TRIPS
	SEMADAR, Mr. Moshe	Trade in Goods
	SHATON, Mr. Michael Marcel	Trade in Goods and Services
	TALBAR, Mr. Michael Adin	Trade in Goods
	WEILER, Mr. Joseph H.H.	Trade in Goods
JAMAICA	ROBINSON, Mr. Patrick L.	Trade in Goods and Services; TRIPS
JAPAN	ARAKI, Mr. Ichiro	Trade in Goods and Services; TRIPS
	ASAKAI, Mr. Kazuo	Trade in Goods
	ASAKURA, Mr. Hironori	Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
JAPAN (cont'd)	HASEBE, Mr. Masamichi	Trade in Goods and Services
	ISHIGE, Mr. Hiroyuki	Trade in Goods
	ISHIGURO, Mr. Kazunori	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Yuji	Trade in Goods
	KANDA, Mr. Hideki	Trade in Services
	KAZEKI, Mr. Jun	Trade in Goods and Services
	KEMMOCHI, Mr. Nobuaki	Trade in Goods and Services
	KOMETANI, Mr. Kazumochi	Trade in Goods and Services; TRIPS
	KOTERA, Mr. Akira	Trade in Goods and Services
	OHARA, Mr. Yoshio	Trade in Goods; TRIPS
	SAITO, Mr. Koji	Trade in Goods
	SANO, Mr. Tadakatsu	Trade in Goods
	SHIMIZU, Mr. Akio	Trade in Goods
	SUZUKI, Mr. Masabumi	Trade in Goods; TRIPS
	TAKAHASHI, Ms. Misako	Trade in Services
	TSURUOKA, Mr. Koji	Trade in Services
	YAMANE, Ms. Hiroko	Trade in Goods; TRIPS
KOREA	AHN, Mr. Dukgeun	Trade in Goods
	AHN, Mr. Ho-Young	Trade in Goods
	AHN, Mr. Myung-soo	Trade in Goods
	CHO, Mr. Tae-Yul	Trade in Goods
	CHOI, Mr. Byung-il	Trade in Services
	CHOI, Mr. Won-Mog	Trade in Goods and Services; TRIPS
	KIM, Mr. Jong Bum	Trade in Goods
	LEE, Mr. Jaemin	Trade in Goods
	PARK, Mr. Nohyoung	Trade in Goods
	WOO, Mr. Jooha	Trade in Goods and Services
LIECHTENSTEIN	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
MADAGASCAR	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
MALAYSIA	HARUN, Mrs. Hiswani	Trade in Goods
	KASIMIR, Mr. Merlyn	Trade in Goods and Services
	YACOB, Mr. Muhammad Noor	Trade in Goods
MAURITIUS	BEEKARRY, Mr. Navin	Trade in Goods and Services
	BHUGLAH, Mr. Achad	Trade in Goods and Services
MEXICO	AGUILAR ÁLVAREZ, Mr. Guillermo	Trade in Goods and Services; TRIPS
	DE LA PEÑA, Mr. Alejandro	Trade in Goods and Services; TRIPS
	DE MATEO VENTURINI, Mr. Fernando	Trade in Goods and Services; TRIPS
	DE ROSENZWEIG, Mr. Francisco	Trade in Goods and Services; TRIPS
	FERRARI, Mr. Bruno	Trade in Goods and Services; TRIPS
	JASSO TORRES, Mr. Humberto	Trade in Goods
	LEYCEGUI, Ms. Beatriz	Trade in Goods and Services; TRIPS
	PEREZCANO DÍAZ, Mr. Hugo Manuel	Trade in Goods and Services; TRIPS
	POBLANO, Mr. José F.	Trade in Services; TRIPS
	REYES, Ms. Luz Elena	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo	Trade in Goods and Services; TRIPS
	VÉJAR, Mr. Carlos	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS
NEPAL	PANDEY, Mr. Posh Raj	Trade in Goods and Services
	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS
NEW ZEALAND	ARMSTRONG, Mr. Wade Mowatt Valentine	Trade in Goods; TRIPS
	CARSON, Mr. Christopher Barr	Trade in Goods
	FALCONER, Mr. Crawford Dunlop	Trade in Goods
	FALCONER, Mr. William John	Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
NEW ZEALAND (cont'd)	GROSER, Mr. Tim	Trade in Goods
	HARVEY, Mr. Martin Wilfred	Trade in Goods
	HIGGIE, Ms. Dell Clark	Trade in Goods
	KENNEDY, Mr. Peter Douglas	Trade in Goods
	MACEY, Mr. Adrian	Trade in Goods; TRIPS
	McPHAIL, Mr. Alexander Hugh	Trade in Goods
	NOTTAGE, Mr. Richard Frederick	Trade in Goods
	SLADE, Ms. Michelle	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. Mark Julian	Trade in Goods; TRIPS
	WALKER, Mr. David John	Trade in Goods and Services
	WOODFIELD, Mr. Edward A.	Trade in Goods
NIGER	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
NIGERIA	AGAH, Mr. Yonov Frederick	Trade in Goods and Services; TRIPS
	NNONA, Mr. George C.	Trade in Goods and Services; TRIPS
NORWAY	BRYN, Mr. Kåre	Trade in Goods and Services; TRIPS
	GLENNE, Mr. Eirik	Trade in Goods and Services
	HOLTEN, Ms. Inger	Trade in Goods; TRIPS
	LILLERUD, Mr. Kjell	Trade in Goods and Services
	SELAND, Mr. Helge A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. Didrik	Trade in Goods and Services; TRIPS
PAKISTAN	ARIF, Mr. Muhammad Ikram	Trade in Goods
	BASHIR, Mr. Shahid	Trade in Goods
	HAMID ALI, Mr. Muhammad	Trade in Goods; TRIPS
	HUSAIN, Mr. Ishrat	Trade in Services
	KHAN, Mr. Mujeeb Ahmed	Trade in Goods; TRIPS
	MALIK, Mr. Riaz Ahmad	Trade in Goods
	MUKHTAR, Mr. Ahmad	Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
PANAMA	ALVAREZ DE SOTO, Mr. Francisco	Trade in Goods and Services; TRIPS
	FERRER, Mr. Alejandro	Trade in Goods and Services
	FRANCIS LANUZA, Ms. Yavel Mireya	Trade in Goods and Services
	GONZALEZ, Mr. Carlos Ernesto	Trade in Goods and Services
	HARRIS ROTKIN, Mr. Norman	Trade in Goods and Services
	SALAZAR FONG, Ms. Diana Alejandrina	Trade in Goods
	SHEFFER MONTES, Mr. Leroy Jhon	Trade in Goods and Services
PERU	BELAÚNDE G., Mr. Victor Andres	TRIPS
	DE LA PUENTE LEON, Mr. Jose A.	Trade in Goods and Services
	DIEZ LIZARDO, Mr. Juan	Trade in Goods
	LEÓN-THORNE, Mr. Raúl	Trade in Goods and Services
QATAR	MAKKI, Mr. Fadi	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS
SWITZERLAND	ADDOR, Mr. Felix	TRIPS
	CHAMBOVEY, Mr. Didier	Trade in Goods
	COTTIER, Mr. Thomas	Trade in Goods and Services; TRIPS
	HÄBERLI, Mr. Christian	Trade in Goods
	HOLZER, Mr. Patrick Edgar	Trade in Goods; TRIPS
	INEICHEN-FLEISCH, Ms. Marie-Gabrielle	Trade in Goods and Services
	KAUFMANN, Ms. Christine	Trade in Services
	LEGLER, Mr. Thomas	TRIPS
	MÄCHLER, Ms. Monica	Trade in Goods and Services; TRIPS
	MEYER, Mr. Matthias	Trade in Goods and Services; TRIPS
	PANNATIER, Mr. Serge Nicolas	Trade in Goods
	TSCHÄENI, Mr. Hanspeter	Trade in Goods
	WASESCHA, Mr. Luzius	Trade in Goods and Services; TRIPS
	WEBER, Mr. Rolf H.	Trade in Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
SWITZERLAND (cont'd)	ZULAUF, Mr. Daniel	Trade in Goods and Services; TRIPS
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	CHANG, Ms. Yie-Yun	TRIPS
	KAO, Mr. Pei-Huan	Trade in Goods and Services; TRIPS
	LI, Ms. Catherine	Trade in Goods
	LIN, Ms. Tsai-Yu	Trade in Goods
	LO, Mr. Chang-Fa	Trade in Goods and Services
	NI, Mr. Kuei-Jung	Trade in Goods; TRIPS
	PENG, Ms. Shin-Yi	Trade in Goods and Services
	YANG, Ms. Guang-Hwa	Trade in Goods and Services
	YANG, Ms. Jen-Ni	Trade in Goods and Services
TURKEY	DILEMRE, Mr. Hüsni	Trade in Goods
	GÜRAKAN, Ms. Tulü	Trade in Goods
	KABAALIOĞLU, Mr. A. Haluk	Trade in Goods and Services
	KAÇAR, Mr. Bayram	Trade in Goods
	MOLLASALIHÖĞLU, Mr. Yavuz	Trade in Goods
	YAMAN, Mr. Şahin	Trade in Goods
	YAPICI, Mr. Murat	Trade in Goods
	YENAL, Mr. Aytaç	Trade in Goods
UNITED STATES	BROWN-WEISS, Ms. Edith	Trade in Goods and Services
	CONNELLY, Mr. Warren	Trade in Goods
	GANTZ, Mr. David A.	Trade in Goods
	GORDON, Mr. Michael Wallace	Trade in Goods
	HODGSON, Ms. Mélida	Trade in Goods and Services
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	KHO, Mr. Stephen	Trade in Goods and Services; TRIPS
	LAYTON, Mr. Duane	Trade in Goods
	LICHTENSTEIN, Ms. Cynthia Crawford	Trade in Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
UNITED STATES (cont'd)	McGINNIS, Mr. John Oldham	Trade in Goods; TRIPS
	PARTAN, Mr. Daniel G.	Trade in Goods
	POWELL, Mr. Stephen J.	Trade in Goods
	SANDSTROM, Mr. Mark R.	Trade in Goods and Services
	THOMPSON, Mr. George W.	Trade in Goods
	TROSSEVIN, Ms. Marguerite	Trade in Goods
	VERRILL, Jr. Mr. Charles Owen	Trade in Goods
URUGUAY	AMORÍN, Mr. Carlos	Trade in Goods; TRIPS
	CAYRÚS, Mr. Hugo	Trade in Goods and Services
	EHLERS, Mr. William	Trade in Goods
	ROSSELLI, Mr. Elbio	Trade in Goods
	VANERIO, Mr. Gustavo	Trade in Goods and Services

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**ANNEX**  
**ADMINISTRATION OF THE INDICATIVE LIST**

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

*General DSU requirements*

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements". The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

*Submission of information*

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

*Updating of indicative list*

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

*Other rosters*

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns". It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council". A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU". The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached.

**SUMMARY CURRICULUM VITAE  
FOR PERSONS PROPOSED FOR THE INDICATIVE LIST<sup>1</sup>**

- 1. Name:** full name
- 2. Sectoral Experience**  
List here any particular sectors of expertise:  
(e.g. technical barriers, dumping, financial services, intellectual property, etc.)
- 3. Nationality(ies)** all citizenships
- 4. Nominating Member:** the nominating Member
- 5. Date of birth:** full date of birth
- 6. Current occupations:** year beginning, employer, title, responsibilities
- 7. Post-secondary education** year, degree, name of institution
- 8. Professional qualifications** year, title
- 9. Trade-related experience in Geneva in the WTO/GATT system**
  - a. Served as a panelist year, dispute name, role as chairperson/member
  - b. Presented a case to a panel year, dispute name, representing which party
  - c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof year, body, role
  - d. Worked for the WTO or GATT Secretariat year, title, activity
- 10. Other trade-related experience**
  - a. Government trade work year, employer, activity
  - b. Private sector trade work year, employer, activity

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<sup>1</sup> Members putting forward an individual for inclusion on the indicative list are requested to provide full contact details for this individual separately. The Summary Curriculum Vitae and the contact details should be sent electronically to the Secretariat.

**11. Teaching and publications**

- a. Teaching in trade law and policy      year, institution, course title
- b. Publications in trade law and policy      year, title, name of periodical/book, author/editor  
(if book)

**12. Language capabilities**

ability to work as a panelist in WTO-official languages and any other language capability

- a. English
  - b. French
  - c. Spanish
  - d. Other language(s)
-

**MEMBERSHIP OF THE WTO APPELLATE BODY**  
**To December 31, 2013**

On December 31, 2013 Mr. Ricardo Ramírez Hernández's first term as Chair of the Appellate Body expired. Pursuant to Rule 5.1 of the *Working Procedures for Appellate Review*, the Members of the Appellate Body re-elected Mr. Ricardo Ramírez Hernández to serve a second term as Chair of the Appellate Body, from January 1 through December 31, 2014.

The 2013 Appellate Body was composed of the following members (in alphabetical order): Mr. Ujal Singh Bhatia (India), Mr. Seung Wha Chang (Korea), Mr. Thomas Graham (United States), Mr. Ricardo Ramírez-Hernández (Mexico), Mr. David Unterhalter (South Africa), Mr. Peter Van den Bossche (Belgium) and Ms. Yuejiao Zhang (China).

*BIOGRAPHICAL NOTES:*

**Ujal Singh Bhatia**

Born in India on 15 April 1950, Ujal Singh Bhatia is currently an independent consultant and academic engaged in developing a policy framework for Indian agricultural investments overseas, while at the same time working with the Commonwealth Secretariat on multilateral trade issues.

From 2004 to 2010, Mr. Bhatia was India's Permanent Representative to the WTO. During his tenure as Permanent Representative, he was an active participant in the dispute settlement process, representing India in a number of dispute settlement cases both as a complainant and respondent in disputes relating to anti-dumping, as well as taxation and import duty issues. He also has adjudicatory experience having served as a WTO dispute settlement panelist.

Mr. Bhatia previously served as Joint Secretary in the Indian Ministry of Commerce, where he focused on the legal aspects of international trade. During this period, he was also a Member of the Appellate Committee under the Foreign Trade (Development and Regulation) Act. The Committee heard appeals of exporters and importers against the orders of the Director General Foreign Trade. Mr. Bhatia was also Joint Secretary of the Ministry of Information and Broadcasting and held various positions in the public and private sectors of the Indian state of Orissa.

Mr. Bhatia's legal and adjudicatory experience spans three decades. He has focused on addressing domestic and international legal/jurisprudence issues, negotiating trade agreements and policy issues at the bilateral, regional and multilateral levels, and formulating and implementing trade and development policies for a range of agriculture, industry and service sector activities.

Mr. Bhatia is a frequent lecturer on international trade issues, and has published numerous papers and articles in Indian and foreign journals on a wide range of trade and economic issues.

Mr. Bhatia holds an M.A. in Economics from the University of Manchester and from Delhi University, as well as a B.A. (Hons.) in Economics, also from Delhi University.

## **Seung Wha Chang**

Born in Korea on 1 March 1963, Seung Wha Chang is currently Professor of Law at Seoul National University where he teaches International Trade Law and International Arbitration.

He has served on several WTO dispute settlement panels, including US — FSC, Canada — Aircraft Credits and Guarantees, and EC — Trademarks and Geographical Indications. He has also served as Chairman or Member of several arbitral tribunals dealing with commercial matters. In 2009, he was appointed by the International Chamber of Commerce (ICC) as a Member of the International Court of Arbitration.

Professor Chang began his professional academic career at the Seoul National University School of Law in 1995, and was awarded professorial tenure in 2002. He has taught international trade law and, in particular WTO dispute settlement, at more than ten foreign law schools, including Harvard Law School, Yale Law School, Stanford Law School, New York University, Duke Law School, and Georgetown University. In 2007, Harvard Law School granted him an endowed visiting professorial chair title, Nomura Visiting Professor of International Financial Systems.

In addition, Professor Chang previously served as a Seoul District Court judge, handling many cases involving international trade disciplines. He also practiced as a foreign attorney at an international law firm in Washington D.C., handling international trade matters, including trade remedies and WTO-related disputes.

Professor Chang has published many books and articles in the field of International Trade Law in internationally-recognized journals. In addition, he serves as an Editorial or Advisory Board Member of the *Journal of International Economic Law* (Oxford University Press) and the *Journal of International Dispute Settlement* (Oxford University Press).

Professor Chang holds a Bachelor of Laws degree (LL.B.) and a Master of Laws degree (LL.M.) from Seoul National University School of Law; and a Master of Laws degree (LL.M.) as well as a Doctorate in International Trade Law (S.J.D.) from Harvard Law School.

## **Thomas R. Graham**

Born in the United States on 23 November 1942, Thomas R. Graham is Senior Counsel in the International Trade Group of the King & Spalding law firm where he represents respondents in non-U.S. trade remedy cases, negotiates the settlement of disputes, assists in WTO dispute settlement proceedings, and heads the practice's committee on long-term planning and development.

Prior to joining King & Spalding, Mr. Graham served for several years as the deputy head of the International Group of Skadden, Arps, Slate, Meagher & Flom, and participated in the firm's transition from a U.S. law firm to a global one.

In private law practice, Mr. Graham has participated in trade remedy proceedings, often collaborating with local counsel and national authorities in various countries to develop legal interpretations of laws and regulations consistent with GATT/WTO agreements, and negotiating the resolution of international trade disputes.

Mr. Graham served as Deputy General Counsel in the Office of the U.S. Trade Representative where he was instrumental in the negotiation of the Tokyo Round Agreement on Technical Barriers to Trade and where he represented the U.S. Government in dispute settlement proceedings under the GATT.

Earlier in his career, Mr. Graham spent three years in Geneva as a Legal Officer at the United Nations.

Mr. Graham taught for many years at the Georgetown Law Center as an adjunct professor. He has written several articles and monographs on international trade law and policy as a Guest Scholar at the Brookings Institution, and as a Senior Associate at the Carnegie Endowment for International Peace.

Mr. Graham holds a BA in International Relations and Economics from Indiana University and a J.D. from Harvard Law School.

### **Ricardo Ramírez Hernández**

Born in Mexico on 17 October 1968, Ricardo Ramírez is Counsel and Head of the International Trade Practice for Latin America at the law firm of Chadbourne & Parke in Mexico City. His practice has focused on issues related to NAFTA and trade across Latin America, including international trade dispute resolution. He holds the Chair of International Trade Law at the Mexican National University (UNAM) in Mexico City.

Prior to practicing with a law firm, Mr. Ramírez was Deputy General Counsel for Trade Negotiations of the Ministry of Economy in Mexico for more than a decade. In this capacity, he provided advice on trade and competition policy matters related to 11 Free Trade Agreements signed by Mexico, as well as with respect to multilateral agreements, including those related to the WTO, the Free Trade Area of the Americas (FTAA), and the Latin American Integration Association (ALADI).

Mr. Ramírez also represented Mexico in complex international trade litigation and investment arbitration proceedings. He acted as lead counsel to the Mexican government in several WTO disputes. He has also served on NAFTA panels.

Mr. Ramírez holds an LL.M. degree in International Business Law from the Washington College of Law of the American University, and a law degree from the Universidad Autónoma Metropolitana.

### **David Unterhalter**

Born in South Africa on 18 November 1958, David Unterhalter holds degrees from Trinity College, Cambridge, the University of the Witwatersrand, and University College Oxford. David Unterhalter has been a Professor of Law at the University of the Witwatersrand in South Africa since 1998, and from 2000 – 2006, he was the Director of the Mandela Institute, University of the Witwatersrand, an institute focusing upon global law.

Mr. Unterhalter is a member of the Johannesburg Bar; as a practicing advocate he has appeared in a large number of cases in the fields of trade law, competition law, constitutional law, and commercial law. His experience includes representing different parties in anti-dumping and countervailing duty cases. He has acted as an advisor to the South African Department of Trade and Industry. In addition, he has served on a number of WTO dispute settlement panels.

Mr. Unterhalter has published widely in the fields of public law and competition law.

### **Peter Van den Bossche**

Born in Belgium on 31 March 1959, Peter Van den Bossche is currently Professor of International Economic Law and Head of the Department of International and European Law at Maastricht University, the Netherlands. He also serves as the Academic Director of Maastricht University's Institute for

Globalization and International Regulation and is on the faculty of the World Trade Institute in Berne, and the Institute of European Studies of Macau.

Mr. Van den Bossche has extensive experience in academia and has published extensively in the field of international economic law. The second edition of his textbook *The Law and Policy of the World Trade Organization* was published by Cambridge University Press in 2008. Mr. Van den Bossche is a Member of the Board of Editors of the *Journal of International Economic Law*. He has also acted as a consultant to many developing countries.

From 1997 to 2001, Mr. Van den Bossche was Counsellor and subsequently Acting Director of the WTO Appellate Body Secretariat. From 1990 to 1992, he served as a *Référéndaire* of Advocate General W. van Gerven at the European Court of Justice in Luxembourg.

Mr. Van den Bossche holds a Doctorate in Law from the European University Institute, Florence, an LL.M. from the University of Michigan Law School, and a *Licentiaat in de Rechten magna cum laude* from the University of Antwerp.

### **Yuejiao Zhang**

Born in China on 25 October 1944, Ms. Yuejiao Zhang is Professor of Law at Shantou University in China. She is an Arbitrator on China's International Trade and Economic Arbitration Commission and practices law as a private attorney. Ms. Zhang also serves as Vice President of China's International Economic Law Society.

Between 1998 and 2004, Ms. Zhang held various positions at the Asian Development Bank. Prior to this, Ms. Zhang held several positions in government and academia in China, including as Director-General of Law and Treaties at the Ministry of Foreign Trade and Economic Cooperation (1984-1997) where she was involved in drafting many of China's trade laws, such as the Foreign Trade Law, the Anti-Dumping Regulation and the Anti-Subsidy Regulation.

From 1987 to 1996, Ms. Zhang was one of China's chief negotiators on intellectual property and was involved in the preparation of China's patent law, trade mark law, and copyright law. She also served as the chief legal counsel for China's GATT resumption and WTO accession. Between 1982 and 1985, Ms. Zhang worked as legal counsel at the World Bank.

Ms. Zhang was a Member of UNIDROIT from 1987-1999. She has a Bachelor of Arts from China High Education College and a Master of Laws from Georgetown University Law

Source: [http://www.wto.org/english/tratop\\_e/dispu\\_e/appellate\\_body\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm)

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## Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following websites:

The USTR home page: <http://www.ustr.gov>

The WTO home page: <http://www.wto.org>

U.S. submissions are available electronically on the WTO website using Documents Online, which can retrieve an electronic copy by the “document symbol”. Electronic copies of U.S. submissions are also available at the USTR website.

Examples of information available on the WTO home page include:

### Descriptions of the Structure and Operations of the WTO, such as:

- WTO Organizational Chart
- Membership
- Biographic backgrounds
- General Council activities

### WTO News, such as:

- Status of dispute settlement cases
- Trade Policy Review Mechanism reports on individual Members’ trade practices
- Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others
- Schedules of future WTO meetings

### Resources including Official Documents, such as:

- Notifications required by the Uruguay Round Agreements
- On-line document database where one can find and download official documents
- Working Procedures for Appellate Review
- Legal Texts of the WTO agreements
- Special Studies on key WTO issues
- WTO Annual Reports

### Community/Fora, such as:

- Media and NGOs
- General public news and chat rooms
- Facebook
- YouTube
- Twitter
- Flickr
- Google+
- Pinterest

### Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, other topics
- Disputes and Dispute Reports

WTO publications may be ordered directly from the following sources:

1. The World Trade Organization  
Publications Services  
Centre William Rappard  
154 rue de Lausanne 154  
Geneva, Switzerland

Tel: (41-22) 739 51 05  
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## **ANNEX III**



# U.S. TRADE-RELATED AGREEMENTS AND DECLARATIONS

## I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

### Multilateral and Plurilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (WTO) (signed April 15, 1994), the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993, and subsequent WTO agreements.
  - a. Multilateral Agreements on Trade in Goods
    - i. General Agreement on Tariffs and Trade 1994
    - ii. Agreement on Agriculture
    - iii. Agreement on the Application of Sanitary and Phytosanitary Measures
    - iv. Agreement on Technical Barriers to Trade
    - v. Agreement on Trade-Related Investment Measures
    - vi. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
    - vii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
    - viii. Agreement on Preshipment Inspection
    - ix. Agreement on Rules of Origin
    - x. Agreement on Import Licensing Procedures
    - xi. Agreement on Subsidies and Countervailing Measures
    - xii. Agreement on Safeguards
  - b. General Agreement on Trade in Services (GATS)
    - i. Fourth Protocol to the GATS (Basic Telecommunication Services) (February 5, 1998)
    - ii. Fifth Protocol to the GATS (Financial Services) (March 1, 1999)
  - c. Agreement on Trade-Related Aspects of Intellectual Property Rights
  - d. Plurilateral Trade Agreements
    - i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended in 1986)
    - ii. Agreement on Government Procurement (April 15, 1994)
- WTO Ministerial Declaration on Trade in Information Technology Products (Information Technology Agreement (ITA)) (March 26, 1997)
- International Tropical Timber Agreement (successor to the 1994 International Tropical Timber Agreement, December 7, 2011)

- International Coffee Agreement 2007 (successor to the 2001 International Coffee Agreement; entered into force February 2, 2011)
- North American Free Trade Agreement (January 1, 1994)
  - i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)
  - ii. Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)
  - iii. Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)
  - iv. Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)
  - v. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (November 27, 2002)
  - vi. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 8, 2004)
  - vii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (March 8, 2006)
  - viii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 11, 2008)
  - ix. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 9, 2009)
- North American Agreement on Environmental Cooperation (January 1, 1994)
- North American Agreement on Labor Cooperation (January 1, 1994)
- Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea (June 10, 1999)
- Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)
- The Dominican Republic-Central America-United States Free Trade Agreement (Costa Rica (January 1, 2009); the Dominican Republic (March 1, 2007); El Salvador (March 1, 2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006))
  - i. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Article 22.5 (March 29, 2006)
  - ii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Textiles Matters (August 15, 2008)
  - iii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Guatemala Tariffs on Beer (February 4, 2009)
- Agreement Establishing a Secretariat for Environmental Matters Under the Dominican Republic-Central America-United States Free Trade Agreement (August 25, 2006)
- Agreement on Duty-Free Treatment of Multi-Chips Integrated Circuits (MCPs) (January 18, 2006) (Korea, Taiwan, Japan, European Union, and the United States)
- Agreement on Requirements for Wine Labeling (January 23, 2007) (Australia, Argentina, Canada, Chile, New Zealand, and the United States)

## **Bilateral Agreements**

### **Albania**

- Agreement on Bilateral Trade Relations (May 14, 1992)
- Bilateral Investment Treaty (January 4, 1998)

### **Argentina**

- Private Courier Mail Agreement (May 25, 1989)
- Bilateral Investment Treaty (October 20, 1994)

### **Armenia**

- Agreement on Bilateral Trade Relations (April 7, 1992)
- Bilateral Investment Treaty (March 29, 1996)

### **Australia**

- Settlement on Leather Products Trade (November 25, 1996)
- Understanding on Automotive Leather Subsidies (June 20, 2000)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 19, 2002)
- United States-Australia Free Trade Agreement (January 1, 2005)

### **Azerbaijan**

- Agreement on Bilateral Trade Relations (April 21, 1995)
- Bilateral Investment Treaty (August 2, 2001)

### **Bahrain**

- Bilateral Investment Treaty (May 30, 2001)
- United States-Bahrain Free Trade Agreement (August 1, 2006)

### **Bangladesh**

- Bilateral Investment Treaty (July 25, 1989)

### **Belarus**

- Agreement on Bilateral Trade Relations (February 16, 1993)

### **Bolivia**

- Bilateral Investment Treaty (June 6, 2001)

## **Brazil**

- Memorandum of Understanding Between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)
- Memorandum of Understanding Between the Government of the United States of America and the Government of the Federative Republic of Brazil Regarding a Fund for Technical Assistance and Capacity Building with Respect to the Cotton Dispute (WT/DS267) in the World Trade Organization (April 20, 2010)
- Framework for Mutually Agreed Solution to the Cotton Dispute in the World Trade Organization (WT/DS267) (June 25, 2010)
- Exchange of Letters between the United States and Brazil Regarding Certain Distinctive Products (April 9, 2012)

## **Bulgaria**

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994; amended January 1, 2007)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

## **Cambodia**

- Agreement between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)

## **Cameroon**

- Bilateral Investment Treaty (April 6, 1989)

## **Canada**

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)
- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)

- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 17, 2002)
- Agreement to Implement Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 28, 2003)
- United States-Canada Understanding on Implementation of the Decision of the WTO General Council of August 30, 2003, on “Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health” as Interpreted by the Accompanying Statement of the Chairman of the General Council of the Same Date (July 16, 2004)
- Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada (SLA 2006) (October 12, 2006; extended January 23, 2012)
- Technical Arrangement between the United States and Canada concerning Trade in Potatoes (November 1, 2007)
- Agreement Between the Government of the United States and the Government of Canada on Government Procurement (February 16, 2010)

## **Chile**

- United States-Chile Free Trade Agreement (January 1, 2004)
- United States-Chile Agreement on Accelerated Tariff Elimination (November 14, 2008)
- United States-Chile Agreement on Trade in Table Grapes (November 21, 2008)
- United States-Chile Agreement on Beef Grade Labeling (March 26, 2009)
- United States-Chile Exchange of Letters on Chapter 17 of United States-Chile Free Trade Agreement (March 17, 2011)

## **China**

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Agreement on Trade Relations between the United States of America and the People’s Republic of China (February 1, 1980)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)
- Report on China’s Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)

- Bilateral Agriculture Agreement (April 10, 1999)
- Memorandum of Understanding between China and the United States Regarding China's Value-Added Tax on Integrated Circuits (July 14, 2004)
- Memorandum of Understanding between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products (November 8, 2005)
- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Granting Refunds, Reductions, or Exemptions from Taxes or Other Payments (November 29, 2007)
- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Affecting Foreign Suppliers of Financial Information Services (November 13, 2008)
- Memorandum of Understanding between the People's Republic of China and the United States of America Regarding Films for Theatrical Release (April 25, 2012)

### **Colombia**

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)
- Exchange of Letters between the United States and Colombia on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (February 27, 2006)
- Exchange of Letters between the United States and Colombia on Beef Sanitary and Phyto-sanitary Issues (August 21, 2006)
- Exchange of Letters between United States and Colombia on Control Measures on Avian Influenza (April 15, 2012)
- Exchange of Letters between United States and Colombia on Control Measures on Salmonella in Poultry and Poultry Products (April 15, 2012)
- Exchange of Letters between United States and Colombia on Phytosanitary Measures for Paddy Rice (April 15, 2012)
- United States-Colombia Trade Promotion Agreement (May 15, 2012)

### **Congo, Democratic Republic of the (formerly Zaire)**

- Bilateral Investment Treaty (July 28, 1989)

### **Congo, Republic of the**

- Bilateral Investment Treaty (August 13, 1994)

### **Costa Rica**

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

### **Croatia**

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)

- Bilateral Investment Treaty (June 20, 2001)

### **Czech Republic**

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

### **Dominican Republic**

- Exchange of Letters on Trade in Textile and Apparel Goods (October 21, 2006)

### **Ecuador**

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

### **Egypt**

- Bilateral Investment Treaty (June 27, 1992)

### **Estonia**

- Bilateral Investment Treaty (February 16, 1997; amended May 1, 2004)

### **European Economic Area – European Free Trade Association (EEA EFTA States – Norway, Iceland, and Liechtenstein)**

- Agreement on Mutual Recognition between the United States of America and the EEA EFTA States Regarding Telecommunications Equipment, Electromagnetic Compatibility and Recreational Craft (March 1, 2006)
- Agreement between the United States of America and the EEA EFTA States on the Mutual Recognition of Certificates of Conformity for Marine Equipment (March 1, 2006)

### **European Union**

- Wine Accord (July 1983)
- Agreement for the Conclusion of Negotiations between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whiskey as Distinctive U.S. Products (March 28, 1994)

- Memorandum of Understanding on Government Procurement (April 15, 1994)
- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)
- Agreement on Mutual Recognition between the United States of America and the European Community (December 1, 1998)
- Agreement between the United States and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- Understanding on Bananas (April 11, 2001)
- Agreement between the United States of America and the European Community on the Mutual Recognition of Certificates of Conformity for Marine Equipment (July 1, 2004)
- Agreement in the Form of an Exchange of Letters between the United States and the European Community Relating to the Method of Calculation of Applied Duties for Husked Rice (June 30, 2005; retroactively effective March 1, 2005)
- Agreement between the United States and European Community on Trade in Wine (March 10, 2006)
- Agreement in the Form of an Exchange of Letters between the United States and the European Union pursuant to Article XXIV:6 and Article XXVIII of the GATT 1994 Relating to the Modification of Concessions in the Schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the Course of their Accession to the European Union (March 22, 2006)
- Joint Letter from the United States and the European Communities on implementation of GATS Article XXI procedures relating to the accession to the European Communities of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, the Slovak Republic, Finland, and Sweden (August 7, 2006)

- Memorandum of Understanding Between the United States and European Commission Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied to Certain Products of the European Communities (May 13, 2009)
- Agreement on Trade in Bananas Between the United States of America and the European Union (January 24, 2013)
- Agreement in the Form of an Exchange of Letters Between the United States of America and the European Union Pursuant to Articles XXIV:6 and XXVIII of the GATT 1994 (July 1, 2013)

### **Georgia**

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

### **Grenada**

- Bilateral Investment Treaty (March 3, 1989)

### **Haiti**

- Exchange of Letters on Trade in Textile and Apparel Goods (September 18, 2008)

### **Hong Kong**

- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)
- Memorandum of Understanding between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

### **Honduras**

- Memorandum of Understanding on Worker Rights (November 15, 1995)
- Bilateral Investment Treaty (July 11, 2001)

### **Hungary**

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)

### **India**

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- Agreement on Intellectual Property Rights Protections (March 1993)
- Agreement on Import Restrictions (December 28, 1999)

- Agreement on Textile Tariff Bindings (September 15, 2000)

### **Indonesia**

- Conditions for Market Access for Films and Videos into Indonesia (April 19, 1992)
- Memorandum of Understanding with Indonesia Concerning Cooperation in Trade in Textile and Apparel Goods (September 26, 2006)

### **Israel**

- United States-Israel Free Trade Agreement (August 19, 1985)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters December 10, 2008)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 10, 2008; December 6, 2009; December 12, 2010; December 6, 2011; November 19, 2012; and November 26, 2013)
- Mutual Recognition Agreement between the Government of the United States of America and the Government of the State of Israel for Conformity Assessment of Telecommunications Equipment (December 12, 2013)

### **Jamaica**

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

### **Japan**

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Foreign Lawyers Agreement (February 27, 1987)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)
- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)

- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- United States-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)
- United States-Japan Framework for a New Economic Partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)
- United States-Japan Public Works Agreement (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)
- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- United States-Japan Insurance Agreement (December 24, 1996)
- Japan's Recognition of U.S.-Grade marked Lumber (January 13, 1997)
- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- United States-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)
- United States-Japan Agreement on Distilled Spirits (December 17, 1997)

- First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- United States-Japan Joint Report on Investment (April 28, 1999)
- Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- United States-Japan Agreement on NTT Procurement Procedures (July 1, 1999)
- Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- United States-Japan Economic Partnership for Growth (June 30, 2001)
- First Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)
- Second Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (May 23, 2003)
- Third Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 8, 2004)
- Fourth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (November 2, 2005)
- Fifth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 29, 2006)
- Sixth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 6, 2007)
- Agreement on Mutual Recognition of Results of Conformity Assessment Procedures between the United States of America and Japan (U.S.-Japan Telecom MRA) (January 1, 2008)
- Seventh Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 5, 2008)
- Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 6, 2009)
- Memorandum Between the Relevant Authorities of the United States and the Ministry of Health, Labour and Welfare of Japan Concerning Enforcement of Japan's Pesticide Maximum Residue Levels (July 28, 2009)
- Record of Discussion, U.S.-Japan Economic Harmonization Initiative (January 27, 2012)

### **Jordan**

- Agreement between the United States and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- Bilateral Investment Treaty (June 12, 2003)

### **Kazakhstan**

- Agreement on Bilateral Trade Relations (February 18, 1993)

- Bilateral Investment Treaty (January 12, 1994)
- United States-Kazakhstan Agreement Related to Certain Investment and Services Requirements (September 21, 2011)

## **Korea**

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)

- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)
- Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- Exchange of Letters on Data Protection (March 12, 2002)
- Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)
- Agreed Minutes on Fuel Economy and Greenhouse Gas Emissions Regulations (February 10, 2011)
- Agreed Minutes on Visa Validity Period (February 10, 2011)
- Exchange of Letters between the United States and Korea related to the United States-Korea Free Trade Agreement (February 10, 2011)
- United States-Korea Free Trade Agreement (March 15, 2012)

### **Kyrgyzstan**

- Agreement on Bilateral Trade Relations (May 8, 1992)
- Bilateral Investment Treaty (January 12, 1994)

### **Latvia**

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (November 26, 1996; amended May 1, 2004)
- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)

### **Lithuania**

- Bilateral Investment Treaty (November 22, 2001; amended May 1, 2004)

### **Laos**

- Bilateral Trade Agreement (February 4, 2005)

### **Macao**

- Memorandum of Understanding with Macao Concerning Cooperation in Trade in Textile and Apparel Goods (August 8, 2005)

## **Mexico**

- Agreement with Mexico on Tire Certification (March 8, 1996)
- Memorandum of Understanding between the United States and Mexico Regarding Areas of Food and Agriculture Trade (April 4, 2002)
- United States-Mexico Exchange of Letters Regarding Mexico's NAFTA Safeguard on Certain Poultry Products (July 24-25, 2003)
- Understanding Regarding the Implementation of the WTO Decision on Mexico's Telecommunications Services (June 1, 2004)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Tequila (January 17, 2006)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Cement (April 3, 2006)
- United States-Mexico Exchange of Letters Regarding Trade in Sweetener Goods (July 27, 2006)
- Bilateral Agreement on Customs Cooperation regarding Claims of Origin Under FTA Cumulation Provisions (January 26, 2007)
- Customs Cooperation Agreement with Mexico relating to Textiles Matters (August 15, 2008)
- Mutual Recognition Agreement between the Government of the United States of America and the Government of the United Mexican States for Conformity Assessment of Telecommunications Equipment (June 10, 2011)

## **Moldova**

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

## **Mongolia**

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)

## **Morocco**

- Bilateral Investment Treaty (May 29, 1991)
- United States-Morocco Free Trade Agreement (January 1, 2006)
- Agreement between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Customs Administration and Trade Facilitation (November 21, 2013)

## **Mozambique**

- Bilateral Investment Treaty (March 2, 2005)

## **Nicaragua**

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- Exchange of Letters on Trade in Textile and Apparel Goods (March 24, 2006)

## **Norway**

- Agreement on Procurement of Toll Equipment (April 26, 1990)

## **Oman**

- United States-Oman Free Trade Agreement (January 1, 2009)

## **Panama**

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)
- Agreement on Cooperation in Agricultural Trade (December 20, 2006)
- Agreement regarding Certain Sanitary and Phytosanitary Measures and Technical Standards Affecting Agricultural Products (December 20, 2006)
- United States-Panama Trade Promotion Agreement (October 31, 2012)
- Exchange of Letters Regarding Multiple Services Businesses (October 31, 2012)
- Exchange of Letters Regarding Beef and Beef Product Imports (March 27, 2013)
- Exchange of Letters on Free Trade Zones (October 2, 2013)

## **Peru**

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)
- Exchange of Letters on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (January 5, 2006)
- Additional Letter Exchange on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (April 10, 2006)
- United States-Peru Trade Promotion Agreement (February 1, 2009)

## **Philippines**

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)
- Memorandum of Understanding with the Philippines Concerning Cooperation in Trade in Textile and Apparel Goods (August 23, 2006)

## **Poland**

- Business and Economic Relations Treaty (August 6, 1994; amended May 1, 2004)

## **Romania**

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Bilateral Investment Treaty (January 15, 1994; amended January 1, 2007)

## **Russia**

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- Agreement on Russian Firearms & Ammunition (April 3, 1996; amended 2003)
- Protocol of the Negotiations between the Experts of Russia and the United States of America on the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Certain Types of Poultry, Beef and Pork (June 15, 2005; amended December 29, 2008)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Market Access for Beef and Beef By-Products (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Importation of Pork and Pork By-Products into the Russian Federation (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Inspection of Facilities for Exporting Pork and Poultry to the Russian Federation (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Agricultural Biotechnology (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Establishment of Import licensing Procedures for Imports of Goods Containing Encryption Technology (November 19, 2006)
- Exchange of Letters between the Government of the United States of America and the Government of the Russian Federation on Tariff Treatment of Certain Aircraft Imported Under Operational Lease (November 19, 2006)
- Exchange of Letters between the Ministry of Economic Development and Trade of the Russian Federation and the Office of the U.S. Trade Representative on Tariff Treatment of Certain Combine Harvester-Threshers and Self-Propelled Forage Harvesters (November 19, 2006)

- Letter on Market Access between the United States and the Russian Federation for Service Suppliers in Certain Energy Related Sectors (November 19, 2006)
- Letter on Market Access between the United States and the Russian Federation for Certain Insurance Firms (November 19, 2006)
- Bilateral Agreement on Verification of Pathogen Reduction Treatments and Resumption of Trade in Poultry (July 14, 2010)
- Bilateral Agreement on Pre-Notification Requirements Applied to Certain Imports of Meat Products from the United States (applied provisionally as of December 14, 2011)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Parts and Components of Motor Vehicles between the United States of America and the Russian Federation (July 12, 2013)

#### **Rwanda**

- Bilateral Investment Treaty (January 1, 2012)

#### **Senegal**

- Bilateral Investment Treaty (October 25, 1990)

#### **Singapore**

- Agreement on Intellectual Property Rights Protection (April 27, 1987)
- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 8, 2003)
- United States-Singapore Free Trade Agreement (January 1, 2004)

#### **Slovakia**

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

#### **Sri Lanka**

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Bilateral Investment Treaty (May 1, 1993)

#### **Suriname**

- Agreement on Bilateral Trade Relations (1993)

#### **Switzerland**

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

#### **Taiwan**

- Agreement on Customs Valuation (August 22, 1986)
- Agreement on Export Performance Requirements (August 1986)

- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)
- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- United States-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Market Access (February 20, 1998)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (March 16, 1999)
- Understanding on Government Procurement (August 23, 2001)
- Protocol of Bovine Spongiform Encephalopathy (BSE)-Related Measures for the Importation of Beef and Beef Products for Human Consumption from the Territory of the Authorities Represented by the American Institute in Taiwan (November 2, 2009)

#### **Tajikistan**

- Agreement on Bilateral Trade Relations (November 24, 1993)

#### **Thailand**

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)

#### **Trinidad and Tobago**

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

#### **Tunisia**

- Bilateral Investment Treaty (February 7, 1993)

#### **Turkey**

- Bilateral Investment Treaty (May 18, 1990)
- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

## **Turkmenistan**

- Agreement on Bilateral Trade Relations (October 25, 1993)

## **Ukraine**

- Agreement on Bilateral Trade Relations (June 23, 1992)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement between the Government of the United States of America and the Government of the Republic of Ukraine on Sanitary and Phytosanitary Measures (February 21, 2007)
- Agreement between the U.S. and the Ukraine on Export Duties on Ferrous and Non-Ferrous Scrap Metal (February 22, 2007)

## **Uruguay**

- Bilateral Investment Treaty (November 1, 2006)

## **Uzbekistan**

- Agreement on Bilateral Trade Relations (January 13, 1994)

## **Vietnam**

- Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)
- Copyright Agreement (June 27, 1997)
- Exchange of Letters on Equivalence of Food Safety Inspection Systems (May 31, 2006)
- Exchange of Letters on Beef (May 31, 2006)
- Exchange of Letters on Biotechnology (May 31, 2006)
- Exchange of Letters on Energy Services (May 31, 2006)
- Exchange of Letters on Elimination of Prohibited Subsidies to Textile and Garment Sector (May 31, 2006)
- Bilateral Agreement on Export Duties on Ferrous and Nonferrous Scrap Metals (May 31, 2006)
- Exchange of Letters on Shelf Life (May 31, 2006)
- Acceptance of U.S. Certificates for Exports of Poultry Meat and Meat Products (May 31, 2006)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (June 19, 2008)

## **II. Agreements That Have Been Negotiated, But Have Not Yet Entered Into Force**

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

### **Multilateral Agreements**

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- Anti Counterfeiting Trade Agreement (signed by the United States on October 1, 2011)
- World Trade Organization Agreement on Trade Facilitation (December 7, 2013)

### **Bilateral Agreements**

#### **Bangladesh**

- United States-Bangladesh Trade and Investment Cooperation Forum Agreement (signed November 25, 2013)

#### **Belarus**

- Bilateral Investment Treaty (signed January 15, 1994)

#### **El Salvador**

- Bilateral Investment Treaty (signed March 10, 1999)

#### **Estonia**

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

#### **Lithuania**

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

#### **Libya**

- United States-Libya Trade and Investment Framework Agreement (signed December 18, 2013)

#### **Mongolia**

- Agreement on Transparency in Matters Related to International Trade and Investment between the United States of America and Mongolia (signed September 24, 2013)

**Nicaragua**

- Bilateral Investment Treaty (signed July 1, 1995)

**Russia**

- Bilateral Investment Treaty (signed June 17, 1992)

**Uzbekistan**

- Bilateral Investment Treaty (signed December 16, 1994)

### **III. Other Trade-Related Agreements and Declarations**

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through December 2012. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property, and other issues among the signatories.

#### **Multilateral Agreements and Declarations**

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Asia Pacific Economic Cooperation
  - 1st Joint Ministerial Statement (November 6-7, 1989)
  - 2nd Joint Ministerial Statement (July 29-31, 1990)
  - 3rd Joint Ministerial Statement (November 12-14, 1991)
  - 4th Joint Ministerial Statement (September 10-11, 1992)
  - 5th Joint Ministerial Statement (November 17-19, 1993)
  - Leaders' Economic Vision Statement (November 20, 1993)
  - Ministers Responsible for Trade Statement (October 6, 1994)
  - 6th Joint Ministerial Statement (November 11-12, 1999)
  - Leaders' Declaration of Common Resolve (November 15, 1994)
  - 7th Joint Ministerial Statement (November 16-17, 1995)
  - Leaders' Declaration for Action (November 19, 1995)
  - Ministers Responsible for Trade Statement (July 15-16, 1996)
  - 8th Joint Ministerial Statement (November 22-23, 1996)
  - Leaders' Declaration: From Vision to Action (November 25, 1996)
  - Ministers Responsible for Trade Statement (May 8-10, 1997)
  - 9th Joint Ministerial Statement (November 21-22, 1997)
  - Leaders' Declaration on Connecting the APEC Community (November 25, 1997)

- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- Ministers Responsible for Trade Statement (June 22-23, 1998)
- 10th Joint Ministerial Statement (November 14-15, 1998)
- Leaders' Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Ministers Responsible for Trade Statement (June 29-30, 1999)
- 11th Joint Ministerial Statement (September 9-10, 1999)
- Leaders' Declaration: The Auckland Challenge (September 13, 1999)
- Ministers Responsible for Trade Statement (June 6-7, 2000)
- 12th Joint Ministerial Statement (November 12-13, 2000)
- Leaders' Declaration: Delivering to the Community (November 16, 2000)
- Ministers Responsible for Trade Statement (June 6-7, 2001)
- 13th Joint Ministerial Statement (October 17-18, 2001)
- Leaders' Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- Ministers Responsible for Trade Statement (May 29-30, 2002)
- 14th Joint Ministerial Statement (October 23-24, 2002)
- Leaders' Declaration: Expanding the Benefits of Cooperation for Economic Growth and Development - Implementing the Vision (October 27, 2002)
- Ministers Responsible for Trade Statement (June 2-3, 2003)
- 15th Joint Ministerial Statement (October 17-18, 2003)
- Declaration: A World of Differences - Partnership for the Future (October 21, 2003)
- Ministers Responsible for Trade Statement (June 4-5, 2004)
- 16th Joint Ministerial Statement (November 17-18, 2004)
- Leaders' Declaration: One Community, Our Future (November 20-21, 2004)
- Ministers Responsible for Trade Statement (June 2-3, 2005)
- 17th Joint Ministerial Statement (November 15-16, 2005)
- Leaders' Declaration: Towards One Community: Meet the Challenge, Make the Change (November 18-19, 2005)
- Ministers Responsible for Trade Statement (June 1-2, 2006)

- 18th Joint Ministerial Statement (November 15-16, 2006)
- Leaders' Declaration: Towards a Dynamic Community for Sustainable Development and Prosperity (November 18-19, 2006)
- Ministers Responsible for Trade Statement (July 5-6, 2007)
- 19th Joint Ministerial Statement (September 5-6, 2007)
- Leaders' Declaration: Strengthening our Community, Building a Sustainable Future (September 9, 2007)
- Ministers Responsible for Trade Statement (May 31-June 1, 2008)
- 20th Joint Ministerial Statement (November 19-20, 2008)
- Leaders' Declaration: A New Commitment to Asia-Pacific Development (November 22-23, 2008)
- Ministers Responsible for Trade Statement (July 21-22, 2009)
- 21st Joint Ministerial Statement (November 11-12, 2009)
- Leaders' Declaration: Sustaining Growth, Connecting The Region (November 14-15, 2009)
- Ministers Responsible for Trade Statement (June 5-6, 2010)
- 22nd Joint Ministerial Statement (November 10-11, 2010)
- Leaders' Declaration: The Yokohama Vision - Bogor and Beyond (November 13-14, 2010)
- Ministers' Responsible for Trade Statement (May 19-20, 2011)
- 23rd Joint Ministerial Statement (November 11, 2011)
- Leaders' Declaration: Toward a Seamless Regional Economy (November 12-13, 2011)
- Ministers' Responsible for Trade Statement (June 4-5, 2012)
- 24th Joint Ministerial Statement (September 5-6, 2012)
- Leaders' Declaration: Integrate to Grow, Innovate to Prosper (September 8-9, 2012)
- Ministers' Responsible for Trade Statement (April 20-21, 2013)
- 25th Joint Ministerial Statement (October 5, 2013)
- Leaders' Declaration: Resilient Asia-Pacific, Engine of Global Growth (October 8, 2013)
- Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)

- United States-Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)
- World Wine Trade Group Memorandum of Understanding on Certification Requirements (October 20, 2011)

## **Bilateral Agreements and Declarations**

### **Afghanistan**

- United States-Afghanistan Trade and Investment Framework Agreement (September 21, 2004)
- Memorandum of Understanding on Joint Efforts to Enable the Economic Empowerment of Women and to Promote Women's Entrepreneurship (June 16, 2013)

### **Algeria**

- United States-Algeria Trade and Investment Framework Agreement (July 13, 2001)

### **Angola**

- United States-Angola Trade and Investment Framework Agreement (May 19, 2009)

### **Argentina**

- Bilateral Council on Trade and Investment (February 2002)

### **Association of Southeast Asian Nations (ASEAN)**

- United States-ASEAN Trade and Investment Framework Agreement (August 5, 2006)

### **Bolivia**

- Agreement between the Government of the United States of America and the Government of the Republic of Bolivia concerning a United States-Bolivia Council on Trade and Investment (May 8, 1990)

### **Brazil**

- United States-Brazil Agreement on Trade and Economic Cooperation (March 19, 2011)

### **Brunei Darussalam**

- United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

### **Burma**

- United States-Myanmar Trade and Investment Framework Agreement (2013)

## **Cambodia**

- United States-Cambodia Trade and Investment Framework Agreement (July 14, 2006)

## **Canada**

- The Canada-U.S. Organic Equivalence Arrangement (June 17, 2009)

## **Caribbean Community (CARICOM)**

- United States-CARICOM Trade and Investment Framework Agreement (2013)

## **Central Asian Economies**

- United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

## **China**

- United States-China Joint Commission on Commerce and Trade Agreements (April 21, 2004)
- United States-China Joint Commission on Commerce and Trade Agreements (July 11, 2005)
- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (May 5, 2008)

## **Common Market for Eastern and Southern Africa**

- United States-Common Market for Eastern and Southern Africa Trade and Investment Framework Agreement (October 2001)

## **East African Community**

- United States-East African Community Trade and Investment Framework Agreement (July 16, 2008)

## **Ecuador**

- Agreement between the Government of the United States of America and the Government of the Republic of Ecuador concerning a United States-Ecuador Council on Trade and Investment (July 23, 1990)

## **Egypt**

- United States-Egypt Trade and Investment Framework Agreement (July 1, 1999)

## **European Union**

- United States-EU Transatlantic Economic Partnership (May 18, 1998)
- United States-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)
- Decision to Establish the U.S.-EU High Level Working Group on Jobs and Growth, Joint Statement of the U.S.-EU Summit (November 28, 2010)

- The EU - U.S. Organic Equivalence Cooperation Arrangement (February 15, 2012)

### **Georgia**

- United States-Georgia Trade and Investment Framework Agreement (June 20, 2007)

### **Ghana**

- United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

### **Gulf Cooperation Council**

- Framework Agreement for Trade, Economic, Investment and Technical Cooperation (signed September 25, 2012)

### **Iceland**

- United States-Iceland Trade and Investment Cooperation Forum Agreement (January 15, 2009)

### **India**

- United States-India Trade Policy Forum , Framework for Cooperation on Trade and Investment (March 17, 2010)

### **Indonesia**

- United States-Indonesia Understanding on a Trade and Investment Council (July 16, 1996)
- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 16, 2006)

### **Israel**

- Understanding regarding Israel's intellectual property regime for pharmaceutical products (February 18, 2010)

### **Iraq**

- United States-Iraq Trade and Investment Framework Agreement (July 11, 2005)

### **Japan**

- United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)
- Exchange of Letters between the United States and Japan—Letters Regarding Electro-Magnetic Compatibility (EMC) Testing of Unintentional Radiators and Industrial Scientific and Medical (ISM) Equipment (February 26, 2007)
- Requirements for Beef and Beef Products to be Exported to Japan from the United States of America (January 25, 2013)
- United States-Japan Organic Equivalency Arrangement (September 26, 2013)

**Kuwait**

- United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

**Lebanon**

- United States-Lebanon Trade and Investment Framework Agreement (November 30, 2006)

**Liberia**

- United States-Liberia Trade and Investment Framework Agreement (February 15, 2007)

**Malaysia**

- United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)

**Maldives**

- United States-Maldives Trade and Investment Framework Agreement (October 17, 2009)

**Mauritius**

- United States-Mauritius Trade and Investment Framework Agreement (September 18, 2006)
- United States-Mauritius Trade Principles for Information and Communication Technology Services (June 18, 2012)

**Mongolia**

- United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

**Morocco**

- Kingdom of Morocco-United States Trade Principles for Information and Communication Technology Services (December 5, 2012)
- Statement of Principles for International Investment (December 5, 2012)

**Mozambique**

- United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

**Nepal**

- United States-Nepal Trade and Investment Framework Agreement (April 15, 2011)

**New Zealand**

- United States-New Zealand Trade and Investment Framework Agreement (October 2, 1992)

**Nigeria**

- United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

## **Oman**

- United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

## **Pakistan**

- United States-Pakistan Trade and Investment Framework Agreement (June 25, 2003)

## **Paraguay**

- Joint Commission on Trade and Investment (September 26, 2003)

## **Philippines**

- United States-Philippines Trade and Investment Framework Agreement (1989)
- United States-Philippines Trade and Investment Framework Agreement Protocol Concerning Customs Administration and Trade Facilitation (November 13, 2011)

## **Qatar**

- United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

## **Rwanda**

- United States-Rwanda Trade and Investment Framework Agreement (June 7, 2006)

## **Saudi Arabia**

- United States-Saudi Arabia Trade and Investment Framework Agreement (July 31, 2003)

## **South Africa**

- United States-South Africa Agreement Concerning the Development of Trade and Investment (June 18, 2012)

## **Southern Africa Customs Union**

- United States-Southern Africa Customs Union Trade, Investment, and Development Cooperative Agreement (July 16, 2008)

## **Sri Lanka**

- United States-Sri Lanka Trade and Investment Framework Agreement (July 25, 2002)

## **Switzerland**

- United States-Switzerland Trade and Investment Cooperation Forum Agreement (May 25, 2006)

## **Taiwan**

- United States-Taiwan Trade and Investment Framework Agreement (September 19, 1994)

## **Thailand**

- United States-Thailand Trade and Investment Framework Agreement (October 23, 2002)

## **Tunisia**

- United States-Tunisia Trade and Investment Framework Agreement (October 2, 2002)

## **Turkey**

- United States-Turkey Trade and Investment Framework Agreement (September 29, 1999)

## **Ukraine**

- United States-Ukraine Trade and Investment Cooperation Agreement (March 28, 2008)

## **United Arab Emirates (UAE)**

- United States-United Arab Emirates Trade and Investment Framework Agreement (March 15, 2004)

## **Uruguay**

- United States-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)
- Joint Commission on Trade and Investment (January 25, 2007)
- United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)
  - i United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade and Environment Public Participation (October 2, 2008)
  - ii United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade Facilitation (October 2, 2008)

## **Vietnam**

- United States-Vietnam Trade and Investment Framework Agreement (June 21, 2007)

## **West African Economic and Monetary Union**

- United States-West African Economic and Monetary Union Trade and Investment Framework Agreement (April 24, 2002)

## **Yemen**

- United States-Yemen Trade and Investment Framework Agreement (February 6, 2004)