THE 2016 NATIONAL TRADE ESTIMATE REPORT

Trade policy done right bolsters the United States economy and reinforces our global leadership. That's why President Obama has pursued a trade agenda that promotes economic growth, supports high-paying American jobs, and strengthens the middle class – because we know that when the playing field is level, our workers and businesses can compete – and win – in the global economy.

The United States already has one of the world's most open economies. But not all countries are playing by the same rules, and all too often, our workers and businesses face significant obstacles when they export their goods and services abroad. Opening foreign markets through smart, high-standard trade agreements – and enforcing our existing agreements to ensure that other countries live up to their commitments – is how we can level that playing field and make trade deliver for the American middle class.

The 2016 National Trade Estimate (NTE) plays a vital role in our efforts to open overseas markets for our businesses and workers by identifying and cataloguing the challenges American exporters face worldwide. The NTE covers 63 economies – from China, Japan, and the European Union to India, Brazil, South Africa and more– and addresses thousands of particular issues in specific markets, from technical barriers to trade affecting U.S. auto exports and limits on the flow of digital data to steel overcapacity, conformity assessment procedures and local-content rules. Cataloguing these barriers helps to facilitate efforts to resolve them. And of course, the Administration continues to work with Congress and stakeholders to address trade barriers and policy issues as they emerge, whether or not if they are included in the NTE, including ongoing issues that have been raised in the context of U.S. trade agreements.

The status quo is that our workers and businesses face high tariffs and other complex barriers in many foreign markets. They compete against workers in some countries that do not protect even the most basic labor rights. And they are competing against companies that get subsidies or other preferential treatment from their governments, or that are not required to maintain strong environmental protections. The question is, what do we do about it? Do we accept this status quo, or do we actively work to change it?

The Obama Administration has demonstrated a commitment to shape the global trading system to reflect our interests and our values, leveling the playing field for American workers and businesses.

<u>We have worked tirelessly to tear down barriers to Made-in-America exports</u>.

- We successfully concluded the Trans-Pacific Partnership, which will eliminate over 18,000 foreign taxes on U.S. exports. Adding up all these gains for American workers and businesses, the Peterson Institute for International Economics finds passage of the TPP this year offers the United States and its workers the prospect of an additional $357 billion in annual exports and $131 billion in annual national income by 2030.

- We are forging ahead with negotiations for a high-standard Transatlantic Trade and Investment Partnership with the EU, as part of an effort to strengthen the largest trade and investment relationship in the world.

- We are seeking to conclude the Environmental Goods Agreement to reduce tariffs on environmental technologies like wind turbines and solar water heaters.

- We are pursuing the Trade in Services Agreement to create new opportunities for U.S. exporters in an industry where the United States is a global leader.

- We successfully concluded the Trade Facilitation Agreement, the first multilateral trade agreement in the WTO's 20-year history, which will improve efficiency, reduce costs, and ease exports for our businesses and workers.

- We finalized expansion of the Information Technology Agreement to eliminate tariffs and expand exports of information and communication technology goods.

- We worked with Congress to secure passage of free trade agreements with Korea, Colombia and Panama.

President Obama has also made trade enforcement a key part of our strategy for opening markets for U.S. exports, and we have put in place a robust and strategic trade enforcement program.

Since 2009, the Administration has filed 20 complaints at the WTO – more than any other WTO Member during this period – and has won every case decided to date. We have focused on systemic barriers in key strategic markets for our exporters, including China, India, the EU, Argentina, and the Philippines. This has included significantly increasing the rate of cases against China, winning all seven cases decided to date and reaching a favorable settlement in an eighth.

The NTE report has helped focus these enforcement efforts: for example, an earlier version of this report identified Chinese export quotas and other restraints on products like rare earths, tungsten, silicon, and other essential industrial inputs. Following U.S. victories in WTO disputes on these issues, in 2013 China in removed export restraints on an array of products of particular interest to U.S. steel, aluminum, and chemicals industries, and in 2015 announced the elimination of export restraints on rare earths, tungsten, and molybdenum. These victories helped level the playing field for U.S. workers and businesses that manufacture downstream products in the steel, aluminum and chemical sectors

This report is both a guide to the significant barriers our exporters face in foreign markets, and a case study in the value of President Obama's strategy of opening markets, enforcing rights, and using trade policy to help promote growth and support better jobs for Americans. Together, those features help underscore that American leadership on trade is more important than ever.

Amb. Michael B.G. Froman
U.S. Trade Representative

2016 National Trade Estimate Report on
FOREIGN TRADE BARRIERS

Ambassador Michael B.G. Froman
Office of the United States Trade Representative

LIST OF FREQUENTLY USED ACRONYMS AND ABBREVIATIONS

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
TPP	Trans-Pacific Partnership
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Intellectual Property Rights
T-TIP	Transatlantic 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

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FOREWORD

SCOPE AND COVERAGE

The 2016 National Trade Estimate Report on Foreign Trade Barriers (NTE) is the 31st in an annual series that highlights significant foreign barriers to U.S. exports. This document is a companion piece to the President's Trade Policy Agenda published by USTR in March.

In accordance with section 181 of the Trade Act of 1974, as added by section 303 of the Trade and Tariff Act of 1984 and amended by section 1304 of the Omnibus Trade and Competitiveness Act of 1988, section 311 of the Uruguay Round Trade Agreements Act, and section 1202 of the Internet Tax Freedom Act, the Office of the U.S. Trade Representative is required to submit to the President, the Senate Finance Committee, and appropriate committees in the House of Representatives, an annual report on significant foreign trade barriers. The statute requires an inventory of the most important foreign barriers affecting U.S. exports of goods and services, foreign direct investment by U.S. persons, and protection of intellectual property rights. Such an inventory enhances awareness of these trade restrictions and facilitates negotiations aimed at reducing or eliminating these barriers.

This report is based upon information compiled within USTR, the Departments of Commerce and Agriculture, and other U.S. Government agencies, and supplemented with information provided in response to a notice published in the *Federal Register*, and by members of the private sector trade advisory committees and U.S. Embassies abroad.

Trade barriers elude fixed definitions, but may be broadly defined as government laws, regulations, policies, or practices that either protect domestic goods and services from foreign competition, artificially stimulate exports of particular domestic goods and services, or fail to provide adequate and effective protection of intellectual property rights.

This report classifies foreign trade barriers into ten different categories. These categories cover government-imposed measures and policies that restrict, prevent, or impede the international exchange of goods and services. The categories covered include:

- Import policies (*e.g.*, tariffs and other import charges, quantitative restrictions, import licensing, customs barriers, and other market access barriers);
- Sanitary and phytosanitary measures and technical barriers to trade;
- Government procurement (*e.g.*, "buy national" policies and closed bidding);
- Export subsidies (*e.g.*, export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);
- Lack of intellectual property protection (*e.g.*, inadequate patent, copyright, and trademark regimes and enforcement of intellectual property rights);
- Services barriers (*e.g.*, limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of foreign data processing, and barriers to the provision of services by foreign professionals);

- Investment barriers (*e.g.*, limitations on foreign equity participation and on access to foreign government-funded research and development programs, local content requirements, technology transfer requirements and export performance requirements, and restrictions on repatriation of earnings, capital, fees and royalties);

- Government-tolerated anticompetitive conduct of state-owned or private firms that restricts the sale or purchase of U.S. goods or services in the foreign country's markets;

- Trade restrictions affecting electronic commerce (*e.g.*, tariff and nontariff measures, burdensome and discriminatory regulations and standards, and discriminatory taxation); and

- Other barriers (barriers that encompass more than one category, *e.g.*, bribery and corruption,[i] or that affect a single sector).

Pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, USTR annually reviews the operation and effectiveness of U.S. telecommunications trade agreements. The USTR makes a determination on whether any foreign government that is a party to one of those agreements is failing to comply with that government's obligations or is otherwise denying, within the context of a relevant agreement, "mutually advantageous market opportunities" to U.S. telecommunication products or services suppliers.

The Section 1377 Review highlights both ongoing and emerging barriers to U.S. telecommunication services and goods exports, and identifies the most effective bilateral or multilateral fora to monitor, engage, and seek to overcome these barriers. In past years, the findings of the Section 1377 Review have been published along with the description of the foreign practices reviewed in a separate report. This year, USTR has streamlined the presentation of the 1377 Review by consolidating that information on foreign trade barriers into the NTE. This change allows USTR to describe in one comprehensive report all trade barriers concerning telecommunications services and goods along with related digital trade issues.

Barriers to trade in telecommunications services and goods can have outsized effects beyond the telecommunications sector because a large and growing segment of international trade is conducted digitally or otherwise depends on high quality telecommunications. The telecommunications trade barriers identified in this year's NTE include restrictions on cross-border data flows, foreign investment caps, limitations on competition, increased termination rates for international traffic, and restrictions on the supply of satellite services, as well as concerns about possible local content requirements and burdensome equipment standards and conformity assessment procedures. USTR works with foreign governments bilaterally and in multilateral fora to address these concerns and to forestall new obstacles to telecommunications trade.

The NTE continues to highlight the increasingly critical nature of standards-related measures (including testing, labeling and certification requirements) and sanitary and phytosanitary (SPS) measures to U.S. trade policy, to identify and call attention to problems and efforts to resolve them during the past year and to signal new or existing areas in which more progress needs to be made. Standards-related and SPS measures serve an important function in facilitating international trade, including by enabling small and medium sized enterprises (SMEs) to obtain greater access to foreign markets. Standards-related and SPS measures also enable governments to pursue legitimate objectives such as protecting human, plant, and animal health, the environment, and preventing deceptive practices. But standards-related and SPS measures that are nontransparent and discriminatory can act as significant barriers to U.S. trade. Such measures can pose a particular problem for SMEs, which often do not have the resources to address these problems on their own.

USTR will continue to identify, review, analyze, and address foreign government standards-related and SPS measures that affect U.S. trade. USTR coordinates rigorous interagency processes and mechanisms, through the Trade Policy Staff Committee and, more specifically, through specialized TBT and SPS subcommittees. These TPSC subcommittees, which include representatives from agencies with an interest in foreign standards-related and SPS measures, maintain an ongoing process of informal consultation and coordination on standards-related and SPS issues as they arise.

The United States actively engages with foreign governments to prevent unwarranted standards-related and SPS measures, and works to resolve specific trade concerns arising from standards-related and SPS measures. The WTO TBT Committee and the WTO SPS Committee are the principal multilateral fora for engagement on trade issues relating to standards-related and SPS measures. The mechanisms for cooperation on these measures in U.S. FTAs and Trade and Investment Framework Agreements (TIFAs) also play a vital role in facilitating U.S. efforts to prevent and resolve standards-related and SPS trade concerns. In addition, U.S. agencies seek to prevent potential standards-related and SPS trade barriers from emerging by engaging in multilateral, regional, and bilateral cooperative activities, information exchanges, technical assistance, and negotiations on specific arrangements. These efforts are aimed at helping other governments design effective and well-conceived standards-related and SPS measures, with the goal of producing better regulatory outcomes and facilitating trade.

In recent years, the United States has observed a growing trend among our trading partners to impose localization barriers to trade – measures designed to protect, favor, or stimulate domestic industries, service providers, or intellectual property at the expense of imported goods, services or foreign-owned or developed intellectual property. These measures may operate as disguised barriers to trade and unreasonably differentiate between domestic and foreign products, services, intellectual property, or suppliers. They can distort trade, discourage foreign direct investment and lead other trading partners to impose similarly detrimental measures. For these reasons, it has been longstanding U.S. trade policy to advocate strongly against localization barriers and encourage trading partners to pursue policy approaches that help their economic growth and competitiveness without discriminating against imported goods and services. USTR is chairing an interagency effort to address localization barriers. This year's NTE continues the practice of identifying localization barriers to trade in the relevant barrier category in the report's individual sections to assist these efforts and to inform the public on the scope and diversity of these practices.

USTR continues to vigorously scrutinize foreign labor practices and to address substandard practices that impinge on labor obligations in U.S. free trade agreements (FTAs) and deny foreign workers their internationally recognized labor rights. USTR has also introduced new mechanisms to enhance its monitoring of the steps that U.S. FTA partners have taken to implement and comply with their obligations under the environment chapters of those agreements. To further these initiatives, USTR has implemented interagency processes for systematic information gathering and review of labor rights practices and environmental enforcement measures in FTA countries, and USTR staff regularly works with FTA countries to monitor practices and directly engages governments and other actors. The Administration has reported on these activities in the 2016 Trade Policy Agenda and 2015 Annual Report of the President on the Trade Agreements Program.

The NTE covers significant barriers, whether they are consistent or inconsistent with international trading rules. Many barriers to U.S. exports are consistent with existing international trade agreements. Tariffs, for example, are an accepted method of protection under the General Agreement on Tariffs and Trade 1994 (GATT 1994). Even a very high tariff does not violate international rules unless a country has made a commitment not to exceed a specified rate, *i.e.*, a tariff binding. On the other hand, where measures are not consistent with U.S. rights international trade agreements, they are actionable under U.S. trade law, including through the World Trade Organization (WTO).

This report discusses the largest export markets for the United States, including 58 countries, the European Union, Taiwan, Hong Kong, and one regional body. The discussion of Chinese trade barriers is structured and focused to align more closely with other Congressional reports prepared by USTR on U.S.-China trade issues. The China section includes cross-references to other USTR reports where appropriate. This year, sections on Bangladesh, Algeria, and Tunisia have been added to the coverage of NTE, reflecting the growing importance of their countries as a market for U.S. exports and services. Sections on Iraq and Uzbekistan do not appear in this year's report due to the relatively small size of their markets, a lack of progress in government to government engagement, and the absence of major trade complaints from representatives of U.S. goods and services sectors. As always, the omission of particular countries and barriers does not imply that they are not of concern to the United States.

NTE sections report the most recent data on U.S. bilateral trade in goods and services and compare the data to the preceding period. This information is reported to provide context for the reader. In more than half of the specified cases, U.S. bilateral goods trade continued to increase in 2015 compared to the preceding period. The merchandise trade data contained in the NTE are based on total U.S. exports, free alongside (f.a.s.)[ii] value, and general U.S. imports, customs value, as reported by the Bureau of the Census, Department of Commerce (NOTE: These data are ranked in an Appendix according to the size of the export market). The services data are drawn from the October 2014 Survey of Current Business, compiled by the Bureau of Economic Analysis in the Department of Commerce (BEA). The direct investment data are drawn from the September 2014 Survey of Current Business, also from BEA.

TRADE IMPACT ESTIMATES AND FOREIGN BARRIERS

Wherever possible, this report presents estimates of the impact on U.S. exports of specific foreign trade barriers and other trade distorting practices. Where consultations related to specific foreign practices were proceeding at the time this report was published, estimates were excluded, in order to avoid prejudice to those consultations.

The estimates included in this report constitute an attempt to assess quantitatively the potential effect of removing certain foreign trade barriers on particular U.S. exports. However, the estimates cannot be used to determine the total effect on U.S. exports either to the country in which a barrier has been identified or to the world in general. In other words, the estimates contained in this report cannot be aggregated in order to derive a total estimate of gain in U.S. exports to a given country or the world.

Trade barriers or other trade distorting practices affect U.S. exports to another country because these measures effectively impose costs on such exports that are not imposed on goods produced in the importing country. In theory, estimating the impact of a foreign trade measure on U.S. exports of goods requires knowledge of the (extra) cost the measure imposes on them, as well as knowledge of market conditions in the United States, in the country imposing the measure, and in third countries. In practice, such information often is not available.

Where sufficient data exist, an approximate impact of tariffs on U.S. exports can be derived by obtaining estimates of supply and demand price elasticities in the importing country and in the United States. Typically, the U.S. share of imports is assumed to be constant. When no calculated price elasticities are available, reasonable postulated values are used. The resulting estimate of lost U.S. exports is approximate, depends on the assumed elasticities, and does not necessarily reflect changes in trade patterns with third countries. Similar procedures are followed to estimate the impact of subsidies that displace U.S. exports in third country markets.

The task of estimating the impact of nontariff measures on U.S. exports is far more difficult, since there is no readily available estimate of the additional cost these restrictions impose. Quantitative restrictions or import licenses limit (or discourage) imports and thus raise domestic prices, much as a tariff does. However, without detailed information on price differences between countries and on relevant supply and demand conditions, it is difficult to derive the estimated effects of these measures on U.S. exports. Similarly, it is difficult to quantify the impact on U.S. exports (or commerce) of other foreign practices, such as government procurement policies, nontransparent standards, or inadequate intellectual property rights protection.

In some cases, particular U.S. exports are restricted by both foreign tariff and nontariff barriers. For the reasons stated above, it may be difficult to estimate the impact of such nontariff barriers on U.S. exports. When the value of actual U.S. exports is reduced to an unknown extent by one or more than one nontariff measure, it then becomes derivatively difficult to estimate the effect of even the overlapping tariff barriers on U.S. exports.

The same limitations that affect the ability to estimate the impact of foreign barriers on U.S. goods exports apply to U.S. services exports. Furthermore, the trade data on services exports are extremely limited in detail. For these reasons, estimates of the impact of foreign barriers on trade in services also are difficult to compute.

With respect to investment barriers, there are no accepted techniques for estimating the impact of such barriers on U.S. investment flows. For this reason, no such estimates are given in this report. The NTE includes generic government regulations and practices which are not product specific. These are among the most difficult types of foreign practices for which to estimate trade effects.

In the context of trade actions brought under U.S. law, estimates of the impact of foreign practices on U.S. commerce are substantially more feasible. Trade actions under U.S. law are generally product specific and therefore more tractable for estimating trade effects. In addition, the process used when a specific trade action is brought will frequently make available non-U.S. Government data (from U.S. companies or foreign sources) otherwise not available in the preparation of a broad survey such as this report.

In some cases, stakeholder valuations estimating the financial effects of barriers are contained in the report. The methods for computing these valuations are sometimes uncertain. Hence, their inclusion in the NTE report should not be construed as a U.S. Government endorsement of the estimates they reflect.

March 2016

Endnotes

[i] Corruption is an impediment to trade, a serious barrier to development, and a direct threat to our collective security. Corruption takes many forms and affects trade and development in different ways. In many countries, it affects customs practices, licensing decisions, and the awarding of government procurement contracts. If left unchecked, bribery and corruption can negate market access gained through trade negotiations, undermine the foundations of the international trading system, and frustrate broader reforms and economic stabilization programs. Corruption also hinders development and contributes to the cycle of poverty.

Information on specific problems associated with bribery and corruption is difficult to obtain, particularly since perpetrators go to great lengths to conceal their activities. Nevertheless, a consistent complaint from U.S. firms is that they have experienced situations that suggest corruption has played a role in the award of billions of dollars of foreign contracts and delayed or prevented the efficient movement of goods. Since the United States enacted the Foreign Corrupt Practices Act (FCPA) in 1977, U.S. companies have been prohibited from bribing foreign public officials, and numerous other domestic laws discipline corruption of public officials at the State and Federal levels. The United States is committed to the active enforcement of the FCPA.

The United States has taken a leading role in addressing bribery and corruption in international business transactions and has made real progress over the past quarter century building international coalitions to fight bribery and corruption. Bribery and corruption are now being addressed in a number of fora. Some of these initiatives are now yielding positive results.

The United States led efforts to launch the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-bribery Convention). In November 1997, the United States and 33 other nations adopted the Anti-bribery Convention, which currently is in force for 40 countries, including the United States. The Anti-bribery Convention obligates its parties to criminalize the bribery of foreign public officials in the conduct of international business. It is aimed at proscribing the activities of those who offer, promise, or pay a bribe (for additional information, see http://www.export.gov/tcc and http://www.oecd.org).

The United States also played a critical role in the successful conclusion of negotiations that produced the United Nations Convention Against Corruption, the first global anticorruption instrument. The Convention was opened for signature in December 2003, and entered into force December 14, 2005. The Convention contains many provisions on preventive measures countries can take to stop corruption, and requires countries to adopt additional measures as may be necessary to criminalize fundamental anticorruption offenses, including bribery of domestic as well as foreign public officials. As of November 2014, there were 174 parties, including the United States.

In March 1996, countries in the Western Hemisphere concluded negotiation of the Inter-American Convention Against Corruption (Inter-American Convention). The Inter-American Convention, a direct result of the Summit of the Americas Plan of Action, requires that parties criminalize bribery and corruption. The Inter-American Convention entered into force in March 1997. The United States signed the Inter-American Convention on June 2, 1996 and deposited its instrument of ratification with the Organization of American States (OAS) on September 29, 2000. Thirty-one of the thirty-three parties to the Inter-American Convention, including the United States, participate in a Follow-up Mechanism conducted under the auspices of the OAS to monitor implementation of the Convention. The Inter-American Convention addresses a broad range of corrupt acts including domestic corruption and trans-national bribery. Signatories agree to enact legislation making it a crime for individuals to offer bribes to public officials and for public officials to solicit and accept bribes, and to implement various preventive measures.

The United States continues to push its anticorruption agenda forward. The United States seeks binding commitments in FTAs that promote transparency and that specifically address corruption of public officials. The United States also led other countries in concluding multilateral negotiations on the World Trade Organization (WTO) Trade Facilitation Agreement which contains provisions on transparency in customs operations and avoiding conflicts of interest in customs penalties. The United States has also advocated for transparency of government procurement regimes in FTA negotiations. In the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership negotiations, the United States is seeking expanded transparency and anticorruption disciplines. The United States is also playing a leadership role on these issues in APEC and other fora.

[ii] Free alongside (f.a.s.): Under this term, the seller quotes a price, including delivery of the goods alongside and within the reach of the loading tackle (hoist) of the vessel bound overseas.

ALGERIA

TRADE SUMMARY

The U.S. goods trade deficit with Algeria was $1.5 billion in 2015, a 25.7 percent decrease ($517 million) over 2014. U.S. goods exports to Algeria were $1.9 billion, down 28 percent ($741 million) from the previous year. Corresponding U.S. imports from Algeria were $3.4 billion, down 27 percent. Algeria was the United States' 60th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Algeria (stock) was $5.2 billion in 2014 (latest data available), a 11.3 percent increase from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Vehicles

In March 2015, the Algerian government enacted various new safety requirements for imported vehicles, with a focus on passenger automobiles. Algerian officials assert that these new requirements apply to all vehicles, but the effect of the requirements has been most noticeable on vehicles imported into Algeria. Automotive industry representatives have expressed concerns that the requirements, which are based only loosely on the United Nations Economic Commission for Europe (UNECE) vehicle standards, are overly broad and focus on the attributes of specific safety components rather than performance. Under the new procedures intended to enforce the requirements, all vehicles entering the country must be accompanied by a “certificate of conformity” before they are inspected by a representative of the Ministry of Industry and Mines. Algeria also requires a certificate in order to obtain the letter of credit necessary to finance a vehicle importation. In addition, the new requirements were adopted without stakeholder input, or sufficient transition period for implementation, resulting in thousands of cars blocked on arrival or held at the port of origin as a result of non-compliance.

Food Products

Algeria requires imported food products to have at least 80 percent of their shelf life remaining at the time of importation.

Sanitary and Phytosanitary Barriers

The Algerian government currently bans the importation, distribution, or sale of seeds that are the products of biotechnology. There is an exception for biotech seeds imported for research purposes.

Algeria has not agreed to export certificates that would permit the importation of beef and poultry from the United States. Although there are no official bans or specific regulations prohibiting the importation of U.S. beef into Algeria, the Government of Algeria has expressed concerns about the widespread use of growth hormones in the United States and has restricted U.S. beef imports in the past. Export certificates are being negotiated between U.S. and Algerian veterinary authorities to allow the importation into Algeria of U.S. breeding cattle and bovine genetics.

IMPORT POLICIES

Tariffs

Goods imported into Algeria face a range of tariffs, from zero to 70 percent. Nearly all finished manufactured products entering Algeria are subject to a 30 percent tariff rate, but some limited categories are subject to a 15 percent rate. Goods facing the highest rates are those for which direct equivalents are currently manufactured in Algeria, including some pharmaceuticals. The few items that are duty free are generally EU-origin goods that are for use in manufacturing industries and are exempt from tariffs under the European Union-Algeria Association Agreement.

In addition, most imported goods are subject to the 17 percent value-added tax and an additional 0.3 percent tax is levied on a good if the applicable customs duty exceeds DZD 20,000.

Customs Procedures

Clearing goods through Algerian customs is the single most frequently reported problem facing foreign companies operating in Algeria. Delays can take weeks or months, and in many cases are not accompanied by official explanations. In addition to a certificate of origin, the Algerian government requires all importers to provide certificates of conformity and quality from an independent third party. Customs requires shipping documents to be stamped with a "Visa Fraud" note from the Ministry of Commerce, indicating that the goods have successfully passed a fraud inspection, before the goods are cleared. Many importations also require authorizations from multiple ministries, which causes additional bureaucratic delays, especially when the regulations do not clearly specify which ministry's authority is being exercised.

Storage fees at Algerian ports of entry are high, and the fee rates double when goods are stored for longer than 10 days. One U.S. manufacturer reported spending $6 million in 2014 on storage fees. Firms report that bribery is used widely to effect the release of shipments, and both U.S. and non-U.S. company representatives have claimed that shipments are sometimes deliberately held at port to increase payments to customs officials.

Import Restrictions

Pharmaceuticals and Medical Devices

Since 2010, Algeria's Ministry of Health has been issuing regulations, pursuant to a 1985 law, to ban imports of a number of medications, medical devices, and other medical goods. It is now estimated that 460 products have been affected by these regulations. In mid-2015, Algeria began to set quotas for drugs for which an equivalent is produced domestically. If at least three national laboratories produce an equivalent, imports of the drug are prohibited. The Ministry of Health has been applying these policies despite the inability of local production to meet demand for dozens of affected medications.

The Ministry of Health also began imposing mandatory local sales price reductions of up to 75 percent for imported drugs in May 2015. In its calculations, the Ministry sought to match, with only a slight adjustment, the lowest sale price worldwide for all imported pharmaceuticals, disregarding potentially unique factors present in other economies that would contribute to price variations.

The Algerian government instituted in 2007 a regulation that effectively bans the import of used medical equipment. The government has applied the rule broadly to block the re-importation of machinery that has been sent abroad for maintenance under warranty, even for equipment owned by state-run hospitals.

Import Licenses and Quotas

The 2016 budget, signed into law on December 31, 2015, empowers the Ministry of Commerce to require import licenses for goods in certain sectors. Products subject to licensing are determined by an inter-ministerial committee chaired by the Ministry of Commerce. As of February 2016, these licensing requirements have been used to establish quotas for automobiles, cement, and steel reinforcing rods (rebar), as part of an effort to protect 15 "strategic sectors" defined in the 2015 budget. Other products under consideration for such requirements include wood, ceramics, iron, raisins, garlic, potato chips, and some confectionary products.

Vehicles

The Ministry of Commerce has announced that, beginning in 2016, Algeria will limit imports of vehicles to 400,000 per year. Imports of used vehicles and of construction equipment have been banned since 2007.

Other Product Bans

All types of used machinery are banned from entry into Algeria. All products containing pork or pork derivatives are prohibited.

GOVERNMENT PROCUREMENT

Algeria announced in August 2015 that all ministries and state-owned enterprises (SOEs) would be required to purchase domestically manufactured products whenever available. It further announced that the procurement of foreign goods would be permitted only with special authorization at the minister level and if a locally made product could not be identified. For housing projects that are at least partially funded by the state, a Ministry of Housing and Town Planning edict in effect since December 2014 prohibits contractors from using imported construction materials when equivalent products of equal quality are produced locally.

Algeria is not a WTO member and is not party to the WTO GPA.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Algeria remains on the Watch List in the Special 301 Report. Although Algeria has a robust legal framework for IPR protection, enforcement of those rights is lacking. The production of counterfeit goods has been nearly eradicated, but imports of counterfeit goods have increased dramatically; an estimated 85 percent or more of software in the country is pirated. Patent and trademark protection is ineffective, especially in the pharmaceutical sector. U.S. companies have reported unlicensed production of their brand-name drugs in the Algerian market.

SERVICES BARRIERS

Banking

Since 2010, Algeria has restricted foreign shareholders from making loans to Algerian subsidiaries.

Direct wire payments for imported goods are not permitted. Instead, all importers must secure letters of credit covering at least the full cost of the imported goods for any shipments totaling at least DZD 4 million (approximately $38,000), and the validity of the letters of credit is limited to 60 days.

The government tightly controls foreign exchange for Algerian firms. Algerian companies (except those in the hydrocarbons sector) may receive up to 50 percent of their export earnings in U.S. dollars, and the remainder must be paid in local currency. Algerian companies in the hydrocarbons sector must receive 100 percent of export revenue in local currency. These limits present barriers to trade for international companies as well, since these companies must form joint ventures with Algerian firms to make any local investments.

With few exceptions, the Algerian government prohibits Algerian citizens from holding financial assets abroad. The government permits Algerians to obtain foreign currency for the importation of goods only if they have in local currency the equivalent of the hard currency cost of the imports.

Electronic Payment Services

Electronic payment services are limited in Algeria owing to an underdeveloped telecommunications infrastructure to support electronic banking and a weak consumer credit culture. The government banned consumer credit from 2009 to 2014, and consumer loans are almost entirely restricted to the purchase of domestically-produced goods. Credit cards are rare. Those that exist are primarily local use cards known as CIBs issued by local banks. Internationally recognized cards such as Mastercard and Visa have been authorized only recently for use within Algeria.

INVESTMENT BARRIERS

The 49/51 investment law requires Algerian ownership of at least 51 percent in all projects involving foreign investments. It originated as part of the 2006 law governing hydrocarbons but was expanded in the 2009 supplementary budget law to include all foreign investments.

As there is no economy-wide process for registering foreign investments, prospective investors must work with the relevant ministry or ministries to negotiate, register, and set up their businesses. U.S. businesses have commented that the process is subject to political influence, and that companies not given an informal "green light" by the relevant ministry may not be able to establish their company in Algeria. The lack of transparency behind the decision making process makes it difficult to determine the reasons for any delays.

Algeria does not currently have a law allowing franchising, but is working, with U.S. Government assistance, to draft one. In addition, franchisees currently may not repatriate royalties, and as a result, it is very difficult for foreign franchises to operate in Algeria.

The extent of Algerian bureaucratic requirements causes significant delays and deters many companies from attempting to enter the market. Several U.S. companies, particularly in the pharmaceutical sector, have reported difficulties in renewing their operating and market access licenses with the relevant ministries in Algeria. Without a valid license, the process for obtaining import authorization is extremely slow. In some cases, the companies have speculated that licenses have been deliberately obstructed to block imports.

ELECTRONIC COMMERCE

Under current law, Algerian citizens may not purchase goods online. Businesses, however, may purchase items online and import them for business-related uses.

OTHER BARRIERS

State-Owned Enterprises

State-owned enterprises (SOEs) comprise about two-thirds of the Algerian economy. The national oil and gas company Sonatrach is the most prominent SOE, but SOEs are present in all sectors of the economy. While Algeria once gave equal opportunity to foreign and local companies competing for government contracts, in the last few years the government has favored SOEs and other Algerian companies.

ANGOLA

TRADE SUMMARY

The U.S. goods trade deficit with Angola was $1.6 billion in 2015, a 55.3 percent decrease ($2.0 billion) over 2014. U.S. goods exports to Angola were $1.2 billion, down 43 percent ($876 million) from the previous year. Corresponding U.S. imports from Angola were $2.8 billion, down 51 percent. Angola was the United States' 74th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Angola (stock) was $1.9 billion in 2014 (latest data available), a 56.2 percent increase from 2013.

IMPORT POLICIES

Tariffs and Nontariff Measures

Angola is a member of the World Trade Organization (WTO) and the Southern African Development Community (SADC). However, Angola has delayed implementation of the 2003 SADC Protocol on Trade, which seeks to reduce tariffs. The Angolan government is concerned that implementation of the SADC Protocol on Trade would lead to a large increase in imports, particularly from South Africa.

Angola’s new tariff schedule was published in November 2013 and became effective in January 2014. Through the new schedule, the government aims to protect and stimulate national industry by raising import and consumption duties on items that Angolan companies already produce, even if domestic production cannot meet domestic demand. Notable changes under the new schedule include a 50 percent import tax on beer (reflecting a 20 percent increase from the previous import tax); a 50 percent import duty (35 percent increase) on fruit juices; and a 50 percent import tax (35 percent increase) on certain vegetables, including tomatoes, onions, garlic, beans, and potatoes. The import taxes for roofing materials and bricks have also increased by 20 percent to 50 percent. The import tax for chicken products, which make up the bulk of U.S. food exports, has not changed under the schedule, but it remains high.

Tariff rates on a few products like palm oil, railway materials, and wheat flour have decreased, to a limited extent, under the 2013 tariff schedule. Another prominent feature of the new tariff schedule is a policy that allows Angolan producers to enjoy import tax exemptions on inputs that are used to manufacture Angolan products.

Tariffs for the oil industry are largely determined by individually negotiated contracts between international oil companies and the Angolan government. As most U.S. exports to Angola consist of specialized oil industry equipment, which are largely exempt from tariffs, the annual impact of tariffs on U.S. exports is relatively low. If companies operating in the oil and mining industries present a letter from the Minister of Petroleum or the Minister of Geology and Mines, they may import without duty equipment to be used exclusively for oil and mineral exploration.

Under Presidential Decree No. 2/15, “Operações Cambiais de Invisíveis Correntes,” a new 10 percent tax on remittances to pay for foreign technical or administrative services became law in June 2015. The new 10 percent tax on remittances to pay for services sourced abroad is in addition to the 6.5 percent tax assessed on such services.

Presidential Decree No. 5/15 in September 2015 sets forth new consumption taxes mostly on luxury goods, with what appear to be different rates on a number of domestically produced goods compared to international goods. The United States is working to address this issue with Angolan government officials.

Cement is also a focus of the Angolan government's efforts to protect and promote local production, both for domestic consumption and exports. Executive Decree No. 15/14 sets limits on cement importation, regulates prices, and specifies ports through which cement can be imported.

Customs Barriers

Administration of Angola's customs service has improved in the last few years, but remains a barrier to market access.

Presidential Decree No. 63/13 established that pre-shipment inspections are no longer mandatory for goods shipped after June 12, 2013. However, traders may continue to contract for pre-shipment inspection services from private inspection agencies if they wish to benefit from faster "green channel" access, or if pre-shipment inspection is required by their letter of credit agreement. Some importers find that the fees charged by Bromangol, a private laboratory which dominates the inspection market, are excessive, and they also question whether testing is actually completed.

Any shipment of goods equal to or exceeding $1,000 requires use of a clearing agent. While the number of clearing agents increased from 55 in 2006 to 232 in 2015, competition among clearing agents and reduced importing activity have not reduced fees for such agents, which typically range from one percent to two percent of the value of the declaration.

The importation of certain goods may require specific authorization from various government ministries, which can result in delays and extra costs. Goods that require ministerial authorization include the following: pharmaceutical substances and saccharine and derived products (Ministry of Health); fiscal or postal stamps, radios, transmitters, receivers, and other devices (Ministry of Post and Telecommunications); weapons, ammunition, fireworks, and explosives (Ministry of Interior); plants, roots, bulbs, microbial cultures, buds, fruits, seeds, and crates and other packages containing these products (Ministry of Agriculture); poisonous and toxic substances and drugs (Ministries of Agriculture, Industry, and Health); and samples or other goods imported to be given away (Customs). The import of goods such as poultry has also been hindered at times through the use of restrictive import licensing rules.

GOVERNMENT PROCUREMENT

Angola's government procurement process lacks transparency and fails to support competition among suppliers. Information about government projects and procurements is often not readily available from the appropriate authorities. Although calls for bids for government procurements are sometimes published in the government newspaper, "*Jornal de Angola*," many contracting agencies already form a preference for a specific business before receiving all the bids. The Promotion of Angolan Private Entrepreneurs Law provides Angolan companies preferential treatment in the government's procurement of goods, services and public works contracts. Angolan companies often then deliver these goods and services by subcontracting with foreign companies.

Angola is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Angola was not listed on the 2015 Special 301 Report. Angola is a party to the World Intellectual Property Organization (WIPO) Convention, the Paris Convention for the Protection of Industrial Property, and the WIPO Patent Cooperation Treaty. Intellectual property rights (IPR) are administered by the Ministry of Industry (trademarks, patents, and designs) and by the Ministry of Culture (authorship, literary, and artistic rights).

Although Angolan law provides basic protection for IPR and the National Assembly continues to work to strengthen existing legislation, IPR protection remains weak in practice due to a lack of enforcement capacity.

INVESTMENT BARRIERS

Angola can be a difficult environment for foreign investors. Oil revenues contribute 77 percent of government revenues and are the dominant source of foreign exchange. Starting in late 2014, as a direct result of the decline in oil prices, foreign exchange availability for imports, royalties and remittances has greatly suffered. To address this shortfall, the Angolan government significantly revised downward its 2015 budget, and is limiting foreign exchange approvals through a Central Bank managed, foreign exchange auction and approval process. This process prioritizes imports related to oil sector operations, food, and medicine, but even these imports face long delays for approval of foreign exchange.

American businesses have reported significant difficulties repatriating profits out of Angola. Central Bank approvals for remittance and royalties are subject to particularly severe delays. Corporations report that, following direct appeals to the Central Bank, they are able to access foreign exchange to remit only very small portions of their local currency accounts**.**

On August 26, 2015, the Angolan government enacted a new private investment law that stripped the National Agency for Private Investment (ANIP) of its authority with respect to attracting, facilitating, and approving investments. The law assigned responsibility for overseeing new investments across various line ministries, with the aim of expediting investments and improving investment oversight. ANIP is folded into a new entity, the Angolan Investment and Export Promotion Agency.

The new private investment law maintains the existing requirement that a $1 million investment is required of foreign investors in order to be eligible for fiscal incentives from the government. The threshold for eligibility for these incentives for Angolan investors is lowered to $500,000. The law also requires at least 35 percent local participation in foreign investments in the following strategic sectors: electricity, water, tourism, hospitality, transportation, logistics, telecommunications, information technology, construction, and media. The previous law did not require local partnerships in specific sectors, with the exception of the energy, banking, and insurance sectors. The new private investment law will not apply to existing investments, which will continue to be governed by the old legal framework. Investments in Angola's mining, finance, and petroleum sectors are not affected by the new law, as they continue to be governed by sector-specific legislation.

The investment law expressly prohibits private investment in strategic areas such as defense and national security; banking activities relating to the operations of the Central Bank and the Mint; the administration of ports and airports; and other areas where the law gives the state exclusive responsibility.

Under the new law, foreign investors pay higher taxes on dividends and profit repatriation. The new tax rate starts at 15 percent and rises to as much as 50 percent, depending on the date and amount of repatriation.

By law, the Council of Ministers has 30 days to review a foreign investment application, although in practice decisions are often subject to lengthy delays. Obtaining the proper permits and business licenses to operate in Angola is time consuming, and adds to the cost of investment. The World Bank's "Doing Business in 2015" report noted that it takes an average of 66 days to start a business in Angola compared to a regional average of 29.7 days.

The Angolan justice system can be slow and arduous. The World Bank's "Doing Business in 2015" report estimates that enforcing contracts (measured by the amount of time elapsed between the filing of a complaint and the receipt of restitution) generally takes 1,296 days in Angola, whereas the average period in sub-Saharan Africa is 650 days. While existing law contemplates domestic and international arbitration, arbitration law is not widely practiced in the country.

The Angolan government is gradually implementing legislation for the petroleum sector, which was originally enacted in November 2003 (Order 127/03 of the Ministry of Petroleum). This legislation requires many foreign oil services companies to form joint venture partnerships with local companies. With respect to the provision of goods and services not requiring heavy capital investment or specialized expertise, foreign companies may only participate as a contractor or sell manufactured products to Angolan companies for later resale. Foreign petroleum companies face local content requirements forcing them to acquire low-capital investment goods and services from Angolan-owned companies. For activities requiring a medium level of capital investment and a higher level of expertise (not necessarily specialized), foreign companies may only participate in association with Angolan companies.

The Foreign Exchange Law for the Petroleum Sector requires that all petroleum, oil, and gas companies use Angola-domiciled banks to make all payments, including payments to suppliers and contractors located outside of Angola. Furthermore, payments for goods and services provided by resident service providers must be made in local currency.

OTHER BARRIERS

Corruption

Corruption is prevalent in Angola for many reasons, including an inadequately trained civil service, a highly-centralized bureaucracy, antiquated regulations, and a lack of implementation of anticorruption laws. "Gratuities" and other facilitation fees are sometimes requested to secure quicker service and approval. It is common for Angolan government officials to have substantial private business interests. These interests are not necessarily publicly disclosed. Likewise, it is difficult to determine the ownership of some Angolan companies. The business climate continues to favor those connected to the government. Laws and regulations regarding conflict of interest are not widely enforced. Some investors report pressure to form joint ventures with specific Angolan companies believed to have connections to political figures.

ARAB LEAGUE

The effect of the Arab League's boycott of Israeli companies and Israeli-made goods on U.S. trade and investment in the Middle East and North Africa varies from country to country. While the boycott still on occasion can pose a barrier (because of associated compliance costs and potential legal restrictions) for individual U.S. companies and their subsidiaries doing business in certain parts of the region, it has for many years had an extremely limited practical effect overall on U.S. trade and investment ties with many key Arab League countries. The 22 Arab League members are the Palestinian Authority and the following countries: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Kuwait, Jordan, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Yemen, and the United Arab Emirates. About half of the Arab League members are also Members of the World Trade Organization (WTO) and are thus obligated to apply WTO commitments to all current WTO Members, including Israel. To date, no Arab League member, upon joining the WTO, has invoked the right of non-application of WTO rights and obligations with respect to Israel.

The United States has long opposed the Arab League boycott, and U.S. Government officials from a variety of agencies frequently have urged Arab League member governments to end it. The U.S. Department of State and U.S. embassies in relevant Arab League host capitals take the lead in raising U.S. concerns related to the boycott with political leaders and other officials. The U.S. Departments of Commerce and Treasury, and the Office of the United States Trade Representative monitor boycott policies and practices of Arab League members and, aided by U.S. embassies, lend advocacy support to firms facing boycott-related pressures.

U.S. antiboycott laws (the 1976 Tax Reform Act (TRA) and the 1977 amendments to the Export Administration Act (EAA)) were adopted to require U.S. firms to refuse to participate in foreign boycotts that the United States does not sanction. The Arab League boycott of Israel was the impetus for this legislation and continues to be the principal boycott with which U.S. companies must be concerned. The EAA's antiboycott provisions, implementation of which is overseen by the U.S. Department of Commerce's Office of Antiboycott Compliance (OAC), prohibit certain types of conduct undertaken in support of the Arab League boycott of Israel. These types of prohibited activity include, *inter alia*, agreements by companies to refuse to do business with Israel, furnishing by companies of information about business relationships with Israel, and implementation of letters of credit that include prohibited boycott terms. The TRA's antiboycott provisions, administered by the Department of the Treasury and the Internal Revenue Service, deny certain foreign tax benefits to companies that agree to requests from boycotting countries to participate in certain types of boycotts.

The U.S. Government's efforts to oppose the Arab League boycott include alerting appropriate officials to the presence of prohibited boycott requests and those requests' adverse impact on both U.S. firms and on Arab League members' ability to expand trade and investment ties with the United States. In this regard, U.S. Department of Commerce/OAC officials periodically visit Arab League members to consult with appropriate counterparts on antiboycott compliance issues. These consultations provide technical assistance to those counterparts to identify language in commercial documents with which U.S. businesses may or may not comply.

Boycott activity can be classified according to three categories. The primary boycott prohibits the importation of goods and services from Israel into the territory of Arab League members. This prohibition may conflict with the obligation of Arab League members that are also Members of the WTO to treat products of Israel on a most favored nation basis. The secondary boycott prohibits individuals, companies (both private and public sector), and organizations in Arab League members from engaging in business with U.S. firms and firms from other countries that contribute to Israel's military or economic development.

Such firms may be placed on a blacklist maintained by the Central Boycott Office (CBO), a specialized bureau of the Arab League; the CBO often provides this list to other Arab League member governments, which decide whether or to what extent to follow it in implementing any national boycotts. The tertiary boycott prohibits business dealings with U.S. and other firms that do business with blacklisted companies.

Individual Arab League member governments are responsible for enforcing the boycott, and enforcement efforts vary widely among them. Some Arab League member governments have consistently maintained that only the Arab League as a whole can entirely revoke the boycott. Other member governments support the view that adherence to the boycott is a matter of national discretion; thus, a number of governments have taken steps to dismantle various aspects of their national boycotts. The U.S. Government has on numerous occasions indicated to Arab League member governments that their officials' attendance at periodic CBO meetings is not conducive to improving trade and investment ties, either with the United States or within the region. Attendance of Arab League member government officials at CBO meetings varies; a number of governments have responded to U.S. officials that they only send representatives to CBO meetings in an observer capacity, or to push for additional discretion in national enforcement of the CBO-drafted company blacklist. Ongoing political upheaval in Syria since 2011 has prevented the CBO from convening meetings on a regular basis.

The current situation in individual Arab League members is as follows:

EGYPT: Egypt has not enforced any aspect of the boycott since 1980, pursuant to its peace treaty with Israel. However, U.S. firms occasionally have found that some government agencies use outdated forms containing boycott language. In past years, Egypt has included boycott language drafted by the Arab League in documentation related to tenders funded by the Arab League. The revolution and resultant political uncertainty in Egypt since early 2011 introduced some uncertainty with respect to future Egyptian approaches to boycott-related issues, but thus far the Egyptian government has affirmed its continued commitment to the peace treaty.

JORDAN: Jordan formally ended its enforcement of any aspect of the boycott when it signed the Jordanian-Israeli peace treaty in 1994. Jordan signed a trade agreement with Israel in 1995, and later an expanded trade agreement in 2004. While some elements of Jordanian society continue to oppose improving political and commercial ties with Israel as a matter of principle, government policy has sought to enhance bilateral commercial ties.

LIBYA: Prior to its revolution, Libya did not maintain diplomatic relations with Israel and had a law in place mandating application of the Arab League boycott. The Qaddafi regime enforced the boycott and routinely inserted boycott language in contracts with foreign companies. Bills of lading and customs declarations for imports could not indicate trade with Israel, and shippers were legally required to certify that no goods they were handling were of Israeli origin. Foreign ships were prohibited from calling at Libyan ports if they had called at an Israeli port within the preceding year. Ongoing political upheaval in Libya since 2011 has made it impossible to determine the current attitude of Libyan authorities toward boycott issues. The Administration will continue to monitor closely Libya's treatment of the boycott.

IRAQ: U.S. companies and investors consider the existence of boycott-related requirements in procurement contracts and tenders issued by the government of Iraq as significant disincentives for doing business in the country. It is estimated that since 2010, U.S. companies have lost more than $1 billion in sales opportunities in Iraq due to Arab League boycott-related requests.

Despite antiboycott guidance given on two occasions from the Iraqi Council of Ministers to all ministries, the number of boycott-related requests from Iraqi entities increased from 2009 to 2013. In 2014, there were 70 prohibited requests (as defined by U.S. antiboycott laws) from Iraqi entities reported to the U.S.

Department of Commerce; the level fell to 62 in 2015. Requests emanated from several Iraqi government entities, including the Ministry of Health (MOH) and its procurement arm, the Iraqi State Company for Importation of Drugs and Medical Appliances (Kimadia); the Ministry of Planning; the South Oil Company; the General Directorate of Electrical Energy Production; and the Ministry of Electricity.

The MOH committed to the United States in June 2013 that it would stop issuing boycott-related requests. Since that time, however, the MOH has issued several boycott-related requests that negatively affected U.S. suppliers of medical and pharmaceutical products. In January 2014, the head of Kimadia informed the United States that the MOH and Kimadia would move to end the practice of including Arab League boycott-related requirements in tender packages for new procurements. The South Oil Company, which had stopped issuing tenders with boycott language several years ago, recently resumed issuing tenders containing boycott-related language. Increased boycott-related requests from the Ministry of Electricity are also very troubling, since Iraq is seeking investment and procurement of key power sector technologies from foreign companies and critical procurement projects currently are underway.

YEMEN: Yemen has not put a law in place regarding the boycott, though it continues to enforce the primary aspect of the boycott and does not trade with Israel. Yemen in the past has stated that, absent an Arab League consensus to end the boycott, it will continue to enforce the primary boycott, though it pledged to adhere to its 1995 governmental decision to renounce observance of the secondary and tertiary aspects of the boycott. Continuing serious political unrest within the country and resultant deterioration in the government's ability to implement policies make it difficult to predict Yemen's future posture toward boycott-related issues.

LEBANON: Since June 1955, Lebanese law has prohibited all individuals, companies, and organizations from directly or indirectly contracting with Israeli companies and individuals, or buying, selling, or acquiring in any way products produced in Israel. This prohibition is by all accounts widely adhered to in Lebanon. Ministry of Economy officials have reaffirmed the importance of the boycott in preventing Israeli economic penetration of Lebanese markets.

PALESTINIAN AUTHORITY: All foreign trade involving Palestinian producers and importers must be managed through Israeli authorities. The Palestinian Authority (PA) agreed not to enforce the boycott in a 1995 letter to the U.S. Government and the PA has kept to this commitment since. Various groups advocating for Palestinian interests continue to call for boycotts and other actions aimed at restricting trade in goods produced in Israeli West Bank settlements.

ALGERIA: Algeria does not maintain diplomatic, cultural, or direct trade relations with Israel, though indirect trade reportedly does take place. The country has legislation in place that in general supports the Arab League boycott, but domestic law contains no specific provisions relating to the boycott and government enforcement of the primary aspect of the boycott is reportedly sporadic. Algeria appears not to enforce any element of the secondary or tertiary aspects of the boycott.

MOROCCO: Moroccan law contains no specific references to the Arab League boycott. The government informally recognizes the primary aspect of the boycott due to Morocco's membership in the Arab League, but does not enforce any aspect of it. According to previously published Israeli statistics, Morocco in recent years has been Israel's seventh largest trading partner in Africa and third largest in the Arab world, after Jordan and Egypt. U.S. firms have not reported boycott-related obstacles to doing business in Morocco. Moroccan officials do not appear to attend CBO meetings.

TUNISIA: Upon the establishment of limited diplomatic relations with Israel, Tunisia terminated its observance of the Arab League boycott. In the wake of the 2011 Tunisian revolution, there has been no indication that Tunisian government policy with respect to the boycott has changed.

SUDAN: The government of Sudan supports the Arab League boycott and has enacted legislation requiring adherence to it. However, there appear to be no regulations in place to enforce the secondary and tertiary aspects of the boycott.

COMOROS, DJIBOUTI, AND SOMALIA: None of these countries have officially participated in the Arab League boycott. Djibouti generally supports Palestinian causes in international organizations and there is little direct trade between Djibouti and Israel; however, the government currently does not enforce any aspects of the boycott.

SYRIA: Syria traditionally was diligent in implementing laws to enforce the Arab League boycott, maintaining its own boycott-related blacklist of firms, separate from the CBO list. Syria's boycott practices have not had a substantive impact on U.S. businesses due to U.S. economic sanctions imposed on the country since 2004; the ongoing and serious political unrest within the country has further reduced U.S. commercial interaction with Syria.

MAURITANIA: Though Mauritania "froze" its diplomatic relations with Israel in March 2009 in response to Israeli military engagement in Gaza, Mauritania has continued to refrain from enforcing any aspect of the boycott.

GULF COOPERATION COUNCIL (GCC): In September 1994, the GCC member countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) announced an end to their enforcement of the secondary and tertiary aspects of the boycott, eliminating a significant trade barrier to U.S. firms. In December 1996, the GCC countries recognized the total dismantling of the boycott as a necessary step to advance peace and promote regional cooperation in the Middle East and North Africa. Although all GCC states are complying with these stated plans, some commercial documentation containing boycott-related language continues to surface on occasion and impact individual business transactions.

The situation in individual GCC member countries is as follows:

Bahrain: The U.S. Government has received assurances from the government of Bahrain that it has no restrictions on U.S. companies trading with Israel or doing business in Israel, regardless of their ownership or other relations with Israeli companies. Bahrain abolished its boycott law and enforcement office in September 2005 while preparing to sign its Free Trade Agreement with the United States. Tender documents from Bahrain have occasionally referred to the secondary and tertiary aspects of the boycott, but such instances have been remedied when brought to authorities' attention. The government has stated publicly that it recognizes the need to abandon formally the primary aspect of the boycott. There are no laws prohibiting bilateral trade and investment between Bahrain and Israel. No entities exist in Bahrain that promote trade with Israel; however, Israeli-labeled products reportedly can occasionally be found in Bahraini markets.

Kuwait: Kuwait continues to recognize the 1994 GCC decision and has not applied secondary or tertiary aspects of the boycott since 1991. Kuwait claims to have eliminated all direct references to the boycott in procurement documentation as of 2000. Kuwait has a three person boycott office, which is part of the General Administration for Customs. Although Kuwaiti officials reportedly regularly attend Arab League boycott meetings, it is unclear whether they are active participants.

Oman: Oman does not apply any aspect of the boycott and has no laws providing for boycott enforcement. Although boycott-related language occasionally appears in tender documents, Omani officials are committed to ensure that such language is not included in new tender documents and have removed boycott-related language when brought to their attention. Omani customs processes Israeli-origin shipments entering with Israeli customs documentation, although Omani firms typically avoid marketing any identifiably Israeli consumer products. Telecommunications and mail flow normally between the two countries. Omani diplomatic missions are prohibited from taking part in Arab League boycott meetings.

Qatar: Qatar has a boycott law but the extent to which the government enforces it is unclear. Although Qatar renounced implementation of the boycott of U.S. firms that do business in Israel (the secondary and tertiary boycott) in 1994, U.S. firms and their subsidiaries continue to report receiving boycott-related requests from public Qatari companies; in those instances, companies have made an effort to substitute alternative language. An Israeli trade office opened in Qatar in May 1996, but Qatar ordered that office closed in January 2009 in protest against the Israeli military action in Gaza. Despite this closure, Qatar continues to allow trade with Israel and allows Israelis to visit the country. Official data from the Qatari government indicated that there was approximately $3 million in trade between Qatar and Israel in 2009. Actual trade, including Israeli exports of agricultural and other goods shipped via third countries, is likely higher than the official figures. Qatar permits the entry of Israeli business travelers who obtain a visa in advance. The chief executive of Qatar’s successful 2022 World Cup bid indicated that Israeli citizens would be welcome to attend the World Cup.

Saudi Arabia: Saudi Arabia, in accordance with the 1994 GCC decision, modified its 1962 law, resulting in the termination of the secondary and tertiary boycott. Senior Saudi government officials from relevant ministries have requested that U.S. officials keep them informed of any allegations that Saudi entities are seeking to enforce these aspects of the boycott. Saudi companies have usually been willing to void or revise boycott-related language in commercial documents when they are notified of its use.

The United Arab Emirates (UAE): The UAE complies with the 1994 GCC decision and does not implement the secondary and tertiary aspects of the boycott. The UAE has not renounced the primary aspect of the boycott, but the degree to which it is enforced is unclear. The United States has had some success in working with the UAE to resolve specific boycott-related cases. The U.S. Department of Commerce/OAC and Emirati Ministry of Economy officials have held periodic meetings aimed at encouraging the removal of boycott-related terms and conditions from commercial documents. The Emirati government has taken a number of steps to eliminate prohibited boycott requests, including the issuance of a series of circulars to public and private companies explaining that enforcement of the secondary and tertiary aspects of the boycott is a violation of Emirati policy.

Non-Arab League Countries

In recent years, press reports occasionally have surfaced regarding the implementation of officially sanctioned boycotts of trade with Israel by governments of non-Arab League countries, particularly some member states of the 57 member Organization of the Islamic Conference (OIC), headquartered in Saudi Arabia (Arab League and OIC membership overlaps to a degree, though OIC members are geographically and culturally much more diverse). Information gathered by U.S. embassies in various non-Arab League OIC member states does not paint a clear picture of whether the OIC enforces its own boycott of Israel (as opposed perhaps to simply lending support to Arab League positions). The degree to which non-Arab League OIC member states enforce any aspect of a boycott against Israel also appears to vary widely. Bangladesh, for example, does impose a primary boycott on trade with Israel. By contrast, OIC members Tajikistan, Turkmenistan, and Kazakhstan impose no boycotts on trade with Israel and in some cases have actively encouraged such trade; Turkey has an active history of trade with Israel.

ARGENTINA

TRADE SUMMARY

The U.S. goods trade surplus with Argentina was $5.4 billion in 2015, a 18.2 percent decrease ($1.2 billion) over 2014. U.S. goods exports to Argentina were $9.3 billion, down 14 percent ($1.5 billion) from the previous year. Corresponding U.S. imports from Argentina were $3.9 billion, down 6.9 percent. Argentina was the United States' 28th largest goods export market in 2015.

U.S. exports of services to Argentina were an estimated $6.7 billion in 2014 (latest data available), and U.S. imports were $1.7 billion. Sales of services in Argentina by majority U.S.-owned affiliates were $9.4 billion in 2013 (latest data available), while sales of services in the United States by majority Argentina-owned firms were $7 million.

U.S. foreign direct investment (FDI) in Argentina (stock) was $13.4 billion in 2014 (latest data available), a 0.2 percent decrease from 2013. U.S. direct investment in Argentina is led by manufacturing, information, and mining.

INTRODUCTION

The government of President Mauricio Macri, which took office on December 10, 2015, has taken steps to reverse many of the trade restrictive policies and measures that were in effect in 2015, as noted in this report. During President Obama's visit to Argentina, the United States and Argentina signed a bilateral Trade and Investment Framework Agreement (TIFA) on March 23, 2016. The TIFA creates a forum for the United States and Argentina to engage on a broad range of bilateral economic issues, such as market access, intellectual property rights protection, and cooperation on shared objectives in the World Trade Organization and other multilateral fora.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Consumers Goods Label Supervision System

In October 2015, Argentina issued Resolution 420/2015, which established a Label Supervision System affecting several products for human consumption and human handling, including imported food and beverages, personal hygiene, perfume and cosmetics. This measure contained duplicative requirements for documentation that must be submitted to regulatory authorities, resulting in delayed label approval and increased costs that will increase prices to the consumer. On January 28, 2016, the recently elected government of President Mauricio Macri issued Resolution 6/2016, which revokes this measure in its entirety, and removes this barrier to U.S. exports.

Regulation of Low Voltage Electrical Equipment Safety

On October *22*, 2015, Argentina issued Resolution 508/2015, which changes the procedures for obtaining safety certificates for low voltage electrical equipment. Specifically, the measure amends the universe of products that, when used professionally or by electrical safety experts, may be subject to alternative means of compliance with safety requirements; establishes criteria for forming families of products, with a view to issuing a certificate for each of these families and creating a single certificate format for each of the authorized modalities; and establishes new guidelines for the monitoring of certified products by certification bodies. Argentina notified this measure to the WTO Committee on Technical Barriers to Trade (TBT Committee) on November 2, 2015, and it came into force on November 22, 2015. U.S. stakeholders submitted comments on the measure through the U.S. Inquiry Point on January 4, 2016 citing transparency concerns, a need for a longer implementation period, and offered suggestions to improve the regulation. We will continue to engage with Argentina on this issue in 2016.

Conformity Assessment Requirements

Since 2013, Argentina has maintained mandatory conformity assessment requirements for electrical and electronic products that require foreign manufacturers and importers of all electrical and electronic products to obtain safety certifications from Argentine bodies before they can enter commerce in Argentina. These repetitive testing requirements are applicable only to foreign manufacturers, and they impose significant delays and increase costs.

Testing Requirements for Lead in Graphic Products

In 2010, Argentina issued Resolution 453/2010, which required that all inks, lacquers and varnishes used in producing printed materials, such as books, magazines, newspapers, package labeling and inserts, undergo testing for lead content. The resolution also required the testing to be conducted in one of two designated laboratories in Argentina. The United States, along with other WTO members, raised these requirements in the WTO Committee on Technical Barriers to Trade, noting that the requirements appeared to apply only to foreign producers and resulted in a *de facto* ban on imports of books, magazines and newspapers. In January 2016, the new government issued Resolution 1/2016, to exclude books, magazines, brochures, leaflets, and periodicals from the technical restrictions established in Resolution 453/2010, thereby re-opening the Argentine market to imports of printed materials.

Sanitary and Phytosanitary Barriers

<u>Food Safety and Animal Health</u>

Live Cattle, Beef, and Beef Products

Argentina has banned imports of all U.S. live cattle, beef, and beef products since 2002 due to concerns about the status of bovine spongiform encephalopathy (BSE) in the United States. In June 2015, through Resolution 238/2015, Argentina's National Service of Agricultural and Food Health and Quality (SENASA) published new import requirements for ruminants and ruminant products, replacing previous requirements from 2010 and adopting three World Organization for Animal Health (OIE) categories for BSE risk classification. The OIE recognizes the United States as negligible risk for BSE. The United States has initiated discussions with SENASA to gain full access for U.S. beef, beef products and live cattle based on the United States' BSE negligible risk status.

<u>Animal Health</u>

Pork

Argentina does not currently allow imports of U.S. pork. In July 2014, Argentina provided an official response to a 2011 request from the United States for access for fresh, chilled, frozen and cooked pork meat and meat products. Argentina indicated that it will only accept imports of U.S. pork from herds that have tested negative for Trichinellosis and have no reported cases of Porcine Reproductive and Respiratory Syndrome (PRRS), among other requirements. The United States does not consider any of these requirements to be science-based. For example, U.S. producers maintain stringent biosecurity protocols that have virtually eradicated trichinae in commercial pork production. The risk of introducing PRRS into the Argentine herd due to the import of U.S. pork is negligible. The OIE does not recognize trade in pork as posing a threat of transmitting the disease. The United States will continue to engage with SENASA to resolve these issues.

Poultry

Argentina does not allow imports of fresh, frozen, and chilled poultry from the United States due to concerns over Avian Influenza (AI). Argentina also has not recognized the U.S. sanitary inspection system as equivalent to the Argentine system. During bilateral technical meetings in October 2015, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) and Foreign Agricultural Service (FAS) provided SENASA a comprehensive presentation on the current status of Highly Pathogenic Avian Influenza (HPAI) in the United States and the success of the U.S. Government eradication program. In addition, APHIS requested that Argentina regionalize its restrictions related to HPAI either by state or county. On November 30, 2015, APHIS informed SENASA that the United States had complied with all required OIE actions and requirements related to HPAI to be declared free of the disease after the 2015 HPAI outbreak. Argentina has indicated that it would accept cooked poultry products from the United States, but there is no agreement yet on the terms of the necessary sanitary certificate as Argentina has maintained that the U.S. poultry inspection system is not "equivalent" to the Argentine system.

IMPORT POLICIES

Tariffs

Argentina is a member of the MERCOSUR common market, formed in 1991 and composed of Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR maintains a Common External Tariff (CET) schedule with most favored nation (MFN) applied rates ranging from zero percent to 35 percent *ad valorem*. Argentina's import tariffs follow the MERCOSUR CET with some permitted exceptions. Argentina's MFN applied average tariff was 13.6 percent in 2014. Argentina's average bound tariff rate in the WTO is significantly higher at 31.8 percent. According to current MERCOSUR procedures, any good introduced into any member country must pay the CET to that country's customs authorities. If the product is then re-exported to any other MERCOSUR country, the CET must be paid again to the second country.

At the MERCOSUR Common Market Council (CMC) ministerial meeting in December 2011, MERCOSUR members agreed to increase import duty rates temporarily to a maximum rate of 35 percent on 100 tariff items per member country. For Argentina, the list of products subject to the tariff increases as of October 2014 can be viewed at: http://www.infoleg.gob.ar/infolegInternet/anexos/235000-239999/235857/norma.htm. These tariff increases are still in effect.

MERCOSUR member countries are also currently allowed to set import tariffs independently for some types of goods, including computer and telecommunications equipment, sugar, and some capital goods. Argentina currently imposes a 14 percent tariff on imports of capital goods that are also produced domestically. Imports of certain other capital goods that are not produced domestically are subject to a reduced *ad valorem* tariff of 2 percent. A list of the goods affected and their respective tariff rates can be found at http://infoleg.gov.ar/infolegInternet/anexos/195000-199999/199256/norma.htm.

Argentina has bilateral arrangements with Brazil and Uruguay on automobiles and automotive parts intended to provide preferential access among the three countries. Mexico and Argentina also have a separate bilateral trade agreement regarding automobiles and automotive parts.

Nontariff Barriers

In recent years, Argentina has imposed a number of customs and licensing procedures and requirements, which make importing U.S. products difficult. The measures include additional inspections, restrictions on entry ports, expanded use of reference prices, import license requirements, and other requirements, such as requiring importer invoices to be notarized by the nearest Argentine diplomatic mission when imported goods are valued below reference prices. Many U.S. companies with operations in Argentina have expressed concerns that the measures have delayed exports of U.S. goods to Argentina and, in some cases, stopped exports of certain U.S. goods to Argentina altogether.

Argentina has relied on nontariff barriers to protect industries considered sensitive, such as leather, shoes, textiles, toys, plastics and chemicals, and automobiles. The new Argentine government, which took office December 10, 2015, has stated publicly that about 1,200 product types will still require non-automatic import licenses.

Capital Goods Imports

Argentina prohibits the import of many used capital goods. Under the Argentina-Brazil Bilateral Automobile Pact, Argentina bans the import of used self-propelled agricultural machinery unless it is imported to be rebuilt in country. Argentina also prohibits the importation and sale of used or retreaded tires (but in some cases allows remolded tires); used or refurbished medical equipment, including imaging equipment; and used automotive parts. Argentina generally restricts or prohibits the importation of any remanufactured good, such as remanufactured automotive parts, earthmoving equipment, medical equipment, and information and communications technology products. In the case of remanufactured medical goods, imports are further restricted by the requirement that the importer of record must be the end user, such as a hospital, doctor, or clinic. Such parties are generally not accustomed to importing and are not typically registered as importers.

Domestic legislation requires compliance with strict conditions on the entry of those used capital goods that may be imported, as follows:

- Used capital goods can only be imported directly by the end user;
- Overseas reconditioning of the goods is allowed only if performed by the original manufacturer. Third-party technical appraisals are not permitted;
- Local reconditioning of the good is subject to technical appraisal only to be performed by the state-run Institute of Industrial Technology (INTI), except for aircraft related items;
- Regardless of where the reconditioning takes place, the Argentine Customs Authority requires at the time of import the presentation of a “Certificate of Import of Used Capital Goods.” This certificate is issued by the Secretariat of Foreign Trade, after the approval by the Secretariat of Industry. Pursuant to Resolutions 12/2014 and 4/2014 of January 2014, the import certificate for used capital goods has a duration of 60 working days from the issuing date; and
- The time period during which the imported used capital good cannot be transferred (sold or donated) is four years.

Pursuant to Decree 2646/2012, capital goods that may be imported are subject to a 28 percent tax if there is existing local production of the good, a 14 percent tax in the absence of existing local production, and a 6 percent tax for used capital goods for the aircraft industry. There are exceptions for some industries (*e.g.*, graphics, printing, machine tools, textiles, mining, and some types of aircraft), enabling importation of used capital goods at a zero percent import tax.

National Supply Law

In September 2014, Argentina amended the 1974 National Supply Law to expand the ability of the government to regulate private enterprises by setting minimum and maximum prices and profit margins for goods and services of private enterprises. The law covers all economic processes related to such goods and services at any stage of economic activity. Private companies determined by the government to be making "artificial" or "unjustified" profits may be subject to fines of up to 10 million pesos (approximately $770 thousand) and a potential 90-day closure of their business. Under the authority of the amended Supply Law, Argentina requires pharmaceutical companies, including some U.S. companies, to lower their prices of certain medicines. The government also imposes hefty fines on certain automakers for failing to provide an adequate supply of cars at a specified price for the government's auto stimulus program.

In February 2015, Argentina issued Resolution 17, which creates a System of Monitoring the Supply and Availability of Goods and Inputs (SIMONA). SIMONA is a data tracking tool that aims to detect production or distribution issues before they affect supply. Pursuant to Resolution 17, any company engaging in production or distribution in Argentina must report via SIMONA any impediments to its production or distribution process. The information gathered by the government through SIMONA may be used to identify ways to reduce the effects of variations in supply. In addition, the government may impose fines on companies found to be setting unjustifiably high prices. Argentina apparently uses SIMONA to collect price data.

Used Clothing Imports

Argentina maintains an import prohibition on used clothing that was due to expire in December 2015. Since no new resolution has been issued to negate the current resolution, the decree remains in effect.

Taxes

In August 2012, the Argentine Tax Authority (AFIP) issued Resolution 3373, which raised the rate of certain taxes charged after import duties are levied, thereby increasing the tax burden for importers. The value-added tax (VAT) advance rate rose from 10 percent to 20 percent on imports of consumer goods, and from 5 percent to 10 percent on imports of capital goods. The income tax advance rate on imports of all goods increased from 3 percent to 6 percent, except when the goods are intended for consumption or for use by the importer, in which case an 11 percent income tax rate applies.

In 2015, Argentina imposed a sliding scale tax on imported luxury vehicles. Under that system, cars priced above 195,500 pesos (approximately $15,000, based on the 2015 average official exchange rate of 13 pesos to the U.S. dollar) were subject to a 30 percent tax, while vehicles priced above 241,500 pesos (approximately $18,600) were subject to a 50 percent tax. Motorbikes priced above 34,500 pesos (approximately $2,650) were taxed at 30 percent, and motorbikes priced above 61,500 pesos (approximately $4,700) were taxed at 50 percent. The luxury tax was imposed on top of the normal import duty.

In January 2016, the Macri government issued Decree 11/2016, which reduced the luxury tax for imports and also applied such taxes to locally produced vehicles. In particular, the Decree eliminated taxes on cars priced below 350,000 pesos (approximately $26,900), reduced the tax to 10 percent for cars valued between 350,000 (approximately ($26,900) and 799,000 pesos (approximately $61,500) and to 20 percent for cars priced above 800,000 pesos (approximately $61,5000). This Decree also reduced the tax imposed on motorbikes priced above 65,000 pesos (approximately $5,000), boats priced above 400,000 pesos (approximately $31,000) and planes priced above 225,000 pesos (approximately $17,300) to 10 percent.

Consumer Goods Price Control Program

In January 2014, the Argentine government launched a consumer goods price control program called "Precios Cuidados," which established price caps on nearly 200 basic consumer goods. Although participation in the program is supposed to be voluntary, several supermarkets have reportedly been subject to steep fines for failing to stock all of the products subject to price caps. Since the program was first launched in January 2014, the number of products subject to price caps has increased substantially, and the maximum prices have been revised several times. The list of goods and their maximum prices can be found at: http://precioscuidados.gob.ar/inicio. The website also includes a link for consumers to claim if a shop or supermarket does not comply with the price control program. In January 2016, the new government announced the extension of the program for several more months. In February 2016, the Argentine government issued resolution 12/2016, which established the Argentine Electronic System of Advertised Prices (or SEPA) program, accessible online or via mobile app, to monitor retail prices. Supermarkets are required to publish their price lists, and customers can submit observed price information. Customers can complain about price increases on any given product to the Competition Defense Commission, which has the authority to fine companies if it determines the price increases are not justified. Previously, the Commission had fined companies nearly 15 million pesos (approximately $1.2 million) for violations of the "Precios Cuidados" program.

Preference for Domestic Medicines

In October 2015, Resolutions 1710/2015 and 406/2015 established a framework to comply with the reimbursement functions assumed by health insurance agents in connection with high cost medicines. The resolutions provided that health insurance agents should give preference to locally manufactured products that have the same active ingredient as, or are biosimilars to, imported products, subject to the condition that the final selling price of the locally manufactured products are significantly lower than the average price of similar products of foreign origin.

Import Licenses

From 2012 through 2015, Argentina maintained an import licensing system known as the Advance Sworn Affidavit on Imports (or "DJAI" by its Spanish acronym), which required that all imports receive advance approval by the Argentine government. Argentina used the DJAI system to limit the volume or value of imports, extract commitments from importers to export goods from Argentina, increase investments in Argentina, increase the use of local content, and refrain from repatriating profits. Prior to 2012, Argentina also operated a far-reaching automatic and non-automatic import licensing scheme. That system was the subject of much criticism by WTO members even before the DJAI requirement was put in place.

In 2012, the United States, along with the European Union and Japan, initiated WTO dispute settlement proceedings to challenge Argentina's import licensing regime. In August 2014, the WTO dispute settlement panel ruled in favor of the United States, the European Union, and Japan, finding that Argentina's import licensing requirements and other import restrictions breached international trade rules. In September 2014, Argentina appealed the panel decision, and on January 15, 2015, the Appellate Body affirmed the earlier findings of the WTO panel. Argentina agreed to comply with the WTO ruling by December 31, 2015.

On December 22, 2015, AFIP issued Resolution 3823/2015, which established a Comprehensive Import Monitoring System (SIMI) to manage a new automatic and non-automatic import licensing regime, created by Resolution 5/2015 issued on December 23, 2015. The new resolutions require that importers submit electronically to SIMI detailed information about goods to be imported into Argentina. Once the information is submitted, the relevant Argentine government agencies are able to review the application through a "Single Window System for Foreign Trade" and make any observations or request additional information. The automatic import licensing requirements apply to approximately 18,000 tariff lines, or approximately 86.5 percent of Argentina's tariff schedule. Non-automatic import license requirements apply to approximately 1,200 tariff lines, or approximately 13.5 percent of Argentina's tariff schedule, including sectors and products the government has deemed import-sensitive, such as automobiles, paper and cardboard, iron and steel, nuclear reactors, electrical materials and parts, toys, textiles, apparel and footwear. The resolutions do not provide a maximum time period for AFIP to issue a decision on import license applications. Automatic import licenses are valid for 180 days from the date of approval, while non-automatic licenses are valid for 90 days. The full text of Resolution 5/2015 with the affected tariff lines can be accessed at: http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257251/norma.htm. The United States has significant questions about whether the adoption of the SIMI brings Argentina's import licensing measures into compliance with its WTO obligations, and the United States is working with Argentina to address these concerns.

Dollar Payments Authorization Requirement

From 2012 through December 2015, many U.S. companies reported that they had to request authorization from the Central Bank to make substantial exchanges of pesos to U.S. dollars to pay foreign suppliers for imported goods. This requirement was neither officially published nor written, and Central Bank officials reportedly communicated the amounts permitted informally via phone calls or text messages. The threshold level of the amount permitted for payments abroad was apparently lowered from $300,000 to $150,000 daily in September 2014. By December 2015, the threshold level was reportedly $50,000 daily. Many U.S. companies have reported that this requirement and the changing threshold amounts prevented them from planning for inventory and increased delays in their ability to import goods.

On December 17, 2015, the new government announced the elimination of capital controls, a move that appeared to suggest that importers would no longer need Central Bank authorization to exchange pesos for dollars to pay for imported goods going forward. Due to delayed Central Bank authorization for dollar payments, private importers accumulated debt estimated between $5 billion and $10 billion to suppliers for previously imported goods. To resolve the importers' debt, as well as a stock of profits that companies wanted to repatriate, the Central Bank and the Ministry of Treasury and Finance offered two options in late December 2015, a payment schedule or a sovereign bond. There are to be no restrictions on the amount of payment requests after May 2016.

Foreign Transactions Monitoring Unit

In November 2014, via Decree 2103/2014, the Argentine government established the Unit of Monitoring and Traceability of Foreign Trade Operations, coordinated jointly by the Chief of Cabinet with participation from the Ministry of Economy, the Customs Office, the AFIP, the National Securities and Exchange Commission, Financial Information Unit, and the Central Bank, among other financial regulatory agencies. The stated objective of this Joint Unit is to track all international trade operations to ensure transparency and accuracy and to prevent over- and under-invoicing by commercial entities. Many enterprises, especially multinationals, have expressed concerns that this Joint Unit further increases governmental controls over international trade.

Customs Valuation

Argentina continues to apply reference values to several thousand products. The stated purpose of reference pricing is to prevent under-invoicing, and authorities establish benchmark unit prices for customs valuation purposes for certain goods that originate in, or are imported from, specified countries. These benchmarks establish a minimum price for market entry and dutiable value. Importers of affected goods must pay duties calculated on the reference value, unless they can prove that the transaction was conducted at arm's length.

Argentina also requires importers of any goods from designated countries, including the United States, that are invoiced below the reference prices to have the invoice validated by both the exporting country's customs agency and the appropriate Argentine embassy or consulate in that country. The Argentine government publishes an updated list of reference prices and applicable countries, which is available at: http://www.afip.gov.ar/aduana/valoracion/valores.criterios.pdf.

Argentina maintains administrative mechanisms that restrict the entry of products deemed sensitive, such as textiles, apparel, footwear, toys, electronic products, and leather goods. While the restrictions are not country specific, they are to be applied more stringently to goods from countries considered "high risk" for under-invoicing, and to goods considered at risk for under-invoicing or trademark fraud.

Ports of Entry

Argentina restricts entry points for several classes of goods, including sensitive goods classified in 20 Harmonized Tariff Schedule chapters (*e.g.*, textiles; shoes; electrical machinery; iron, steel, metal, and other manufactured goods; and watches), through specialized customs procedures for these goods. A list of products affected and the ports of entry applicable to those products is available at: http://www.infoleg.gov.ar/infolegInternet/anexos/130000-134999/131847/norma.htm.

Customs Procedures

Certificates of origin have become a key element in Argentine import procedures in order to enforce antidumping measures, reference prices (referred to as "criterion values"), and certain geographical restrictions. Argentina requires certificates of origin for certain categories of products, including certain organic chemicals, tires, bicycle parts, flat-rolled iron and steel, certain iron and steel tubes, air conditioning equipment, wood fiberboard, most fabrics (*e.g.*, wool, cotton, other vegetable), carpets, most textiles (*e.g.*, knitted, crocheted), apparel, footwear, metal screws and bolts, furniture, toys and games, brooms, and brushes. To receive the MFN tariff rate, a product's certificate of origin must be certified by an Argentine embassy or consulate, or carry a "U.S. Chamber of Commerce" seal. For products with many internal components, such as machinery, each individual part is often required to be notarized in its country of origin, which can be very burdensome. Importers have stated that the rules governing these procedures are unclear and can be arbitrarily enforced.

Simplified customs clearance procedures on express delivery shipments are only available for shipments valued at $1,000 or less. Couriers are now considered importers and exporters of goods, rather than transporters, and also must declare the tax identification codes of the sender and addressee, both of which render the process more time consuming and costly. These regulations increase the cost not only for the courier, but also for users of courier services.

EXPORT POLICIES

Export Tariffs

Argentina imposes export taxes on all but a few exports, including significant export taxes on key hydrocarbon and agricultural commodities. In many cases, the export tax for raw materials is set higher than the sale price of the processed product to encourage development of domestic value-added production. Crude hydrocarbon export taxes are indexed to world commodity benchmarks.

Argentina imposes significant export taxes on hydrocarbon goods and their derivatives (crude oil or bituminous mineral). Pursuant to Resolution 803/2014, the export duty is 13 percent if the international barrel price is lower than the established reference price or $503 per cubic meter; 11.50 percent if the price is lower than $75 per barrel or $472 per cubic meter, and 10 percent if the price is lower than $70 per barrel or $440 per cubic meter. In response to falling international oil prices, in December 2014, the Argentine government issued Resolution 1077/2014, which established that beginning in January 2015 the export duty will be one percent whenever the international Brent crude reference price is below $70 per barrel.

Argentina has a long history of applying differential export tariffs on a variety of agricultural commodities with lower rates on processed goods to incentivize value-added processes and increase fiscal revenue for the government. In 2015, Argentina applied differential taxes to the soy and grain sectors as follows: soybeans at 35 percent; soybean oil and soybean meal at 32 percent; soybean pellets and animal food containing soy bean hulls and waste at 32 percent; biodiesel mainly from soy oil currently at 14 percent to 15 percent, although that rate fluctuated; sunflower seed at 32 percent; sunflower seed meal and sunflower seed oil at 30 percent; wheat at 23 percent; wheat flour at 13 percent; and corn at 20 percent with corn flour at 15 percent. Other export taxes included beef at 15 percent; poultry, pork, apples, pears, and wine at 5 percent; and lemons, sweet citrus, at 2.5 percent. In December 2015, through the issuance of Decrees 133/2015 and 160/2015, the new government has eliminated export taxes on most goods but maintained the following differential taxes: soybeans are taxed at 30 percent; soy flour and oil at 27 percent; soy pellets and other refined mixed soy oils at 27 percent; bovine leather at 10 percent; wool not card or combed at 5 percent, and paper and cardboard waste for recycling at 20 percent. Full text of the decrees can be found at: http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/256979/norma.htm and http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257076/norma.htm.

On January 6, 2016, Argentina established a 24.24 percent export tax on biodiesel exports pursuant to Decree 25/2016. The export tax is applied to the declared FOB price. The full text of the rule can be found at: http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257595/norma.htm.

In April 2014, Argentina issued Decree 374/2014 banning exports of iron, steel, copper, and aluminum scrap for 360 days in an attempt to ensure domestic supply. In June 2015, Decree 1102/2015 extended the export ban for an additional 360 days. According to Decree 160/2015 issued on December 18, 2015, iron and steel scrap are subject to a 5 percent export duty.

On February 12, 2016, the Argentine government issued decree 349/2016, eliminating the export duties on metal and non-metal mining products, which previously ranged between 5 and 10 percent. The full text of the decree can be found at: http://www.infoleg.gob.ar/infolegInternet/verNorma.do?id=258595.

The MERCOSUR Common Customs Code (CCC) restricts future export taxes and anticipates a transition to a common export tax policy, but the CCC is not yet in effect. In November 2012, Argentina became the first MERCOSUR member to ratify the CCC, but all MERCOSUR member countries must ratify the CCC before it goes into effect.

Export Registrations and Permits

Argentina previously required major agricultural commodities to be registered and pre-approved for export before they could be shipped out of the country. The administration of the Registry of Export Operations (ROEs) resided in the Office of Coordination and Evaluations of Subsidies to Domestic Consumption (UCESCI) under the Ministry of Economy. On December 29, 2015, the new government issued Resolutions 4/2015, 7/2015 and 7/2015 from the Ministry of Treasury and Finances, the Ministry of Agro-industry and the Ministry of Production, eliminating export permits that controlled the flow of grain and oilseed exports.

In place of the export permits, the Argentine government has reintroduced Affidavits of Foreign Sales ("DJVE" or Declaraciones Juradas de Ventas al Exterior), which was a mechanism used to track exports prior to 2008. The DJVE does not require pre-approval for export sales. The regulations that require export permits for meat and dairy are still in place, but the government has announced its intention to revoke these regulations. According to the new resolution, exporters must register the export of grains, oilseeds, and their derivatives with the Office of Coordination and Evaluations of Subsidies to Domestic Consumption (UCESCI). Once the registration is approved, the DJVEs are valid for 180 days. In the case of wheat, the DJVEs are valid for 45 days. In the case of soybeans and other soy products, the DJVEs will be approved if the exporter pays 90 percent of the export tax at the time the DJVE is approved.

SUBSIDIES

In October 2014, Argentina launched the "Ahora 12" program, which allows individuals to finance the purchase of certain domestically-manufactured goods, ranging from clothing to home appliances, in 12 monthly installments without interest. The list of qualifying goods for the Ahora 12 program can be found at http://www.ahora12.gob.ar/. Argentina claims the program has been very successful in increasing the consumption of locally-produced goods and has stated that more than 4 million transactions have occurred since the program's inception. On December 14, 2015, Resolution 1/2015 extended the program through March 31, 2016.

Argentina currently has a tax-exempt trading area called Special Customs Area (SCA), located in Tierra del Fuego Province, established in 1972 through Law 19,640 to promote economic activity in the southern province. The government has authority to exempt products shipped through the SCA (but not assembled or manufactured therein) from all forms of taxation except excise taxes. The SCA program, set to expire at the end of 2023, provides benefits for established companies that meet specific production and employment objectives. Since November 2009, cell phones, televisions, digital cameras and other electronic items not produced in the SCA are charged value-added tax rates up to 21 percent. There are concerns that foreign companies have set up local assembly facilities in the SCA that they would not have otherwise done in order to bring manufactured goods into the country. In particular, there are concerns that products are brought to facilities in the SCA where they are taken apart and reassembled for sale inside Argentina.

GOVERNMENT PROCUREMENT

Argentine law establishes a national preference for local industry for most government procurement if the domestic supplier's tender, depending on the size of the company, is no more than five percent to seven percent higher than the foreign tender. The preference applies to procurement by all government agencies, public utilities, and concessionaires. There is similar legislation at the sub-national (state) level.

Argentina is not a signatory to the WTO Agreement on Government Procurement, but it is an observer to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Argentina remained on the Priority Watch List in the 2015 Special 301 Report. Enforcement challenges and other factors have diminished market access for U.S. IP-intensive industries. The absence of sustained enforcement efforts – including under the criminal laws – sufficient to have a deterrent effect, coupled with judicial inefficiency, have made it possible for one of South America's largest black markets for counterfeit and pirated goods to flourish and spawn smaller branches throughout the country. Apparent lack of understanding about technology and online jurisdiction within the judicial system hinder the ability to halt, through legal action, the growth of illegal online markets (the largest of which launched a mobile platform in 2015). The United States continues to monitor the situation closely, including via USTR's Notorious Markets List.

The situation for innovators in the pharmaceutical and agrochemical sectors also presents significant concerns. First, the scope of patentable subject matter is significantly restricted under Argentine law. Second, patent pendency backlog continues to be excessive. Third, there continues to be no means of adequate protection against unfair commercial use and unauthorized disclosure of undisclosed test and other data submitted to the government in conjunction with its lengthy and challenging marketing approval process.

SERVICES BARRIERS

Argentina requires individuals and companies to file an online affidavit known as the Advance Sworn Statement on Services (or by its Spanish acronym "DJAS") and obtain approval prior to offering or purchasing offshore services if the value of the services to be provided exceeds $100,000. The DJAS requirement, established through Resolution 3276/2012, creates delays and is used to restrict the purchase of foreign services and to restrict dollar-denominated payments abroad. The DJAS requirement applies to a wide range of services including professional and technical services, royalties, and personal, cultural and recreational services. This requirement has reportedly resulted in significant delays in purchasing services from U.S. services providers and has hindered the ability of Argentine purchasers to promptly transfer payment to the United States. During 2014 and 2015, DJAS authorization has been subject to tighter controls particularly in the case of royalty payments.

As of December 17, 2015, pursuant to Resolution 3825 issued by AFIP, all purchases of transportation tickets and tourist packages to travel abroad paid in cash or by bank transfer are subject to a 5 percent tax.

Audiovisual Services

The Argentine government imposes restrictions on the showing, printing, and dubbing of foreign films in Argentina. Argentina also charges *ad valorem* customs duties on U.S. film exports based on the estimated value of the potential royalty generated from the film in Argentina rather than on the value of the physical materials being imported.

The National Institute of Cinema and Audiovisual Arts taxes foreign films screened in local movie theaters. Distributors of foreign films in Argentina must pay screening fees that are calculated based on the number and geographical locations of theaters at which the films will be screened within Argentina. Films that are screened in 15 or fewer movie theaters are exempted.

The Media Law, enacted in 2009, requires companies to locally produce advertisement and publicity materials, or to include 60 percent local content.

Insurance Services

The Argentine insurance regulator (SSN) prohibits cross-border reinsurance. As a result, Argentine insurers are able to purchase reinsurance only from locally based reinsurers. Foreign companies without local operations are not allowed to enter into reinsurance contracts except when the SSN determines there is no local reinsurance capacity. SSN requires that all investments and cash equivalents held by locally registered insurance companies be located in Argentina.

These regulations do not formally require the exchange of dollars into pesos; companies can convert their holdings to dollar-denominated assets based in Argentina and still be in compliance. Nevertheless, non-Argentine insurance firms – whose liabilities are often denominated in U.S. dollars – reported during 2015 that they faced increased pressure by the Argentine government to sell their dollars for pesos. In October 2015, the Argentine Insurance Superintendent issued Resolution 39517, which set out new investment rules for insurers. Resolution 39517 required the industry to divest from its positions held in U.S. dollars before the end of 2015. Insurance firms reported that complying with the resolution would force them to take losses based on an official exchange rate that overvalued the peso. Many companies and industry associations filed legal claims against enforcement of the resolution. The Argentine government also blocked payments by subsidiaries of dividends and royalties to parent companies and shareholders abroad.

On January 15, 2016, the Argentine Insurance Superintendent issued Resolution 39646/2016, abolishing Resolution 39517. As of January 15, insurance companies can hold and dispose their investments in any currency they deem appropriate.

Telecommunications

Argentina enacted the Argentine Digital Law in December 2014, which declares information technology and telecommunications as "public services" and allows the government to require private companies to share the use of their infrastructure, such as cabling, if the government considers that it is in the public interest. During 2015, the Argentine tax authority, AFIP, initiated several legal proceedings against foreign-owned firms, alleging that the companies' structures and operations were inconsistent with the Digital Law because the companies used offshore shell corporations to shelter profits and assets from taxation.

On December 29, 2015, Argentina issued Resolution 267/2015, which amends Argentina's 2009 Media Law (laws 26,522 and 27,078). One aspect of the amendments jeopardizes the business of satellite and telecommunications suppliers in Argentina. Specifically, the resolution prohibits a satellite television supplier from also providing (1) telecommunications services, including broadband Internet access; (2) video-on-demand services; and (3) bundling of satellite television with any telecommunications services. Because similar restrictions do not apply to cable or telecommunications suppliers, the measure appears to discriminate against satellite services providers in Argentina, the main provider of which is a U.S. supplier. In addition, the decree maintains certain regulatory requirements for satellite television (*e.g.*, an obligation to carry certain free-to-air television channels) that are not applied to cable television suppliers, putting satellite providers at a competitive disadvantage. The United States has begun to engage the government of Argentina on the issue, and will continue to seek to ensure fair treatment for all providers.

INVESTMENT BARRIERS

Pension System

In 2008, the Argentine Parliament approved a bill to nationalize Argentina's private pension system and transfer pension assets to the government social security agency. Compensation to investors in the privatized pension system, including to U.S. investors, is still pending and under negotiation.

Foreign Exchange

Hard currency earnings on exports of both goods and services must be converted to pesos in the local official foreign exchange market. Time limits on fulfilling the requirement to convert foreign currency to pesos range from 60 days to 360 days for goods depending on the goods involved and 15 days for services. The time period for fulfilling these requirements changes frequently, which can significantly impede trade.

During 2014 and most of 2015, the Ministry of Economy maintained restrictive controls on certain classes of inbound investments, including foreign funds from private sector debt, inflows for most fiduciary funds, inflows of nonresident funds that are destined for the holding of Argentine pesos or the purchase of private sector financial instruments, and investments in public sector securities purchased in the secondary market. Shortly after taking office in December 2015, the new government issued several regulations relaxing restrictions that were previously established in the foreign exchange market, including the elimination of the one-year mandatory unremunerated reserve requirement of 30 percent of investment inflows, elimination of the 20 percent tax on purchases of foreign currency for saving purposes, and elimination of the 35 percent tax on purchases made abroad using credit cards, debit cards, purchase cards, or through online websites. The government also announced that individuals and firms are allowed to purchase up to the equivalent of $2 million of foreign currency per month for savings purposes without prior authorization from the federal tax agency, AFIP.

U.S. investors have reported that since 2012 the Argentine government has limited their ability to make payments in foreign currency to entities outside of Argentina. This situation was aggravated in 2015 by a shortage of U.S. currency in the Central Bank's international reserves. This restriction is often communicated informally by the Argentine government and may extend to profit remittances, royalty payments, technical assistance fees, and payments for expenses incurred outside of Argentina. The new government lifted capital controls for all current and future transactions on December 17, 2015. It established two methods – a calendar of payments or a sovereign bond – by which companies could obtain dollars to draw down their stocks of delayed import payments and profit repatriation accumulated due to the previous government's imposition of capital controls.

Localization Measures

Argentina maintains certain localization measures aimed at encouraging domestic production. For example, the Argentine National Mining Agency (Agencia Nacional de Minería) requires mining companies registered in Argentina to use Argentine-flagged vessels to transport minerals and their industrial derivatives for export from Argentina. Argentina requires that mining companies registered in Argentina purchase domestic capital goods, spare parts, inputs and services. Argentina also requires that radio and TV (via airwaves and cable) advertisements have a minimum of 60 percent local content.

ELECTRONIC COMMERCE

In January 2014, Argentina modified its retail mail order import licensing system through AFIP General Resolution 3579. Online purchases of foreign products valued up to $3,000 and delivered through Argentina's official postal service are assessed a charge of 50 percent of the value of the goods. Goods in excess of $3,000 may not be sent via the Argentine postal service. In addition, individuals may import by mail up to $25 in duty free goods per year in up to two mail order transactions. Transactions above $25 are subject to the import tax of 50 percent. The resolution also requires goods delivered by official mail to be retrieved in person at the post office or customs authority.

Argentina does not allow the use of electronically produced airway bills, which would accelerate customs processing and the growth of electronic commerce transactions.

AUSTRALIA

TRADE SUMMARY

The U.S. goods trade surplus with Australia was $14.2 billion in 2015, a 10.9 percent decrease ($1.7 billion) over 2014. U.S. goods exports to Australia were $25.0 billion, down 5.8 percent ($1.5 billion) from the previous year. Corresponding U.S. imports from Australia were $10.9 billion, up 1.8 percent. Australia was the United States' 15th largest goods export market in 2015.

U.S. exports of services to Australia were an estimated $19.4 billion in 2014 (latest data available), and U.S. imports were $6.7 billion. Sales of services in Australia by majority U.S.-owned affiliates were $52.6 billion in 2013 (latest data available), while sales of services in the United States by majority Australia-owned firms were $22.9 billion.

U.S. foreign direct investment (FDI) in Australia (stock) was $180.3 billion in 2014 (latest data available), a 6.1 percent increase from 2013. U.S. direct investment in Australia is led by nonbank holding companies, finance/insurance, and mining.

TRADE AGREEMENTS

Trans-Pacific Partnership – Australia is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address non-tariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive intellectual property-intensive industries; level the playing field for U.S. exporters by fostering fair competition and good governance; establish high, enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses and consumers can begin benefitting from the Agreement as soon as possible.

United States-Australia Free Trade Agreement -- The United States-Australia Free Trade Agreement (AUSFTA) entered into force on January 1, 2005. Since then the U.S. and Australian governments have continued to monitor FTA implementation closely. Under the AUSFTA, trade in goods and services and foreign direct investment have continued to expand. Between before the agreement entered into force in 2004 and 2015, U.S. goods exports to Australia increased by 79.4 percent, and two-way goods trade increased by 66.9 percent. Between before the agreement entered into force in 2004 and 2014 (latest data available), U.S. services exports to Australia increased by 182.8 percent, and two-way services trade increased by 151.0 percent. Over 99 percent of U.S. exports of consumer and industrial goods now enter Australia duty free.

On January 14, 2015, Australia's FTA with Japan, its second largest trading partner, entered into force. Under that agreement, tariffs will eventually be eliminated on over 97 percent of Australia's current exports to Japan. Products representing about 2.5 percent of Australia's current exports to Japan are excluded from the agreement: rice; milk powder; butter; shiitake mushrooms; sake; "low polarity" raw sugar; and certain fur skin products. Some tariffs and other restrictions will remain on a number of other Australian products, including beef, pork, and some dairy products.

On June 17, 2015, Australia signed an FTA with China (ChAFTA), its largest trading partner, which entered into force on December 9, 2015. The first round of tariff cuts occurred on December 20, 2015, and the second round on January 1, 2016. The ChAFTA will result in the eventual removal of tariffs on 95 percent of Australia's goods exports to China. Chinese tariffs on Australian beef, currently set at 12 to 25 percent, will be eliminated by 2024. Chinese tariffs on Australian wine of 14 percent to 20 percent will be eliminated within four years. Almost 93 percent of China's imports of Australian resources, energy, and manufacturing products enter China duty free upon entry into force of the agreement, with most remaining tariffs in those sectors eliminated in four years. Some Australian agricultural exports to China, including sugar and rice, are excluded from the agreement.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Animal Health

Beef and Beef Products

Australia requires completion of a complex approval process before it will permit the importation of bovine products from a country that has reported any indigenous cases of bovine spongiform encephalopathy (BSE). Under Australia's requirements, Food Standards Australia New Zealand (FSANZ) conducts an individual country risk analysis. In August 2013, an audit team from FSANZ conducted an inspection of U.S. production and processing facilities. In its final report, FSANZ found that the United States has comprehensive and well-established controls to prevent the introduction and amplification of the BSE agent within the cattle population and to prevent contamination of the human food supply with the BSE agent. It reported that beef imports from the United States are safe for human consumption and recommended Category 1 status under Australia's import requirements, indicating that beef from the United States meets the negligible BSE risk requirements of the World Organization for Animal Health (OIE) and can be imported subject to specific import conditions. U.S. and Australian officials are currently coordinating specific wording for required export certificates for heat-treated, shelf-stable beef products from the United States, after which the export of these products from the United States to Australia will be able to resume.

For fresh (chilled or frozen) beef and beef products in December 2015, the Australian government announced the start of a review of its import requirements for three countries that have applied for eligibility to export to Australia: the United States, Japan and the Netherlands. This review will consider fresh (chilled or frozen) beef and beef products such as meat, bone, and offal of cattle, buffalo, and bison. The start of this review is a necessary step in the process of fully re-opening the Australian market to U.S. beef. The United States will continue to urge Australia to open its market fully to U.S. beef and beef products based on science, the OIE guidelines, and the United States' negligible risk status for BSE.

Pork

Frozen boneless pork is currently the top U.S. agricultural export to Australia, valued at $136 million in 2015. However, due to concerns about porcine reproductive and respiratory syndrome (PRRS) and postweaning multisystemic wasting syndrome (PMWS), the importations of fresh/chilled pork and bone-in products are not currently permitted. The United States has requested that Australia remove all PRRS- and PMWS-related restrictions and has provided scientific evidence to document the safety of U.S. pork products. Australia has requested additional scientific information. Access to the Australian market for fresh/chilled pork, bone-in pork, and pork products continues to be a high priority for the United States.

Poultry

Australia currently prohibits imports of uncooked poultry meat from all countries except New Zealand. While cooked poultry meat products may be imported, the current import conditions (as set out in an import risk analysis) require that imported poultry meat products must be cooked to a minimum core temperature of 74°C for 165 minutes or the equivalent. This temperature requirement does not permit importation of cooked product that is suitable for sale in restaurants or delicatessens, thus limiting commercial opportunities.

In 2012, Australia initiated an evaluation of whether it would grant access for U.S. cooked turkey meat to the Australian market under amended import conditions. The Australian government is currently conducting an import risk analysis to assess this issue. The United States has identified resolution of this issue as a high priority and continues to work with Australia to gain meaningful commercial market access for cooked turkey meat.

Plant Health

Stone Fruit

In July 2013, Australia opened its market to peaches and nectarines which have been fumigated with methyl bromide before being shipped to Australia. In December 2014, Australia also agreed to accept methyl bromide fumigation against spotted wing drosophila (SWD) in plums. The Australian and U.S. plant protection organizations consulted to successfully implement the methyl bromide fumigation program for plums for the 2015 export season. As a result, the Australian market was successfully opened for California plum exports for the 2015 season. The United States is continuing to work with Australia to obtain market access for U.S. apricots and hybrids of apricots and plums.

Apples

Australia currently prohibits the importation of apples from the United States based on concerns about fire blight and other pests. The U.S. Government and U.S. stakeholders have engaged with Australian officials to demonstrate that U.S. mature, symptomless apples pose no risk of transmission of fire blight. In October 2009, Australia published a pest risk analysis for apples from the United States and identified three additional fungal pathogens of concern to Australian regulatory authorities. Australia has indicated that in light of the U.S. Government's provision of additional information to Australia in December 2014, Australia will shortly resume work on a previously commenced import risk analysis for apples from the United States. The United States continues to work to obtain access to Australia's market for apples, which is a priority item for the United States.

Table Grapes

In 2010, Australia raised concerns regarding spotted wing drosophila (SWD), a species of fruit fly allegedly associated with table grapes from California. As a result, Australia requires a carbon dioxide/sulfur dioxide treatment plus a cold treatment to address SWD, despite the fact that SWD has never been found on California table grapes either before or since 2010. In October 2013, USDA submitted new research to

Australia on a revised cold treatment protocol for California table grapes that would allow the grapes to be treated in transit to Australia. In November 2014, Australia indicated agreement that the research both supports the efficacy of the new treatment for SWD in California table grapes and would support other market access improvements. In July 2015, Australian and U.S. plant health regulators reached agreement on new import conditions for California table grapes that allow cold treatment to be conducted before departure from California or in transit to Australia, resolving the issue and permitting the exportation of table grapes from California to continue uninterrupted.

GOVERNMENT PROCUREMENT

Under the AUSFTA, the Australian government opened its market for covered government procurement to U.S. suppliers, eliminating preferences for domestic suppliers and committing to use fair and transparent procurement procedures. In the Trans-Pacific Partnership (TPP), Australia has made similar government procurement commitments to the United States and other TPP partners.

Australia began negotiations to join the World Trade Organization's plurilateral Agreement on Government Procurement (GPA) in June 2015.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Australia generally provides strong intellectual property rights (IPR) protection and enforcement through legislation that, among other things, criminalizes copyright piracy and trademark counterfeiting. Under the AUSFTA, Australia must provide that a pharmaceutical product patent owner be notified of a request for marketing approval by a third party for a product claimed by that patent. U.S. and Australian pharmaceutical companies have expressed concerns about delays in this notification process.

Under the TPP Agreement, which sets strong and balanced standards on IPR protection and enforcement, Australia has committed to more robust standards for its IPR regime. The United States continues to work with Australia to address IPR issues through TPP implementation as well as through bilateral engagement.

SERVICES BARRIERS

Audiovisual Services

The Australian Content Standard of 2005 requires commercial TV broadcasters to produce and screen Australian content, including 55 percent of transmissions between 6:00 a.m. and midnight (and also requires minimum annual sub-quotas for Australian drama, documentary, and children's programs). A broadcaster must also ensure that Australian-produced advertisements occupy at least 80 percent of the total advertising time screened in a year between the hours of 6:00 a.m. and midnight, other than the time occupied by exempt advertisements (which include advertisements for imported cinema films, videos, recordings and live appearances by overseas entertainers, and community service announcements). These local content requirements do not apply to cable or online programming.

Australia's Broadcasting Services Amendment Act requires subscription TV channels with significant drama programming to spend 10 percent of their programming budgets on new Australian drama programs. This local content requirement applies to cable and satellite services but does not apply to new digital multi-channels or to online programming.

The Australian commercial radio industry Code of Practice sets quotas for the broadcast of Australian music on commercial radio (requiring that up to 25 percent of all music broadcast between 6:00 a.m. and midnight must be performed by Australians). In July 2010, the Australian Communications and Media Authority announced a temporary exemption from the Australian music quota for digital-only commercial radio stations (*i.e.*, stations not also simulcast in analog); that exemption was renewed in 2014 and remains in effect.

While these quotas remain unaffected by TPP, several provisions negotiated in TPP will enhance the ability of U.S. suppliers to offer video services in the Australia market, including on a cross-border basis: namely, provisions on cross-border transfer of data, location of computing facilities, and use of goods containing encryption.

INVESTMENT BARRIERS

Foreign direct investment into Australia is regulated by the Foreign Acquisitions and Takeovers Act 1975 and Australia's Foreign Investment Policy. The Foreign Investment Review Board (FIRB), a division of Australia's Treasury, screens potential foreign investments in Australia above a threshold value that stands at A$252 million as of January 1, 2016. Based on advice from the FIRB, Australia's Treasurer may deny or place conditions on the approval of particular investments above the threshold on national interest grounds.

Under the AUSFTA, all U.S. greenfield investments are exempt from FIRB screening. In addition, under the AUSFTA, non-greenfield U.S. investments are only screened above a (higher) threshold value, which stands at A$1,094 million as of January 1, 2016. The FIRB has generally approved U.S. investments. All foreign persons, including U.S. investors, must notify the Australian government and get prior approval to make investments of 5 percent or more in enterprises in the media sector, regardless of the value of the investment.

ELECTRONIC COMMERCE

The AUSFTA recognizes the importance of avoiding erecting barriers to trade conducted electronically and commits Parties not to impose tariffs or otherwise discriminate against digital products distributed electronically (*e.g.*, books, films, and music). Key provisions negotiated in the TPP that enhance electronic commerce include provisions covering the cross-border transfer of information; the location of computing facilities; and the protection of computer source code.

BAHRAIN

TRADE SUMMARY

The U.S. goods trade surplus with Bahrain was $372 million in 2015, a 293.9 percent increase ($277 million) over 2014. U.S. goods exports to Bahrain were $1.3 billion, up 20 percent ($214 million) from the previous year. Corresponding U.S. imports from Bahrain were $902 million, down 6.5 percent. Bahrain was the United States' 71st largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Bahrain (stock) was $765 million in 2014 (latest data available), a 10.7 percent decrease from 2013.

The United States-Bahrain Free Trade Agreement

Upon entry into force of the United States-Bahrain Free Trade Agreement (FTA) in August 2006, 100 percent of bilateral trade in consumer and industrial products and most agricultural products became duty-free immediately. Textiles and apparel are duty free, providing opportunities for U.S. and Bahraini fiber, yarn, fabric and apparel manufacturing. Generally, to benefit from preferential tariffs under the FTA, textiles and apparel must be made from either U.S. or Bahraini yarn and fabric. The FTA provides a 10-year transitional period for textiles and apparel that do not meet these requirements in order to assist U.S. and Bahraini producers in developing and expanding business contacts. This provision will expire on July 31, 2016.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization (GSO), issued regulations on the GCC Regional Conformity Assessment Scheme and GCC “G” Mark in an effort to “unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers.” U.S. and GCC officials continue to discuss concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States notified WTO Members in June 2014 of their intention to implement a new “GCC Guide for Control on Imported Foods” by June 2015. Due to concerns about implementation of the Guide, Member States have not implemented it but are reviewing the current version. Stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also could impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius Commission and the World Organization for Animal Health. The United States raised concerns about the current version of the Guide in 2014 and 2015, and GCC Member States delayed entry into force until food safety experts have an opportunity to address these concerns. The

United States continues to engage in discussions with the GCC and its Member States regarding their import requirements for food and agricultural products.

GOVERNMENT PROCUREMENT

Bahrain is an observer but not a signatory to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Bahrain was not listed in the 2015 Special 301 Report. As part of its FTA obligations, Bahrain enacted several key laws to improve protection and enforcement for copyrights, trademarks, and patents. Bahrain's record on intellectual property rights (IPR) protection and enforcement continues to be mixed. Over the past several years, Bahrain has launched several campaigns to combat piracy of cable and satellite TV by blocking illegal signals and prohibiting the sale of decoding devices, and has launched several public awareness campaigns regarding IPR piracy. However, many counterfeit consumer goods continue to be sold openly.

As the six GCC Member States explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation and capacity building programs on IPR policy and practice.

OTHER BARRIERS

In February 2015, Bahrain's Minister of Industry and Commerce issued a Ministerial Order banning pyramid and network marketing schemes. In practice, the Minister has used this order to prevent direct sales and multi-level marketing organizations from operating in Bahrain. One U.S.-headquartered multi-level marketing firm, a company which operates legally in more than 30 countries worldwide, was ordered to close its storefront and cease selling merchandise with little warning.

BANGLADESH

TRADE SUMMARY

The U.S. goods trade deficit with Bangladesh was $5.0 billion in 2015, a 21.0 percent increase ($873 million) over 2014. U.S. goods exports to Bangladesh were $948 million, down 15 percent ($165 million) from the previous year. Corresponding U.S. imports from Bangladesh were $6.0 billion, up 13 percent. Bangladesh was the United States' 78th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Bangladesh (stock) was $465 million in 2014 (latest data available), a 12.6 percent increase from 2013.

IMPORT POLICIES

Bangladesh's import policies are outlined in the Import Policy Order (IPO) of the government of the People's Republic of Bangladesh, issued by the Chief Controller of Imports and Exports, Ministry of Commerce. Foreign exchange is controlled by the Bangladesh Bank in accordance with Foreign Exchange Control policies.

All imports, except for capital machinery and raw materials for industrial use, must be supported by a letter of credit. A letter of credit authorization form and a cash margin (ranging from 10 to 100 percent) are also required.

Tariffs

The IPO is the primary legislative tool governing customs tariffs. The importance of tariffs as a source of government revenue – more than a quarter of the total – greatly complicates efforts to lower tariff rates.

Bangladesh levies tariffs at four primary levels as found at: http://customs.gov.bd/portal/services/tariff/index.jsf. Customs duties are levied on all imports except generators, information technology equipment, raw cotton, textile machinery, certain types of machinery used in irrigation and agriculture, animal feed for the poultry industry, and certain drugs and medical equipment.

The average MFN tariff rate is 15.5 percent, with the average rates for agricultural products higher than for industrial goods. The maximum MFN applied rate is 25 percent. Products subject to duty rates of 5 percent to 25 percent include general input items, basic raw materials, and intermediate and finished products. However, Bangladesh provides concessions for the import of capital machinery and equipment, as well as certain inputs and parts, which can make application of tariffs complex and non-transparent. Other charges applicable to imports are an advance income tax of 5 percent; a value-added tax of 5 percent to 15 percent (basic necessities, food, and medicine used in poultry and dairy sectors, raw cotton, and textile machinery are exempted from the VAT); and a supplementary duty of 10 to 150 percent (applicable on luxury items such as cigarettes and perfume).

Bangladesh has abolished excise duties on all items except manually prepared cigarettes, bank accounts, and textiles. Samples in reasonable quantity can be carried by passengers during travel and are not subject to tax; however, samples are subject to tax if sent by courier.

Nontariff Measures

All importers, exporters, and agents must be members of a recognized chamber of commerce and industry as well as an organization in Bangladesh representing their own trade.

Import Licenses

In general, documents required for imports include the letter of credit authorization form, a bill of lading or airway bill, commercial invoice or packing list, and certificate of origin. In certain instances, additional certificates and/or import permits related to health, security or other matters may be required by the relevant government agencies for imports of restricted items. There are minor documentation requirements for public sector importers (government organizations, statutory bodies, state-owned corporations, universities, research institutions, and industrial enterprises in the public sector). According to the IPO, import licenses are generally not required unless otherwise specified.

Bangladesh imposes registration requirements on private industrial consumers and commercial importers, which in some cases specify maximum values of imports. Private industrial consumers are units registered with one of four sponsoring agencies: the Bangladesh Export Processing Zones Authority (BEPZA) for industries located in the Export Processing Zones (EPZs); the Bangladesh Small and Cottage Industries Corporation (BSCIC) for small and cottage industries; the Handloom Board, for handloom industries run by weavers' associations; and the Board of Investment (BOI) for all other private industries. Commercial importers are defined as those who import goods for sale without further processing.

Private industrial consumers (with the exception of those located in EPZs) and commercial importers must register with the Chief Controller of Imports and Exports (CCIE) in the Ministry of Commerce, who issues an import registration certificate (IRC). An IRC is generally issued within 10 days of receipt of the application. For industrial consumers, the IRC specifies the maximum value (the "import entitlement") for each product that the industrial consumer may import each year, including items on the restricted list for imports. (Commercial importers are free to import any quantity of non-restricted items.) The import entitlement reportedly serves to monitor imports of raw materials and machinery, most of which enter Bangladesh at concessional duty rates.

Registration Certificate

Registered commercial and industrial importers are classified into six categories on the basis of the maximum value of annual imports. The initial registration fee and annual renewal fee varies depending on the category. The sixth category, for example, applies where annual imports are over approximately $641,000; the initial registration fee is approximately $769, and the renewal fee is approximately $385.

An importer must apply in writing to the concerned Import Control Authority (ICA) for registration in any of the six categories, and provide necessary documents, including an original copy of the "Chalan" (the Treasury payment form) as evidence of payment of the prescribed registration fees. The ICA makes an endorsement under seal and signature on the IRC for each importer, indicating the maximum value of annual imports and the rate of renewal fees applicable in each case. An importer may not open a letter of credit in excess of the maximum value of annual imports.

Indentors and exporters must also pay registration and renewal fees, of approximately $513 and $256, and $90 and $64, respectively.

GOVERNMENT PROCUREMENT

Government procurement is primarily undertaken through public tenders under the Public Procurement Act 2006 and conducted by the Central Procurement Technical Unit (CPTU). The CPTU was established in April 2002 as a unit within the Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning. It is headed by a Director-General, who reports directly to the Secretary of IMED. The government of Bangladesh publicly subscribes to principles of international competitive bidding; however, charges of corruption are common. Bangladesh recently launched a national e-Government Procurement portal at http://eprocure.gov.bd.

Bangladesh it is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Although Bangladesh has shown improvement on intellectual property rights (IPR) enforcement, counterfeit goods continue to be widely available and music and software piracy are widespread. U.S. and other international companies in the software, publishing, clothing, and consumer product industries complain that inadequate IPR protection and enforcement is damaging their businesses in Bangladesh. Bangladesh is in the first stage of formulating a National Intellectual Property Policy, which should provide an important opportunity to address the challenges facing IPR holders in Bangladesh.

Foreign software companies face significant challenges with registering and enforcing their copyrights in Bangladesh. Although the annual bilateral trade talks between the United States and Bangladesh, the Trade and Investment Cooperation Framework Agreement (TICFA), have made progress on this issue by granting recognition for foreign country copyrights, Bangladesh has not yet instituted a gazette notification system that would allow for enforcement of these rights.

SERVICES BARRIERS

While foreign companies are legally allowed to provide services in Bangladesh, most regulated commercial fields (such as telecommunications, banking, and insurance) and legal entities (such as financial institutions) are strictly controlled for new entrants. There have been reports that licenses are not always awarded in a transparent manner. Foreign investment generally is not restricted, except in sectors controlled by administrative licensing processes. Transfer of control of a business from local to foreign shareholders requires prior approval from the Bangladesh Bank (control is defined as the ability to control the board of directors or a majority of the directors).

Telecommunications

In 1997, the government of Bangladesh opened telecommunications services to increased competition by removing the sector from the "Reserve List" and establishing the Bangladesh Telecommunication Regulatory Commission (BTRC) as the regulatory authority. The BTRC was established to facilitate dependable telecommunication services, with the mobile sector as its primary focus. However, due to BTRC's control over licensing, foreign participation in the telecommunications industry in Bangladesh remains relatively limited. Further, frequent changes to regulations and tax policy increase uncertainty for businesses and consumers.

Bangladesh has the highest taxes on mobile services in the region, with the high taxes on the mobile industry providing the biggest source of tax revenue for the government of Bangladesh. Under the present tax regime, the mobile industry is taxed like a supplier of luxury goods, with multiple taxes imposed at all stages of operation. For example, at the infrastructure level, duties up to 25 percent are imposed on telecommunications equipment and servicing equipment. SIM cards are subject to a 5 percent regulatory duty, a 15 percent supplementary duty, and sales taxes of $3.80 per card. Mobile handsets are subject to a VAT of 15 percent plus a $3.80 surcharge, plus a 15 percent customs duty, plus a one percent surcharge. Scratch cards to purchase call time are taxed at 5.5 percent, plus 30 percent for international and roaming calls.

Overall, total tax and fee payments as a proportion of mobile revenues were 45 percent in 2013. This adversely affects the industry's growth and expansion. Although 2G networks cover almost the entire population in Bangladesh, 3G licenses were only awarded at the end of 2013 and 3G coverage stands at 70 percent.

Insurance

Section 22 of the Insurance Act of 2010 provides for foreign investors to buy or hold shares of an insurance company and for exclusively foreign-owned companies to supply insurance without a requirement for local or State-Owned Enterprise (SOE) equity participation. However, U.S. companies have reported that permission to open branch offices may be politically influenced and, at present, the government of Bangladesh is not permitting new, exclusively foreign-owned companies into its insurance market.

National Payment Switch

In 2012, Bangladesh began phasing in a National Payment Switch for processing electronic payments from various channels, including ATMs, point of sale, mobile devices and over-the-Internet payments. Initially only ATM transactions were routed through the National Payment Switch (NPSB); however, Bangladesh intends to expand the system and, at present, seems to be requiring certain point of sale transactions to be routed through the system. In operation, the NPSB is limiting the ability of global suppliers of electronic payment services to participate in the market. Financial institutions have reported that they have been ordered to use NPSB rather than the payment switches offered by commercial firms. As the central bank is both the regulator and a competitor (by owning NPSB), this creates a formidable barrier for competitors to the NPSB as their clients are afraid to avoid use of the regulator's product.

Broadcasting

According to the Bangladesh Telecommunication Act 2001, the government must approve licenses for foreign channels. Foreign television distributors are required to pay a 25 percent supplementary duty and a 15 percent VAT.

OTHER BARRIERS

Bureaucratic inefficiencies often act as a discouragement to investment in Bangladesh. Overlapping administrative procedures and the absence of a transparent system of formalities often confuse investors proposing projects and staff and personnel assigned for discharging procedural responsibilities. Frequent transfers of top and mid-level officials in various ministries, directorates, and departments disrupt continuity and prevent timely implementation of both strategic initiatives and routine duties.

Extortion of money from businesses by individuals claiming political backing is common in Bangladesh. Frequent blockades called by political parties can negatively affect businesses by keeping workers away and blocking transport, resulting in productivity losses. Vehicles and other property are at risk from vandalism or arson during such activities, and looting of businesses has also occurred.

Corruption remains a serious impediment to investment in Bangladesh. While the government has established legislation to combat bribery, embezzlement, and other forms of corruption, enforcement is inconsistent. The 2007-2008 caretaker government attempted to address the culture of impunity in Bangladesh by prosecuting corruption cases, implementing systemic reforms, and strengthening the role of the Anti-Corruption Commission (ACC) as the main institutional anti-corruption watchdog. Efforts to ease public procurement rules and proposals to curb the independence of the ACC, however, may undermine institutional safeguards against corruption.

Concerns over the safety of infrastructure and industrial relations practices also have discouraged greater investment and trade. The rapid growth of the garment sector in recent years has led to the unregulated expansion in the number and size of factories. The collapse of the Rana Plaza building and the death of 1129 workers in April 2013 highlighted health and safety concerns in the country's factories and the lack of effective oversight and regulation. Recent initiatives by the government of Bangladesh and by international garment buyers have led to improvements in factory safety standards and transparency in the past year, though remediation of safety concerns has progressed slowly. A lack of meaningful progress towards labor law reform in the country's export processing zones, greater protections for labor organizations, and stronger enforcement mechanisms have also been major points of concern for Bangladeshi and international stakeholders.

BRAZIL

TRADE SUMMARY

The U.S. goods trade surplus with Brazil was $4.3 billion in 2015, a 64.2 percent decrease ($7.6 billion) over 2014. U.S. goods exports to Brazil were $31.7 billion, down 25.4 percent ($10.8 billion) from the previous year. Corresponding U.S. imports from Brazil were $27.4 billion, down 10.3 percent. Brazil was the United States' 11th largest goods export market in 2015.

U.S. exports of services to Brazil were an estimated $28.2 billion in 2014 (latest data available), and U.S. imports were $8.4 billion. Sales of services in Brazil by majority U.S.-owned affiliates were $39.6 billion in 2013 (latest data available), while sales of services in the United States by majority Brazil-owned firms were $2.0 billion.

U.S. foreign direct investment (FDI) in Brazil (stock) was $70.5 billion in 2014 (latest data available), a 1.6 percent increase from 2013. U.S. direct investment in Brazil is led by manufacturing, nonbank holding companies, and finance/insurance.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Telecommunications – Acceptance of Test Results

Pursuant to Resolution 323 of November 2002, the Brazilian National Telecommunications Agency (ANATEL) requires testing of telecommunications products and equipment by designated testing facilities in Brazil, rather than allowing testing by a facility certified by an independent certification body. The only exception is in cases where the equipment is too large or too costly to transport to the designated testing facilities. As a result of these requirements, U.S. manufacturers and exporters must present virtually all of their information technology and telecommunications equipment for testing at laboratories located in Brazil before that equipment can be placed on the Brazilian market. This redundant testing increases the cost for U.S. exporters and can delay the time to market for their products.

The United States has urged Brazil to implement the Inter-American Telecommunication Commission (CITEL) Mutual Recognition Agreement (MRA) with respect to the United States. Under the CITEL MRA, CITEL participants may agree to provide for the mutual recognition of conformity assessment bodies and mutual acceptance of the results of testing and equipment certification procedures undertaken by those bodies to determine whether telecommunications equipment meets the importing country's technical regulations. The United States and Brazil are both participants in CITEL. If Brazil implemented the CITEL MRA with respect to the United States, it would benefit U.S. suppliers seeking to sell telecommunications equipment in the Brazilian market by accepting product testing and certification conducted in the United States to meet Brazil's technical requirements. The United States will continue to encourage Brazil to implement the CITEL MRA with respect to the United States.

Toys – Conformity Assessment Procedures

Since November 2014, Brazil's National Institute of Metrology, Quality, and Technology (INMETRO) has been considering new testing requirements for toys (Ordinance 489/2014), which are intended to improve conformity assessment procedures and consolidate all toy-related certification requirements into a single measure. While under current regulations, toy manufacturers must register manufacturing facilities, the proposal appears to go further and require the registration of each toy as part of a family of products. In addition, it appears that product labels would have to bear a separate registration number for each product family, which must be obtained through a new "Object Registration" (Registro de Objecto) system. The application of the proposed Object Registration system to toys is expected to increase the complexity of the existing certification system, create delays in importing toys, and increase costs for importers and Brazilian consumers. This proposed system would also require U.S. exporters to submit commercially sensitive and confidential business information.

Sanitary and Phytosanitary Barriers

Live Cattle, Beef, and Beef Products

Brazil imposed a ban on imports of U.S. live cattle, beef, and beef products following the detection of an animal that tested positive for Bovine Spongiform Encephalopathy (BSE) in the United States in 2003. The United States continues to work with Brazil to negotiate the necessary bilateral agreements that will allow Brazil to open its market fully to U.S. live cattle, beef, and beef products based on science, the World Organization for Animal Health guidelines, and the U.S. negligible risk status for BSE.

Pork

U.S. fresh, frozen and further processed pork products are ineligible for import into Brazil. Brazil has indicated it will only authorize imports of U.S.-origin pork and pork products that have been tested and shown to be free of trichinae or otherwise mitigated. The United States does not consider these requirements for trichinosis to be necessary as U.S. pork producers maintain stringent biosecurity protocols that serve to limit the incidence of trichinosis in the United States to extremely low levels in commercial swine.

IMPORT POLICIES

Tariffs

Brazil is a member of the Southern Common Market (MERCOSUR) customs union, formed in 1991 and comprised of Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR maintains a Common External Tariff (CET) schedule, with most favored nation (MFN) applied tariff rates ranging from zero to 35 percent *ad valorem*. The CET allows for a limited number of exceptions, but Brazil's import tariffs generally follow the MERCOSUR CET. Brazil's MFN applied tariff rate averaged 10.2 percent for agricultural products and 14.1 percent for non-agricultural products in 2014. Brazil's average bound tariff rate in the WTO is significantly higher at 35.4 percent for agricultural products and 30.8 percent for non-agricultural products. Brazil's maximum bound tariff rate for industrial products is 35 percent, while its maximum bound tariff rate for agricultural products is 55 percent. Given the large disparities between bound and applied rates, U.S. exporters face significant uncertainty in the Brazilian market because the government frequently increases and decreases tariffs to protect domestic industries from import competition and to manage prices and supply. The lack of predictability with regard to tariff rates makes it difficult for U.S. exporters to forecast the costs of doing business in Brazil.

Brazil imposes relatively high tariffs on imports across a wide spread of sectors, including automobiles, automotive parts, information technology and electronics, chemicals, plastics, industrial machinery, steel, and textiles and apparel. Under a July 16, 2015 MERCOSUR Common Market Council decision, Brazil is permitted to maintain 100 exceptions to the CET until December 31, 2021. Using these exceptions, Brazil maintains higher tariffs than its MERCOSUR partners on certain goods, including cellular phones, telecommunications equipment, computers and computer printers, wind turbines, certain chemicals and pharmaceuticals, cosmetics, joint cement, hydrogenated castor oil, white mineral oils, hydrogen carbonate, machining centers, speed changers, and certain instruments and models designed for demonstration purposes.

In 2010, MERCOSUR's Common Market Council (CMC) advanced toward the establishment of a Customs Union with its approval of a Common Customs Code (CCC) and Decision 5610 (December 2010) to implement a plan to eliminate the double application of the CET within MERCOSUR. All MERCOSUR members must ratify the CCC for it to take effect, but thus far, only Argentina has done so. Brazil's executive branch continue to work on draft legislation to ratify the CCC.

Brazil agreed to establish a 750,000 metric ton (MT) duty-free tariff-rate quota (TRQ) for wheat as part of its Uruguay Round commitments. Brazil has never opened the TRQ, and therefore no wheat has been shipped under it. In April 1996, Brazil notified the WTO of its intent to withdraw the wheat TRQ in accordance with the process established in Article XXVIII of the GATT 1994. Brazil considers the current MFN applied tariff rate for wheat of 10 percent, along with *ad hoc* duty-free MFN quotas established to bridge supply gaps, to confer benefits that are commensurate with, or in excess of, the 750,000 MT TRQ. However, because Brazil could increase the 10 percent applied tariff at any time to as high as the 55 percent bound rate, and because of the unpredictable nature of the *ad hoc* quotas, these arrangements do not offer U.S. wheat exporters the same certainty that a 750,000 MT TRQ would provide. The United States will continue to engage Brazil on this issue.

Nontariff Barriers

Brazil applies federal and state taxes and charges to imports that can effectively double the actual cost of imported products in Brazil. The complexities of the domestic tax system, including multiple cascading taxes and tax disputes among the various states, pose numerous challenges for all companies operating in and exporting to Brazil, including U.S. firms.

For example, effective January 1, 2013, Brazil instituted a "temporary" regime for a reduction in the Industrial Product Tax (IPI) that made preferential tax rates to locally produced vehicles, provided that manufacturers comply with a series of local content and other requirements. This program will remain in effect until 2017. As part of the program, the baseline IPI on all vehicles will be revised upward by 30 percent, which is equivalent to the level applied to imported vehicles under the prior regime. However, those vehicles meeting certain levels of local content, fuel efficiency and emissions standards, and required levels of local engineering, research and development, or labeling standards receive tax breaks that may offset the full amount of the IPI. As a result, imported automobiles face a potential 30 percent price disadvantage compared to equivalent vehicles manufactured in Brazil even before import duties are levied.

On August 31, 2015, Brazil issued a decree to reform its excise tax regime for distilled spirits, which introduced a tax advantage for domestic producers of Cachaça, a distinctive product produced from sugarcane. Pursuant to this decree, which was signed into law on December 30, 2015, Brazil imposes a 25 percent *ad valorem* industrial products (IPI) tax on domestically-produced Cachaça, while imposing a 30 percent *ad valorem* IPI tax on all other distilled spirits, such as Tennessee whiskey, bourbon, rum, gin and vodka.

Brazil prohibits imports of all used consumer goods, including automobiles, clothing, tires, medical equipment, and information and communications technology (ICT) products, as well as imports of certain blood products. Brazil also restricts the entry of certain types of remanufactured goods (*e.g.*, earthmoving equipment, automotive parts, and medical equipment). Brazil only allows the importation of such goods if an importer can provide evidence that the goods are not or cannot be produced domestically, or if they meet certain other limited exceptions.

A 25 percent merchant marine tax on ocean freight plus port handling charges at Brazilian ports also puts U.S. products at a competitive disadvantage *vis-à-vis* MERCOSUR products.

Import Licenses and Customs Procedures

All importers in Brazil must register with the Secretariat of Foreign Trade (SECEX) to access the Brazilian Secretary of Foreign Trade's computerized documentation system (SISCOMEX). SISCOMEX registration is onerous, and includes a minimum capital requirement.

Brazil has both automatic and non-automatic import license requirements. Brazil's non-automatic import licensing system covers imports of products that require authorization from specific ministries or agencies, such as agricultural commodities and beverages (Ministry of Agriculture), pharmaceuticals (Ministry of Health), and arms and munitions (Ministry of National Defense). Although a list of products subject to non-automatic import licensing procedures is available on the SISCOMEX system, specific information related to non-automatic import license requirements and explanations for rejections of non-automatic import license applications are lacking. The lack of transparency surrounding these procedures creates additional burdens for U.S. exporters.

U.S. footwear and apparel companies have expressed concern about the extension of non-automatic import licenses and certificate of origin requirements on non-MERCOSUR footwear, textiles and apparel. They also note the imposition of additional monitoring, enhanced inspection, and delayed release of certain goods, all of which negatively impact the ability to sell U.S.-made and U.S.-branded footwear, textiles, and apparel in the Brazilian market.

The Brazilian government imposes non-automatic import licensing requirements on imported automobiles and automotive parts, including those originating in MERCOSUR countries. Delays in issuing the non-automatic import licenses negatively affect U.S. automobile and automotive parts manufacturers that export vehicles to Brazil.

U.S. companies continue to complain of burdensome documentation requirements for the import of certain types of goods that apply even if imports are on a temporary basis. In addition, the Ministry of Health's regulatory agency, ANVISA, must approve product registrations for imported pharmaceuticals, medical devices, health and fitness equipment, cosmetics, and processed food products. The registration process at ANVISA typically takes from three months to more than a year for new versions of existing products and more than six months for new products.

SUBSIDIES

The Plano Brasil Maior (Greater Brazil Plan) industrial policy offers a variety of tax, tariff, and financing incentives to encourage local producers and production for export. For example, Brazil allows tax-free purchases of capital goods and inputs to domestic companies exporting over 50 percent of their output. Similarly, the Reintegra program, launched in December 2011 as part of Plano Brasil Maior, exempted from certain taxes exports of goods covering 8,630 tariff lines, and allowed Brazilian exporters to receive up to three percent of their gross receipts from exports in tax refunds. The Reintegra program expired at the end of 2013 and was reintroduced in July 2014 through Provisional Measure 651. The program was amended in September 2014 through Decree 8.304 to add sugar, ethanol, and cellulose, among others, to the list of eligible products. The Reintegra program was amended again in February 2015 (Decree 8415) and October 2015 (Decree 8543), establishing that throughout most of 2015, exporters received one percent of gross receipts from exports in tax refunds, dropping to 0.1 percent for 2016, and increasing to two percent for 2017.

For the majority of products eligible for Reintegra benefits, the total cost of imported inputs cannot exceed 40 percent of the export price of the product. For a small number of eligible products, the total cost of imported inputs cannot exceed 65 percent of the export price.

In 2014 (latest data available), Brazil's National Bank for Economic and Social Development (BNDES) provided approximately $80 billion (R$187.84 billion) in assistance to various sectors of the Brazilian economy through several different programs. BNDES provided approximately $18 billion (R$42.5 billion) to the Investment Maintenance Program (PSI) in 2014 to finance the purchase of locally-manufactured capital goods at preferential fixed rates. Most of the lending under this program was used to finance infrastructure projects under the Growth Acceleration and the Logistics Investment programs.

Another BNDES program, FINAME, provides preferential financing for the sale and export of Brazilian machinery and equipment, and provides financing for the purchase of imports of such goods provided that such goods are not produced domestically. The funding is used to finance capacity expansions and equipment purchases in industries such as steel and agriculture. BNDES also provides preferential financing for wind and solar farm development, contingent upon progressively more stringent local content requirements. Currently, wind turbine suppliers of any nationality are eligible to receive preferential BNDES financing, provided the wind towers are built with at least 70 percent Brazilian steel by 2016, and photovoltaic suppliers must use 60 percent Brazilian-made components by 2020. In 2014, BNDES funding for FINAME was approximately $22.9 billion (R$53.85 billion).

BNDES also provided approximately $6 billion (R$14.64 billion) for the agriculture and livestock sectors in 2014 in support of a broad range of agribusiness projects. For example, BNDES funded investment in sugarcane production, expansion of industrial capacity for sugar and ethanol, cogeneration, logistics, and multimodal transportation through three programs: (1) Prorenova, a program for the renewal and/or expansion of sugarcane fields, (2) BNDES PASS, an ethanol stock program, and (3) Paiss Agricola, a program for the development of agricultural research.

Brazil's Special Regime for the Information Technology Exportation Platform (REPES) suspends Social Integration Program (PIS) and Contribution to Social Security Financing (COFINS) taxes on goods imported and information technology services provided by companies that commit to export software and information technology services to the extent that those exports account for more than 50 percent of the company's annual gross income. The Special Regime for the Acquisition of Capital Goods by Exporting Enterprises (RECAP) suspends these same taxes on new machines, instruments, and equipment imported by companies that commit for a period of at least two years to export goods and services such that they account for at least 50 percent of the company's overall gross income for the previous calendar year.

Brazil provides tax reductions and exemptions on many domestically-produced ICT and digital goods that qualify for status under the Basic Production Process (Processo Productivo Básico, or PPB). The PPB provides benefits for the production and development of goods that incorporate a certain minimum amount of local content. Tax exemptions are also provided for the development and build-out of telecommunications broadband networks that utilize locally developed products and investments under the Special Taxation Regime for the National Broadband Installation Program for Telecommunication Networks (Regime Especial de Tributação do Programa de Banda Larga para Implantação de Redes de Telecomunicações, or REPNBL-Redes).

In 2013, Brazil passed the Special Regime for the Development of the Fertilizer Industry (REIF). Under this program, fertilizer producers receive tax benefits, including an exemption for the IPI on imported inputs, provided they comply with minimum local content requirements and can demonstrate investment in local research and development projects.

Brazil also provides a broad range of assistance to its agricultural sector in the form of low interest financing, price support programs, tax exemptions, and tax credits. Brazil establishes minimum guaranteed prices for specific commodities through different programs to ensure that the returns to producers do not fall below the guaranteed level. These programs include the Federal Government Acquisition (AGF) program, the Acquisition from Public Option Contracts (POC) program, the Premium for Product Outflow (PEP) program, and the Agricultural Products' Sale Option Private Premium (PEPRO) program. Under the AGF and POC programs, the Brazilian government purchases commodities to maintain prices at the level of the minimum guaranteed price. Under the PEP and PEPRO programs, processors receive a government payment in return for purchasing commodities exported or shipped to specified regions in Brazil. The primary difference between these two programs is that the PEP payment goes to the first purchaser of the commodity while PEPRO payments are made through an auctioning system to producers or cooperatives. The amount of the PEPRO payment is based on the difference between the minimum price set by the government and the prevailing market price. Each PEPRO auction notice specifies the commodity to be tendered and the approved destinations for that product, including export destinations. From 2003 through 2015, approximately 38 million metric tons of commodities received assistance under PEPRO at a cost of R$4.4 billion ($1.2 billion). Most of that assistance was for cotton, corn, wheat, and oranges. In 2015, the PEPRO program also supported the production of 33,000 metric tons of rubber.

GOVERNMENT PROCUREMENT

U.S. companies without a substantial in-country presence regularly face significant obstacles to winning government contracts and often are more successful in subcontracting with larger Brazilian firms. By statute, a Brazilian state enterprise may subcontract services to a foreign firm only if domestic expertise is unavailable. Additionally, U.S. and other foreign firms may only bid to provide technical services where there are no qualified Brazilian firms.

Brazil gives procurement preference to firms that produce in Brazil and that fulfill certain economic stimulus requirements such as generating employment or contributing to technological development, even if their bids are up to 25 percent more expensive than bids submitted by foreign firms not producing in Brazil. The law allows for "strategic" ICT goods and services procurements to be restricted to those with indigenously developed technology. The Ministry of Development, Industry, and Commerce maintains an 8 percent preference margin for domestic producers in the textile, clothing, and footwear industries when bidding on government contracts, and 5 percent to 25 percent preference margins for domestically produced backhoes, motor graders, and a variety of pharmaceuticals.

In 2012, Brazil's Ministry of Science, Technology and Innovation issued the "Bigger IT Plan," which establishes a process for the government to evaluate and certify that software products are locally developed in order to qualify for price preferences. Brazil's regulations (Decrees 8.184, 8.185, and 8.186) require federal agencies and parastatal entities to give preferences as high as 25 percent for domestically produced high technology products such as printers and data processing machines, executive jets, certain ICT equipment, and local software services.

Presidential Decree 8135, adopted in 2013, imposes cyber auditing requirements on IT systems used by Brazilian government entities. The decree continues to be implemented in stages and is a concern for U.S. technology companies because of the potentially prohibitive costs of having a system certified for an individual market.

State-controlled oil company Petrobras' local content requirements are established and regulated by Brazil's National Petroleum Agency. Local content requirements vary by block (the geographic area that is awarded by the Brazilian government to oil companies for oil exploration), and within that block the local content requirements differ for equipment, workforce, and services. In the first auctions in 1999, local content requirements were as low as five percent. Requirements have gradually become more rigorous with local content requirements now commonly 60 percent. Technology-intensive equipment and services are subject to higher local content requirements than low-technology equipment and services. Petrobras produces over 90 percent of Brazil's oil and gas, and is required by law to operate new projects in designated offshore areas with particularly high potential, known as the "pre-salt" region, although a law is now under debate in Brazil's Congress that would remove the requirement for Petrobras to participate in each project. Petrobras is responsible for ensuring that its workforce and its entire supply chain, which comprises the vast majority of the market, adhere to these high local content requirements.

Brazil is not a signatory to the WTO Agreement on Government Procurement (GPA). The United States continues to urge Brazil to become a signatory to the GPA, which would ensure that companies in both countries have access to each other's procurement markets.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Brazil remained on the Special 301 Watch List in 2015. Brazil is an increasingly important market for domestic and foreign IP-intensive industries; however, certain administrative and enforcement challenges continue to stymie market access. Brazil has taken steps to address a backlog of pending patent applications but considerable delays remain, hindering foreign investment and domestic development and licensing of new technologies. The restriction on university ownership and licensing of IP is hindering investment in and development of domestic high technology industries. A non-transparent regulation that gives the health regulatory agency, ANVISA, the ability to review patent applications for pharmaceutical products and processes, creates further delays and uncertainty for companies wishing to invest in Brazil. Additionally, in spite of continued enforcement efforts by some Brazilian agencies, significant piracy and counterfeiting continue at physical markets, and readily accessible pirated content online undermines legitimate offerings. The United States will continue to engage Brazil on these and other issues.

SERVICES BARRIERS

Audiovisual Services and Broadcasting

Brazil imposes a fixed tax on each foreign film released in theaters, on foreign home entertainment products, and on foreign programming for broadcast television. The taxes are significantly higher than the corresponding taxes levied on Brazilian productions.

Remittances to foreign producers of audiovisual works are subject to a 25 percent income withholding tax. The producer can elect to invest 70 percent of this tax in local independent productions. In addition, local distributors of foreign films are subject to a levy equal to 11 percent of remittances to the foreign producer. This levy, a component of the CONDECINE (Contribution to the Development of a National Film Industry), is waived if the producer agrees to invest an amount equal to three percent of the remittance in local independent productions. The CONDECINE levy is also assessed on foreign video and audio advertising.

Brazil requires that all films and television shows be printed locally. Importation of color prints for the theatrical and television markets is prohibited. Domestic film quotas also exist for theatrical screening and home video distribution.

In 2011, Brazil enacted law 12.485, which covers the subscription television market, including satellite and cable television. The law permits telecommunications companies to offer television packages with their services and removes the previous 49 percent limit on foreign ownership of cable television companies. However, there are content quotas requiring every channel to air at least three and a half hours per week of Brazilian programming during prime time. Additionally, one-third of all channels included in any television package must be Brazilian. The law also makes subscription television programmers subject to the 11 percent CONDECINE levy on remittances. This levy may be waived if an amount equal to three percent of remittances is invested in local productions. In addition, the law delegates significant programming and advertising regulatory authority to the national film industry development agency, ANCINE.

Cable and satellite operators are subject to a fixed levy on foreign content and foreign advertising released on their channels. Foreign ownership in media outlets is limited to 30 percent, including the print and "open broadcast" (non-cable) television sectors. Eighty percent of the programming aired on "open broadcast" television channels must be Brazilian.

Express Delivery Services

U.S. express delivery service companies face significant challenges in the Brazilian market due to numerous barriers, including high import taxes, an automated express delivery clearance system that is only partially functional, and levels for *de minimis* exception from tariffs that are too low to facilitate efficient import of goods.

The Brazilian government charges a flat 60 percent duty for all goods imported through the Simplified Customs Clearance process used for express delivery shipments. This flat rate is higher than duties normally levied on goods arriving through regular mail, putting express delivery companies at a competitive disadvantage. Moreover, Brazilian Customs has established maximum value limits of $5,000 for exports and $3,000 for imports sent using express services.

Financial Services

Through Resolutions 225 and 232, the Brazilian National Council on Private Insurance (CNSP) restricts foreign insurers' participation in the Brazilian market. Brasil Resseguros SA, a state-controlled company, monopolized the provision of reinsurance in Brazil until the enactment of Complementary Law 126 in 2007, which allowed private reinsurers to operate in the Brazilian market. The Superintendent Office of Private Insurance (SUSEP) keeps and discloses a list of reinsurance companies authorized to function in Brazil. In August 2010, the Brazilian government passed Complementary Law 126/2007, an updated form of Complementary Law 137/2010, to liberalize entrance into national markets for foreign firms. For a foreign company to qualify as an admitted reinsurer, it must have a representation office in Brazil, meet the requirements of Complementary Law 126/2007, keep an active registration with SUSEP, and maintain a minimum solvency classification issued by a risk classification agency equal to Standard & Poor's or Fitch ratings of at least BBB.

In July 2015, the Brazilian government announced a significant relaxation of the restrictions on foreign insurers' participation in the Brazilian market, established in Resolutions 225 and 232. Under the new rules, the preferential offer rate for local reinsurers will remain at 40 percent of each cession, but mandatory cessions will be decreased to 30 percent in 2017, 25 percent in 2018, 20 percent in 2019, and 15 percent in 2020. The cap on intra-group cessions, currently at 20 percent, will be increased annually to 30 percent in 2017, 45 percent in 2018, 60 percent in 2019, and 75 percent in 2020. While the restrictions will not be eliminated entirely under the new rules, these changes mark a significant improvement.

Telecommunications

As a condition of the 2012 auction for 2.5 GHz and 450 MHz radio spectrum, ANATEL required wireless carriers to ensure that 50 percent of the infrastructure, including software, installed to supply the licensed service met the requirements of the PPB (discussed above in the Subsidies section). ANATEL also required wireless carriers to use a minimum percentage of technology developed in Brazil, starting with 10 percent in 2012, 15 percent in 2015, and 20 percent after 2017. ANATEL extended these requirements to the 700 MHz spectrum in an auction of that frequency held in 2014. As a result of these eligibility requirements, which favor local manufacturing and technology development, no U.S. telecommunications companies submitted bids in the 2012 and 2014 auctions. In November 2015, ANATEL's auction for 1.8, 1.9, and 2.5 GHz spectrum had the stated goal of increasing competition and attracting smaller carriers, and did not contain specific local content requirements. However, in the case of equivalent bids, the auction rules provided a preference for a bid utilizing services, equipment, or materials produced in Brazil, including those with national technology.

In 2013, Brazil issued Decree 8135, which mandates that government agencies procure email, file sharing, teleconferencing and Voice Over Internet Protocol (VoIP) services from a federal Brazilian public entity such as the SERPRO, Brazil's Federal Data Processing Agency. In May 2014, the Ministry of Planning, Budget and Logistics issued implementing regulations (Portarias 141 and 54) that may require access to source code for hardware and software used in the federal government's e-mail, file-sharing, teleconferencing, and VoIP solutions.

INVESTMENT BARRIERS

Foreign Ownership of Agricultural Land

The National Land Reform and Settlement Institute (INCRA) administers the purchase and lease of Brazilian agricultural land by foreigners. Under the applicable rules, the area of agricultural land bought or leased by foreigners cannot account for more than 25 percent of the overall land area in a given municipal district. Additionally, no more than 10 percent of agricultural land in any given municipal district may be owned or leased by foreign nationals from the same country. The rules also make it necessary to obtain congressional approval before large plots of agricultural land can be purchased by foreign nationals, foreign companies, or Brazilian companies with majority foreign shareholding.

BRUNEI DARUSSALAM

TRADE SUMMARY

The U.S. goods trade surplus with Brunei was $114 million in 2015, a 78.0 percent decrease ($403 million) over 2014. U.S. goods exports to Brunei were $133 million, down 75.7 percent ($416 million) from the previous year. Corresponding U.S. imports from Brunei were $19 million, down 39.2 percent. Brunei was the United States' 137th largest goods export market in 2015.

Trade Agreements

Trans-Pacific Partnership -- Brunei Darussalam is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP agreement, our TPP partners will cut more than 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address non-tariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses, and consumers can begin benefitting from the Agreement as soon as possible.

TECHNICAL BARRIERS TO TRADE

Technical Barriers to Trade

Meat and Poultry Products – Halal Standards

Most food sold in Brunei is certified as halal. However, there is a small market for non-halal foods, which must be sold in designated rooms in grocery stores separated from other products or at restaurants that are specified as non-halal. Under the Halal Meat Act, halal meat (including beef, mutton, lamb, and chicken) can be imported only by a person holding a halal import permit and an export permit from the exporting country. The Bruneian government maintains a list of the foreign and local slaughtering centers that have been inspected and declared fit for supplying meat that can be certified as halal. Brunei's system of abattoir approval involves on-site inspections carried out by Bruneian government officials for every establishment seeking to export meat or poultry to Brunei. Halal meat must be kept separately from non-halal meat at all times, and halal certification must be renewed annually by the Brunei Religious Council. Non-halal food importers must also notify the Ministry of Religious Affairs.

IMPORT POLICIES

Tariffs

Brunei has bound 95.3 percent of its tariff lines, according to the WTO, with an average bound MFN tariff rate of 25.4 percent. Its average applied MFN tariff rate is 1.2 percent. With the exception of a few products, including coffee, tea, and alcohol, tariffs on agricultural products are zero. Coffee, tea, petroleum oils, and lubricants are among the products included in the 55 tariff lines subject to specific rates of duty. Brunei reduced the tariff rate for machinery and electrical equipment from 20 percent to 5 percent in 2013, but continues to apply duties of up to 20 percent on automotive parts.

Under the TPP, Brunei has committed to eliminate all tariffs on imports from the United States.

GOVERNMENT PROCUREMENT

Under current Brunei regulations, government procurement is conducted by individual ministries and departments, which must comply with State Tender Board regulations and guidelines of the Ministry of Finance. Tender awards above BND $500,000 must be approved by the Sultan in his capacity as Minister of Finance, based on the recommendation of the State Tender Board. Most invitations for tenders or quotations are published in a government newspaper but are often selectively tendered to locally registered companies. Some ministries and departments publish tenders on their individual websites. Foreign firms may participate in the tenders individually, but are advised by the government to form a joint venture with a local company.

Under the TPP, Brunei has committed to open its government procurement to competitive bidding from the United States and other TPP suppliers. Brunei's government procurement commitments in the TPP cover all government ministries and goods and services in contracts above agreed value thresholds. The TPP also requires Brunei to institute reforms to ensure complete and timely provision of information on upcoming procurements and fair and transparent procurement procedures for government contracts.

Brunei is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Brunei was not listed in the 2015 Special 301 Report. Despite recent progress, concerns remain in some areas, including with respect to IPR border enforcement, particularly against transshipments and with respect to whether Brunei provides effective protection against unfair commercial use, as well as unauthorized disclosure of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products. The United States also continues to urge Brunei to proceed with steps to join the WIPO Internet Treaties.

Under the TPP Agreement, which sets strong and balanced standards on IPR protection and enforcement, Brunei has committed to strengthening its IPR regime in these and other areas. The United States continues to work with Brunei to address IPR issues through TPP implementation as well as through bilateral engagement.

OTHER BARRIERS

Brunei's Local Business Development Framework seeks to increase the use of local goods and services, provide local employment, and develop Brunei businesses by placing requirements on all operators in the oil and gas industry in Brunei to meet targets in hiring and contracting. The Framework sets targets based on the sophistication of technology involved and the value of the contract. Under the TPP, while some of the less technology-intensive activities will be reserved to Bruneian enterprises, all other activities serving the oil and gas industry will be open to U.S. participation.

CAMBODIA

TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was $2.6 billion in 2015, a 4.5 percent increase ($112 million) over 2014. U.S. goods exports to Cambodia were $392 million, up 19.6 percent ($64 million) from the previous year. Corresponding U.S. imports from Cambodia were $3.0 billion, up 6.2 percent. Cambodia was the United States' 102nd largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Cambodia (stock) was $77 million in 2014 (latest data available), a 22.2 percent increase from 2013.

IMPORT POLICIES

Tariffs

Cambodia is one of the few least-developed World Trade Organization (WTO) Members that made binding commitments on all products in its tariff schedule when it joined the WTO in 2004. Cambodia's overall simple average bound tariff rate is 19.1 percent, while the average applied tariff rate is now around 11.2 percent. Cambodia's highest applied tariff rate of 35 percent is imposed across a number of product categories, including a wide variety of prepared food products, bottled and canned beverages, cigars and cigarette substitutes, table salt, paints and varnishes, cosmetic and skin care products, glass and glassware, electrical appliances, cars, furniture, video games, and gambling equipment.

Customs

Both local and foreign businesses have raised concerns that the Customs and Excise Department engages in practices that are nontransparent and that appear arbitrary. Importers frequently cite problems with undue processing delays, burdensome paperwork, and unnecessary formalities. The United States continues to raise these and other customs issues with Cambodia.

Taxation

Cambodia levies trade-related taxes in the form of customs duties, additional taxes on gasoline ($0.02 per liter) and diesel oil ($0.04 per liter), an export tax, and two indirect taxes – a value-added tax (VAT) and an excise tax – levied on the value of imports. The VAT is applied at a uniform 10 percent rate. To date, the VAT has been imposed only on large companies, but the Cambodian government is working to expand the base to which the tax is applied. The VAT is not collected on exports and services consumed outside of Cambodia (technically, a zero percent VAT applies). Subject to certain criteria, the zero percent rate also applies to businesses that support exporters and subcontractors that supply goods and services to exporters, such as agricultural exporters and garment and footwear manufacturers.

Information and Communications Technology Equipment

With the robust growth of information and communications technology (ICT) in Cambodia, IT equipment imports have been increasing. The importation of used computers and spare parts are prohibited.

GOVERNMENT PROCUREMENT

Despite the general requirement of competitive bidding for procurements valued at approximately $25,000 (100 million riel), government procurement often is not transparent. The Cambodian government frequently provides short response times to public announcements of tenders, which may not be widely publicized. For construction projects, only bidders registered with the Ministry of Economy and Finance are permitted to participate in tenders. Additionally, prequalification procedures exist at the provincial level, which further limit the opportunity for prospective contractors to participate in tenders.

Cambodia is neither a signatory to nor an observer of the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The U.S. Government continues to have concerns regarding the protection and enforcement of intellectual property rights in Cambodia in light of widespread copyright piracy and trademark counterfeiting. Although public awareness of the dangers of counterfeit products is gradually increasing, pirated CDs, DVDs, software, garments, and other copyrighted materials, as well as an array of counterfeit goods, including pharmaceuticals, are reportedly widely available in Cambodia's markets. The rates of signal and cable piracy also remain high and online sites purveying pirated music, films, eBooks, software, and TV shows are spreading and gaining in popularity. Legislation that would address protection of trade secrets is under review at the Ministry of Commerce and expected to be sent to the Council of Ministers in 2017, legislation on encrypted satellite signals is under the consultation at the Ministry of Post and Telecommunication, and legislation on semiconductor layout designs is under review at the Ministry of Industry and Handicraft.

Cambodia passed a law clarifying the process for obtaining geographical indications in January 2014. A ministerial declaration on the process for registering trademarks and trade names, recording changes of a trademark owner's address and affidavit of use or non-use was issued on May 26, 2014. The declaration stipulates that an applicant whose permanent residence or place of business is outside Cambodia may appoint a representative agent to file an application on his or her behalf provided that the agent is domiciled and practicing in Cambodia.

Cambodia acceded to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (the Madrid Protocol) in June 2015. With this accession, an applicant can apply for a trademark in Cambodia by filing a single international application at a national or regional intellectual property office of a country or region that is party to the system.

Legal enforcement in the protection of collective rights is still limited. The Ministry of Culture and Fine Arts is drafting the Prakas of the Establishment of a Collective Management Organization, which is expected to be released in 2016.

INVESTMENT BARRIERS

Cambodia's constitution restricts foreign ownership of land. In 2010, a law was enacted allowing foreign ownership of property above the ground floor of a structure. The law stipulates that no more than 70 percent of a building can be foreign-owned, and that foreigners cannot own property within 30 kilometers of the national border. Foreign investors may also use land through concessions and renewable leases, although in May 2012, the Cambodian government imposed a moratorium on Economic Land Concessions (ELCs), which allow long-term leases of state-owned land. The Cambodian government also has been reviewing previously granted ELCs and has revoked certain ELCs on the grounds that the recipients had not followed through with the projects or complied with the ELC terms and conditions. In 2014, the Minister of the Environment canceled 23 ELCs totaling approximately 90,000 hectares of land, ostensibly for failing to develop the land pursuant to the terms of the ELC. By the end of September 2015, the Ministry of Agriculture, Forestry and Fisheries had cancelled 15 ELCs. The Cambodian government also has reduced the term of ELCs from between 70 years and 90 years to 50 years.

SERVICE BARRIERS

Telecommunications

A number of telecommunications operators have merged in response to the high levels of competition in the telecommunications sector, leaving seven telecommunications operators in Cambodia. The Cambodian government passed the law on telecommunications in December 2015 to further regulate the telecommunications industry and to balance benefits for investors, the state and users.

ELECTRONIC COMMERCE

Electronic commerce development in Cambodia is limited, in part, due to the low level of confidence in the banking sector and limited development of credit card services. Some local banks provide credit card services in order to facilitate online purchase, but only a small fraction of the urban population uses these services. There is a growing number of online shopping websites, as well as increasing adoption of social media platforms such as Facebook. However, most transactions are still conducted with cash. A draft law on electronic commerce is currently under review at the Council of Ministers but has not yet been made public.

OTHER BARRIERS

Corruption

Both foreign and local businesses have identified corruption in Cambodia as a major obstacle to business and a deterrent to attracting investment. In 2010, Cambodia adopted anti-corruption legislation and established a national Anti-Corruption Unit to undertake investigations, implement law enforcement measures, and conduct public outreach. Enforcement, however, remains inconsistent.

Cambodia began publishing official fees for public services at the end of 2012 in an effort to combat "facilitation" payments, but this exercise has yet to be completed. After national elections in July 2013, certain ministries, such as the Ministry of Commerce and the General Department of Taxation, started to provide online information and services as an effort to reduce paperwork and unofficial fees. Anti-corruption information has been incorporated into the national high school curriculum. Civil servants' salaries are disbursed through commercial banks. These changes have resulted in Cambodia receiving one extra point on Transparency International's Corruption Perception Index for 2014, where it ranked 156th out of 175 countries.

Judicial and Legal Framework

Cambodia's legal framework is incomplete and its laws are unevenly enforced. While the National Assembly has passed numerous trade and investment laws, including a law on commercial arbitration, many business-related laws are still pending. Cambodia's judicial system is viewed as one of the country's most corrupt institutions.

In 2009, the Cambodian government established a commercial arbitration body called the National Arbitration Center, an alternative dispute resolution mechanism intended to resolve commercial disputes more quickly than the judicial system. The National Arbitration Center, later renamed the National Commercial Arbitration Center, was officially launched in March 2013. Three laws related to the judicial system were enacted in July 2014: the Law on Court Structures, the Law on the Duties and Discipline of Judges and Prosecutors, and the Law on the Organization and Functioning of the Supreme Council of Magistracy. Under the Law on Court Structure, the Commercial Court, established as one of the four specialized Courts of First Instance, will have jurisdiction over all commercial matters, including insolvency cases. The Commercial Chambers will hear all appeals arising out of the Commercial Court.

Smuggling

The smuggling of products, such as vehicles, fuel, soft drinks, livestock, crops, and cigarettes, remains widespread. The Cambodian government has issued numerous orders to suppress smuggling and has created various anti-smuggling units within government agencies, including the General Department of Customs and Excise, and has established a mechanism within this department to accept and act upon complaints from the private sector and foreign governments. Enforcement efforts, however, remain weak and inconsistent.

CANADA

TRADE SUMMARY

The U.S. goods trade deficit with Canada was $15.2 billion in 2015, a 57.1 percent decrease ($20.2 billion) over 2014. U.S. goods exports to Canada were $280.0 billion, down 10.4 percent ($32.4 billion) from the previous year. Corresponding U.S. imports from Canada were $295.2 billion, down 15.1 percent. Canada was the United States' largest goods export market in 2015.

U.S. exports of services to Canada were an estimated $61.4 billion in 2014 (latest data available), and U.S. imports were $30.1 billion. Sales of services in Canada by majority U.S.-owned affiliates were $127.6 billion in 2013 (latest data available), while sales of services in the United States by majority Canada-owned firms were $84.4 billion.

U.S. foreign direct investment (FDI) in Canada (stock) was $386.1 billion in 2014 (latest data available), a 1.0 percent decrease from 2013. U.S. direct investment in Canada is led by nonbank holding companies, manufacturing, and finance/insurance.

Trade Agreements

Trans-Pacific Partnership -- Canada is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed on February 4, 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promote U.S. exports of goods and services, and benefit American workers, farmers, businesses, and consumers. Under the TPP Agreement, TPP Parties will cut over 18,000 import taxes imposed on Made-in-America products imported into TPP countries; open new markets for U.S. service suppliers; address nontariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field by fostering fair competition and good governance; enforce high labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

North American Free Trade Agreement -- The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico (the Parties), entered into force on January 1, 1994. At the same time, the United States suspended the United States-Canada Free Trade Agreement, which had entered into force in 1989. Under the NAFTA, the Parties progressively eliminated tariffs and nontariff barriers to trade in goods among them, provided improved access for services, established strong rules on investment, and strengthened protection of intellectual property rights. After signing the NAFTA, the Parties concluded supplemental agreements on labor and the environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANTIARY BARRIERS

Technical Barriers to Trade

Restrictions on U.S. Seeds Exports

Canada's *Seeds Act* generally prohibits the sale or advertising for sale in Canada or import into Canada of seeds of a variety that is not registered in the prescribed manner. The purpose of variety registration is to provide government oversight to ensure that health and safety requirements are met and that information related to the identity of the variety is available to regulators in order to prevent fraud. However, there are concerns that the variety registration system is slow and cumbersome. The United States is monitoring and providing input on the steps Canada is taking to modernize and streamline Canada's variety registration system.

Cheese Compositional Standards

Canada's regulations on compositional standards for cheese restrict access to the Canadian market for U.S. dry milk proteins. These regulations limit the amount of dry milk proteins that can be used in cheese making. The United States continues to monitor the situation with these regulations for any changes that could have a further adverse impact on U.S. dairy product exports.

IMPORT POLICIES

Agricultural Supply Management

Canada uses supply-management systems to regulate its dairy, chicken, turkey, and egg industries. Canada's supply-management regime involves production quotas, producer marketing boards to regulate price and supply, and tariff-rate quotas (TRQs) for imports. Canada's supply-management regime severely limits the ability of U.S. producers to increase exports to Canada above TRQ levels and inflates the prices Canadians pay for dairy and poultry products. Under the current system, U.S. imports above quota levels are subject to prohibitively high tariffs (*e.g.*, 245 percent for cheese, 298 percent for butter).

The United States remains concerned about potential Canadian actions that would limit U.S. exports to the Canadian dairy market. For example, the United States continues to monitor closely any tariff reclassifications of dairy products to ensure that U.S. market access is not negatively affected.

Under the TPP agreement, U.S. exporters will gain new access into Canada for milk, butter, cheese, and the whole spectrum of America's dairy products through new and growing tariff-rate quotas. Tariffs and quotas will be eliminated altogether in the case of whey and margarine. Canada will also establish new duty-free TRQs for poultry meat, eggs and egg products.

Special Milk Classes

Canada provides milk components at discounted prices to domestic processors under the Special Milk Class Permit Program (SMCPP). These prices are "discounted" in the sense that they are lower than Canadian support prices and reflect U.S. or world prices. The SMCPP is designed to help Canadian processed products compete against imports and in foreign markets.

Geographical Indications

Canada and the European Union (EU) announced on August 5, 2014 that they had concluded the Canada-EU Comprehensive Economic and Trade Agreement (CETA). The agreement contains Canadian commitments regarding geographical indications (GIs) that raise serious concerns about whether their implementation will reduce the access for current and future U.S. agricultural and foodstuff producers that trade with Canada. The U.S. Government continues to engage with Canada on this issue to advance transparency and due process in Canada's geographical indications system. The complete list of GIs that Canada recognized in the CETA text can be found at the following URL address: http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/22.aspx?lang=eng#221.

Restrictions on U.S. Grain Exports

A number of grain sector policies limit the ability of U.S. wheat and barley exporters to receive a premium grade (a grade that indicates use for milling purposes as opposed to grain for feed use) in Canada, including the provisions of the *Canada Grain Act* and *Seeds Act*.

Under the *Canada Grain Act*, the inspection certificate for grain grown outside Canada, including U.S. grain, can only state the country of origin for that grain and not issue a grade. Also, the *Canada Grain Act* directs the Canadian Grain Commission to "establish grades and grade names for any kind of western grain and eastern grain and establish the specifications for those grades" by regulation. The explicit division between "eastern grain" and "western grain," are defined in the *Canada Grain Act* as "grain grown in the [Eastern or Western] Division," defined geographically within Canada, further underscores that grading is only available to Canadian grains. Under the *Canada Grain Act*, only grain of varieties registered under Canada's *Seeds Act* may receive a grade higher than the lowest grade allowable in each class

U.S. wheat and barley can be sold without a grade directly to interested Canadian purchasers at prices based on contract specifications. However, contract-based sales are a relatively small proportion of all sales in Canada. Most sales occur through the bulk handling system in grain elevators. Canadian grain elevators offer economic efficiencies by collecting and storing grain from many small-volume growers, giving them the ability to fulfill larger contracts and to demand higher prices for that ability.

The barriers to assigning U.S. grain a premium grade encourages both a price discounting of high-quality U.S. grain appropriate for milling use and *de facto* segregation at the Canadian elevator.

The United States will continue to press the Canadian government to move forward swiftly with legislative changes that would enable grain grown outside Canada to receive a premium grade and changes to its varietal registration system.

Personal Duty Exemption

Canada's personal duty exemption for residents who bring back goods from short trips outside of its borders is less generous than the U.S. personal duty exemption. Canadians who spend more than 24 hours outside of Canada can bring back C$200 worth of goods duty free, or C$800 for trips over 48 hours. Canada provides no duty-exemption for returning residents who have been out of Canada for fewer than 24 hours. U.S. retailers have raised concerns about the effect of this policy on purchases by Canadians on short trips to the United States.

Wine, Beer, and Spirits

Canadians face high provincial taxes on personal imports of U.S. wines and spirits upon their return to Canada from the United States. This inhibits Canadians from purchasing U.S. alcoholic beverages while in the United States.

Most Canadian provinces restrict the sale of wine, beer, and spirits through province-run liquor control boards, which are the sole authorized sellers of wine, beer, and spirits in those provinces. Market access barriers in those provinces greatly hamper exports of U.S. wine, beer, and spirits to Canada. These barriers include cost-of-service mark-ups, restrictions on listings (products that the liquor board will sell), reference prices (either maximum prices the liquor board is willing to pay or prices below which imported products may not be sold), labeling requirements, discounting policies (requirements that suppliers offer rebates or reduce their prices to meet sales targets) and distribution policies.

British Columbia

British Columbia (BC) has implemented a measure that allows only BC wines to be sold on grocery store shelves, while imported wine in grocery stores can only be sold in a "store within a store" with controlled access with separate case registers. This regulation has raised concerns that the measure may discriminate against imported wines.

Ontario

Ontario's new policy on wine sales in grocery stores, under which a certain number of licenses would be restricted to selling only Ontario Vintners Quality Alliance (VQA) wines, raises concerns that the measure may discriminate against imported wines.

DOMESTIC SUPPORT MEASURES

Aerospace Sector Support

Canada released a comprehensive review of its aerospace and space programs in November 2012. The review offered 17 recommendations intended to strengthen the competitiveness of Canada's aerospace and space industries and guide future government involvement in both sectors. Recommendations called on the Canadian government to create a program to support large-scale aerospace technology demonstration, co-fund a Canada-wide initiative to facilitate communication among aerospace companies and the academic community, implement a full cost recovery model for aircraft safety certification, support aerospace worker training, and co-fund aerospace training infrastructure.

The review also recommended that the Canadian government continue funding the Strategic Aerospace and Defense Initiative (SADI). The SADI provides repayable support for strategic industrial research and pre-competitive development projects in the aerospace, defense, space, and security industries, and has authorized $1.53 billion to fund 27 advanced research and development (R&D) projects since its establishment in 2007. To date, SADI has disbursed nearly $935 million of which approximately $554 million was disbursed in 2014.

The Canadian federal government and the Quebec provincial government announced aid to the Bombardier aircraft company in 2008 to support research and development related to the launch of the new class of Bombardier CSeries commercial aircraft. The federal government provided C$350 million in financing for the CSeries aircraft, and the government of Quebec provided another C$118 million. The federal government and Quebec government are also offering commercial loans to potential buyers of the aircraft.

In October 2015, the Quebec provincial government entered into a memorandum of understanding with Bombardier to buy a 49.5 percent equity share in a CSeries joint-venture for $1 billion, with a commitment by the company to maintain aircraft manufacturing operations in Quebec for a period of 20 years. The venture will be managed by a board of directors made up of Quebec government officials and Bombardier executives. The first $500 million payment is scheduled for April 2016, and a second $500 million payment is scheduled for June 2016. Bombardier expects to begin commercial deliveries of CSeries aircraft in 2016. The United States will continue to monitor carefully any government financing and support of the CSeries aircraft.

While Parties to the February 2011 OECD Sector Understanding on Export Credits for Civil Aircraft implement the revised agreement, the United States also has expressed concern over the possible use of Export Development Canada (EDC) export credit financing to support commercial sales of Bombardier CSeries aircraft in the U.S. market.

Canada has committed to spend approximately $25 million from 2009 to 2018 to support the Green Aviation Research and Development Network and provide additional funding to the National Research Council's Industrial Research Assistance Program to support research and development in Canada's aerospace sector.

GOVERNMENT PROCUREMENT

Canada has made commitments to open its government procurement to U.S. suppliers under the WTO Agreement on Government Procurement (WTO GPA), the NAFTA, and the 2010 United States-Canada Agreement on Government Procurement. The current agreements provide U.S. businesses with access to procurement conducted by most Canadian federal departments and a large number of provincial entities, and to procurement by some but not all of Canada's Crown Corporations.

Hydro-Québec, a provincial-level Crown Corporation in Quebec maintains a local (Quebec) content requirement in its procurements for wind energy projects, and these local content requirements can pose hurdles for U.S. companies in the renewable energy sector in Canada.

Under the TPP agreement, Canada will make comparable procurement commitments to the United States and other TPP partners, and expand its government procurement coverage to include additional services and entities not covered in past agreements with the United States.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Protection and enforcement of intellectual property (IP) rights is a continuing priority in bilateral trade relations with Canada. In 2012, the U.S. Government moved Canada from the Priority Watch List to the Watch List in light of steps taken to improve copyright protection through the Copyright Modernization Act. With respect to pharmaceuticals, the United States continues to have serious concerns about the impact of the patent utility requirements that Canadian courts have adopted. On IP enforcement, Canada's Parliament passed the Combating Counterfeit Products Act on December 9, 2014, but the United States is disappointed that Canada did not amend this legislation to allow for inspection of in-transit counterfeit trademark goods and pirated copyright goods entering Canada destined for the United States. Under the TPP agreement, which sets strong and balanced standards on IP protection and enforcement, Canada has committed to strengthening its IP regime. The United States continues to work with Canada to address IP issues through TPP implementation as well as through bilateral engagement.

SERVICES BARRIERS

Telecommunications

Canada no longer maintains foreign ownership restrictions for carriers with less than a 10 percent share of the total Canadian telecommunications market, following an amendment to the Telecommunications Act in June 2012. Foreign owned carriers are permitted to continue operating if their market share grows beyond 10 percent, provided the increase does not result from the acquisition of, or merger with, another Canadian carrier. Canada capped the amount of spectrum that all large incumbent companies could purchase in the January 2014 700 MHz spectrum auction in an effort to facilitate greater competition in the sector. No foreign entities participated in the auction, which resulted in Canada's three large incumbent wireless providers winning 85 percent of the available blocks. Canada has blocked deals it believes would lead to excessive spectrum concentration among market leaders, and set aside 60 percent of spectrum auctioned off in March 2015 for new wireless entrants. These positive developments have fostered increased competition in Canada’s wireless telecommunications sector. The federal government included a provision to cap wholesale domestic wireless roaming rates in its 2014 budget implementation act. The measure is intended to foster increased competition in Canada’s telecommunications sector by preventing large wireless carriers from charging smaller providers’ higher roaming rates than they would charge their own customers.

Canada maintains a 46.7 percent limit on foreign ownership of certain suppliers of facilities-based telecommunications services (*i.e.* those with more than 10 percent market share), except for submarine cable operations. This is one of the most restrictive regimes among developed countries. Canada also requires that at least 80 percent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadian citizens. As a consequence of these restrictions on foreign ownership, the role of U.S. firms in the Canadian market as wholly U.S.-owned operators has been limited to that of resellers, dependent on Canadian facilities-based operators for critical services and component parts.

Canadian Content in Broadcasting

The Canadian Radio-television and Telecommunications Commission (CRTC) imposes quotas that determine both the minimum Canadian programming expenditure (CPE) and the minimum amount of Canadian programming that licensed Canadian broadcasters must carry (Exhibition Quota). Large English language private broadcaster groups have a CPE obligation equal to 30 percent of the group’s gross revenues from their conventional signals, specialty, and pay services.

In March 2015, the CRTC announced that it will eliminate the 55 percent daytime Canadian-content quota. The CRTC is maintaining the Exhibition Quota for primetime at 50 percent from 6 p.m. to 11 p.m. Specialty services and pay television services that are not part of a large English language private broadcasting group are now subject to a 35 percent requirement throughout the day, with no prime time quota.

For cable television and direct-to-home broadcast services, more than 50 percent of the channels received by subscribers must be Canadian programming services. Non-Canadian channels must be pre-approved (“listed”) by the CRTC. Upon an appeal from a Canadian licensee, the CRTC may determine that a non-Canadian channel competes with a Canadian pay or specialty service, in which case the CRTC may either remove the non-Canadian channel from the list (thereby revoking approval to supply service) or shift the channel into a less competitive location on the channel dial.

The CRTC also requires that 35 percent of popular musical selections broadcast on the radio qualify as “Canadian” under a Canadian government-determined point system.

In September 2015, the CRTC released a new Wholesale Code that governs certain commercial arrangements between broadcasting distribution undertakings, programming undertakings, and exempt digital media undertakings. A proposal in the new Wholesale Code to apply a code of conduct designed for vertically integrated suppliers in Canada (*i.e.*, suppliers that own infrastructure and programming) to foreign programming suppliers (who by definition cannot be vertically integrated, as foreign suppliers are prohibited from owning video distribution infrastructure in Canada) has raised significant stakeholder concerns. Additionally, stakeholders have expressed concern related to provisions in the Wholesale Code that affect U.S. broadcast signals and services within Canada. The Wholesale Code came into force January 22, 2016.

U.S. suppliers of programming have also raised concerns about a CRTC policy not to permit simultaneous substitution of advertising for the Super Bowl beginning in the 2016-2017 season. Simultaneous substitution is a process by which broadcasters can insert local advertising into a program, overriding the original U.S. ad and thus providing the Canadian broadcaster an independent source of revenue. U.S. suppliers of programming believe that the price Canadian networks pay for Super Bowl rights is determined by the value of ads they can sell in Canada and the CRTC's decision reduces the value of their programming. The United States is seeking clarity from the Canadian government on the CRTC's position in this matter.

INVESTMENT BARRIERS

The Investment Canada Act (ICA) has regulated foreign investment in Canada since 1985. Foreign investors must notify the government of Canada prior to the direct or indirect acquisition of an existing Canadian business above a particular threshold value. Canada amended the ICA in 2009 to raise the threshold for Canada's "net benefit" review of foreign investment. The threshold currently stands at C$600 million and will increase to C$800 million in April 2017, then to C$1 billion in 2019. Foreign state owned enterprises (SOEs) remain subject to a lower threshold of $369 million. Innovation, Science and Economic Development *Canada* is the government's reviewing authority for most investments, except for those related to cultural industries, which come under the jurisdiction of the Heritage Canada. Foreign acquisition proposals under government review must demonstrate a "net benefit" to Canada to be approved. The Industry Minister may disclose publicly that an investment proposal does not satisfy the net benefit test and publicly explain the reasons for denying the investment, so long as the explanation will not do harm to the Canadian business or the foreign investor.

Under the ICA, the Industry Minister can make investment approval contingent upon meeting certain conditions such as minimum levels of employment and R&D. Since the global economic slowdown in 2009, some foreign investors in Canada have had difficulty meeting these conditions.

Canada administers supplemental guidelines for investment by foreign SOEs, including a stipulation that future SOE bids to acquire control of a Canadian oil-sands business will be approved on an "exceptional basis only."

OTHER BARRIERS

Cross-Border Data Flows

The Canadian federal government is consolidating information technology services across 63 Canadian federal government email systems under a single platform. The tender for this project invoked national security as a basis for prohibiting the contracted company from allowing data to go outside of Canada. This requirement precludes U.S.-based "cloud" computing suppliers from participating in the procurement process, unless they replicate data storage and processing facilities in Canada. The public sector represents approximately one third of the Canadian economy, and is a major consumer of U.S. services, particularly in the ICT sector, and thus the requirement could significantly hinder U.S. exports of a wide array of products and services.

Privacy rules in two Canadian provinces, British Columbia and Nova Scotia, mandate that personal information in the custody of a public body must be stored and accessed only in Canada unless one of a few limited exceptions applies. These laws prevent public bodies such as primary and secondary schools, universities, hospitals, government-owned utilities, and public agencies from using U.S. services when personal information could be accessed from or stored in the United States.

CHILE

TRADE SUMMARY

The U.S. goods trade surplus with Chile was $6.7 billion in 2015, a 4.7 percent decrease ($332 million) over 2014. U.S. goods exports to Chile were $15.6 billion, down 5.6 percent ($927 million) from the previous year. Corresponding U.S. imports from Chile were $8.9 billion, down 6.3 percent. Chile was the United States' 22nd largest goods export market in 2015.

U.S. exports of services to Chile were an estimated $3.8 billion in 2014 (latest data available), and U.S. imports were $1.2 billion. Sales of services in Chile by majority U.S.-owned affiliates were $11.5 billion in 2013 (latest data available), while sales of services in the United States by majority Chile-owned firms were $178 million.

U.S. foreign direct investment (FDI) in Chile (stock) was $27.6 billion in 2014 (latest data available), a 3.7 percent decrease from 2013. U.S. direct investment in Chile is led by mining, finance/insurance, and manufacturing.

Trade Agreements

Trans-Pacific Partnership (TPP) -- Chile is a U.S. partner in the TPP, with 10 other countries (Australia, Brunei Darussalam, Canada, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefit American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address non-tariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America’s globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes to bring the agreement into force, so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

United States-Chile Free Trade Agreement (FTA) -- The FTA entered into force on January 1, 2004. Pursuant to the FTA, Chile immediately eliminated tariffs on over 85 percent of bilateral trade in goods. All duties for U.S. goods entering Chile were eliminated on January 1, 2015. Since the FTA’s entry into force, trade between the United States and Chile more than quadrupled, making the United States Chile’s second-largest trading partner (after China, which is a significant importer of Chile’s copper).

Trade in Services Agreement (TiSA) -- Chile is participating in the TiSA negotiations, which are aimed at promoting fair and open trade in services while taking on new issues arising from the rapid growth of digital trade. The 23 economies participating in TiSA represent 75 percent of the world’s $44 trillion services market.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANTIARY BARRIERS

Technical Barriers to Trade

Nutrition Labeling

On June 26, 2015, Chile's Ministry of Health (MOH) published Decree 13, which regulates the labeling of the nutritional compositions of certain food products. Decree 13 requires labels on certain prepackaged food products if they exceed specified thresholds of sodium, sugar, energy (calories) and saturated fats. The thresholds are established based on a 100 gram or 100 ml serving and are not calibrated to the actual serving size of the package of food being sold. The regulation requires food products that exceed the thresholds to bear black octagonal "stop" signs with the words "High in" salt, sugar, energy or saturated fat.

The United States has raised concerns about this issue with Chile within the framework of the WTO Committee on Technical Barriers to Trade (WTO TBT Committee), in the Free Trade Commission and TBT Committee under the bilateral FTA, and on other occasions. The United States will continue to discuss these issues with Chile.

Sanitary and Phytosanitary Barriers

Salmonid Products Ban

In 2010, Chile's Ministry of Fisheries, SERNAPESCA, suspended imports of salmonid species from all countries, including the United States, due to Chile's revised import regulations for aquatic animals, including salmonid eggs. Under the new regulations, U.S. producers cannot export salmonid eggs to Chile until SERNAPESCA completes a risk analysis and an on-site audit of the U.S. Department of Agriculture's (USDA) oversight of aquatic animal exports and U.S. salmonid egg production sites. An audit of USDA's oversight of production sites in the states of Washington and Maine was conducted in 2011. USDA and SERNAPESCA have continued technical discussions. In connection with the signing of the TPP Agreement, the United States and Chile agreed, through an exchange of letters, to steps to advance Chile's consideration of a resumption of imports from the states of Washington and Maine.

IMPORT POLICIES

Tariffs and Taxes

Chile has one of the most open trade regimes in the world with a uniform MFN applied tariff rate of 6 percent for nearly all goods. Certain goods carry unique tariffs, such as tobacco products (nearly 60 percent) and pyrotechnics (50 percent). A surcharge is applied to imports of luxury goods, including new cars. Additionally, many capital goods may be imported with an applied tariff rate of zero percent under specific conditions. Pursuant to the United States-Chile FTA, as of January 1, 2015, all originating U.S. goods enter Chile duty free.

Importers must pay a 19 percent value-added tax (VAT) calculated based on the cost, insurance, freight (CIF) value of the import. The VAT is also applied to nearly all domestically produced goods and services. There are additional taxes applied to some products regardless of their origin, such as an 18 percent tax on sugared non-alcoholic beverages, a 20 percent tax for beers and wines, and a 31.5 percent tax for distilled alcoholic beverages. Cigarettes are subject to a 30 percent *ad valorem* tax plus approximately $0.07 per cigarette; other tobacco products have taxes between 52.6 percent and 59.7 percent. These values reflect changes implemented under the tax reform introduced in September 2014.

Foreign shareholders will be subject to 35 percent tax on capital gains that are recognized in connection with the sale or other transfer of Chilean shares on or after January 1, 2017. This tax change applies to capital gains from the sale of shares in Chilean companies, regardless of their participation in the stock exchange (Bolsa de Comercio). Currently, such capital gains are subject to tax at a rate of 20 or 35 percent, depending on certain specific requirements. Under the new rules, the rate will be 35 percent on net gain in all cases.

Import Controls

There are virtually no restrictions on the types or amounts of goods that can be imported into Chile, nor are there any requirements to use the official foreign exchange market. However, importers and exporters must report their import and export transactions to the Central Bank. Commercial banks may sell foreign currency to any importer to cover the price of imported goods and related expenses as well as to pay interest and other financing expenses that are authorized in the import report. Licensing requirements appear to be used primarily for statistical purposes; legislation requires that most import licenses be granted as a routine procedure. More rigorous licensing procedures apply for certain products such as pharmaceuticals and weapons.

Nontariff Barriers

Companies are required to contract the services of a customs agent when importing or exporting goods valued at over $1,000 free on board (FOB). Companies established in any of Chile’s free trade zones are exempt from the obligation to use a customs agent when importing or exporting goods, as are noncommercial shipments valued at less than $500. Chile’s two free trade zones are the Free Zone of Iquique in the northern tip of Chile and the Free Zone of Punta Arenas in the southern tip.

EXPORT POLICIES

Chile currently provides a simplified duty drawback program for nontraditional exports (except in cases where a free trade agreement provide otherwise). The program reimburses a firm up to three percent of the value of the exported good if at least 50 percent of that good consists of imported raw materials. Chile publishes an annual list of products excluded from this policy. In accordance with its commitments under the FTA, as of January 1, 2015, Chile eliminated the use of duty drawback and duty deferral for imports that are incorporated into any good exported to the United States.

Under Chile’s VAT reimbursement policy, which is distinct from its drawback program, exporters have the right to recoup the VAT paid on goods and using services intended for export activities. Any company that invests in a project in which production will be for export is eligible for VAT reimbursement. Exporters of services can only benefit from the VAT reimbursement policy when the services are rendered to people or companies with no Chilean residency. Also, the service must qualify as an export through a resolution issued by the Chilean customs authority.

GOVERNMENT PROCUREMENT

The FTA requires procuring entities subject to the Agreement to use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurement covered by the Agreement. The FTA also contains nondiscrimination provisions that require Chilean entities covered by the FTA to allow U.S. suppliers to participate on the same basis as Chilean suppliers in covered procurements. Most Chilean central government entities, 13 regional governments, 10 ports, state-owned airports, and 341 municipalities are covered by the FTA and must comply with the government procurement obligations.

Chile has made similar government procurement commitments in TPP, and in fact Chile has expanded its procurement commitments to include several central government ministries that were not covered previously under the FTA.

Chile is not a party to the WTO Agreement on Government Procurement, but it is an observer to the Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The 2015 Special 301 Report identified weaknesses in the adequacy and effectiveness of Chile's protection and enforcement of intellectual property. Specific obstacles include an ineffective Internet Service Provider liability regime, lack of protection against the unlawful circumvention of technological protection measures, lack of effective remedies to address satellite and cable TV piracy, and failure to ratify the (1991) Act of the International Convention for the Protection of New Varieties of Plants. The Report also urged Chile to address challenges in reviewing patent issues in connection with applications to market pharmaceutical products and to provide adequate protection against unfair commercial use of undisclosed test of other data generated to obtain marketing approvals for pharmaceutical products. Under the TPP agreement, which sets strong and balanced standards on IP protection and enforcement, Chile has committed to more robust standards for its intellectual property rights regime. The United States continues to work with Chile to address these and other IP issues through TPP implementation and bilateral engagement.

CHINA

TRADE SUMMARY

The U.S. goods trade deficit with China was $365.7 billion in 2015, a 6.6 percent increase ($22.6 billion) over 2014. U.S. goods exports to China were $116.2 billion, down 6.1 percent ($7.5 billion) from the previous year. Corresponding U.S. imports from China were $481.9 billion, up 3.2 percent. China was the United States' 3rd largest goods export market in 2015.

U.S. exports of services to China were an estimated $42.5 billion in 2014 (latest data available), and U.S. imports were $14.4 billion. Sales of services in China by majority U.S.-owned affiliates were $43.3 billion in 2013 (latest data available), while sales of services in the United States by majority China-owned firms were $4.4 billion.

U.S. foreign direct investment (FDI) in China (stock) was $65.8 billion in 2014 (latest data available), a 9.8 percent increase from 2013. U.S. direct investment in China is led by manufacturing, wholesale trade, and depository institutions.

KEY TRADE BARRIERS

The United States continues to pursue vigorous and expanded bilateral and multilateral engagement to increase the benefits that U.S. businesses, workers, farmers, ranchers, service providers and consumers derive from trade and economic ties with China. In an effort to remove Chinese barriers blocking or impeding U.S. exports and investment, the United States uses outcome-oriented dialogue at all levels of engagement with China, while also taking concrete steps to enforce U.S. rights at the WTO as appropriate. At present, China's trade policies and practices in several specific areas cause particular concern for the United States and U.S. stakeholders. The key concerns in each of these areas are summarized below. For more detailed information on these concerns, see the 2015 USTR Report to Congress on China's WTO Compliance, issued on December 30, 2015 at https://ustr.gov/sites/default/files/2015-Report-to-Congress-Final.pdf. The USTR Report to Congress on China's WTO Compliance provides comprehensive information on the status of the trade and investment commitments that China has made through the United States-China Joint Commission on Commerce and Trade (JCCT) and the United States-China Strategic and Economic Dialogue (S&ED).

PRIORITY ISSUES

At present, China's trade policies and practices in several specific areas cause particular concern for the United States and U.S. stakeholders, including in relation to China's approach to the obligations of WTO membership. The key concerns in each of these areas are summarized below. In 2016, the United States will continue to pursue vigorous and expanded bilateral engagement to resolve the serious issues that remain in these areas. The United States also will continue to hold China accountable for adherence to WTO rules when dialogue does not resolve U.S. concerns, including through the use of the dispute settlement mechanism at the WTO.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Overview

Since its accession to the WTO, China has undertaken a wide-ranging revision of its framework of laws and regulations aimed at protecting IPR of domestic and foreign right holders, as required by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement). However, inadequacies in China's IPR protection and enforcement regime continue to present serious barriers to U.S. exports and investment. China was again placed on the Priority Watch List in USTR's 2015 Special 301 report. In addition, in 2015, USTR announced the results of its 2014 Out-of-Cycle Review of Notorious Markets, which identifies online and physical markets that exemplify key challenges in the global struggle against piracy and counterfeiting. Several Chinese markets were among those named as notorious markets.

Trade Secrets

The protection and enforcement of trade secrets in China is a serious problem that has attained a higher profile in recent years. Thefts of trade secrets that benefit Chinese companies have occurred both within China and outside of China. Offenders in many cases continue to operate with impunity. Most troubling are reports that actors affiliated with the Chinese government and the Chinese military have infiltrated the computer systems of U.S. companies and stealing data – including the companies' intellectual property – for the purpose of providing commercial advantages to Chinese enterprises. In order to help address these challenges, the United States has secured commitments from China not to condone this type of state-sponsored misappropriation of trade secrets and has urged China to update and amend its trade secrets-related laws and regulations, particularly the Anti-Unfair Competition Law, and to consider issuing judicial guidance to strengthen its trade secrets regime. The United States also has urged China to take actions to address this problem across the range of state-sponsored actors and to promote public awareness of this issue. At the November 2015 JCCT meeting, China announced that it is in the process of amending this law and intends to issue model or guiding court cases and clarify rules on preliminary injunctions, evidence preservation orders, and damages.

Pharmaceutical Patents and Market Access

The United States continues to engage China on a range of patent and technology transfer concerns relating to pharmaceuticals. At the December 2013 JCCT meeting, China committed to permit supplemental data supporting pharmaceutical patent applications. However, it appears that China has only partially implemented that commitment. In addition, many other concerns remain, including the need to provide effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to provide effective enforcement against infringement of pharmaceutical patents. Additionally, a backlogged drug regulatory approval system presents market access and patient access concerns. At the December 2014 JCCT meeting, China committed to significantly reduce time-to-market for innovative pharmaceutical products through streamlined processes and additional funding and personnel.

A serious and emerging concern that arose in 2015 emanates from China's recently unveiled proposals in the pharmaceuticals sector that seek to promote government directed indigenous innovation and technology transfer through the provision of regulatory preferences. For example, a State Council measure issued in final form without having been made available for public comment calls for expedited regulatory review and approval to be granted to innovative new drugs where the applicant's manufacturing capacity has been shifted to China. The United States is engaging with China on this issue.

The United States is also engaging China's regulatory authorities as they consider amendments to pharmaceutical registration regulations. The United States is working to ensure that these amendments promote the early notification and resolution of patent disputes.

Software Piracy

Due to the serious obstacles in China to the effective protection and enforcement of IPR in all forms, sales of legitimate IP-intensive goods and services, including software and audiovisual products, remain disproportionately low compared to similar markets with stronger IPR protection and enforcement. The United States continues to work with China on a series of JCCT and S&ED commitments to foster a better IPR environment that will facilitate increased sales of legitimate IP-intensive goods and services. For example, sales of legitimate software to the Chinese government by U.S. companies have seen only a modest increase, while losses to U.S. software companies from the use of pirated software by Chinese state-owned enterprises and other enterprises remain very high. The United States continues to call on China to fulfill its existing commitments with regard to software legalization and to urge that entities at all levels of the Chinese government, including state-owned enterprises and state-owned banks, take necessary steps to ensure the use of legitimate software.

Online Piracy

Online piracy in China is widespread and continues on a large scale, affecting industries distributing legitimate music, motion pictures, books and journals, software and video games. Increased enforcement activities have yet to slow online sales of pirated goods. At the December 2014 JCCT meeting, China committed to strengthen enforcement against copyright piracy activities in the online environment and to deter the occurrence of copyright piracy through criminal, civil and administrative remedies and penalties. Separately, new rules providing for domestic quotas and the review of foreign television content (addressed in more detail below in discussion on services) present a serious concern for the continued viability of licensed foreign television content, as they are disrupting legitimate commerce while inadvertently creating conditions that allow for pirated content to displace legitimate content online.

Counterfeit Goods

Although rights holders report increased enforcement efforts by Chinese government authorities, counterfeiting in China remains widespread, affecting a wide range of goods. One area of particular concern involves medications. Despite sustained engagement by the United States, China still needs to improve its regulation of the manufacture of active pharmaceutical ingredients to prevent their use in counterfeit and substandard medications. At the July 2014 S&ED meeting, China agreed to develop amendments to the Drug Administration Law to require regulatory control of the manufacturers of bulk chemicals that can be used as active pharmaceutical ingredients. At the June 2015 S&ED meeting, China further agreed to publish revisions to the Drug Administration Law in draft form for public comment and to take into account the opinions of the United States and other relevant stakeholders. The United States will continue to work with China to ensure that China fulfills its commitments in this important area.

INDUSTRIAL POLICIES

Overview

China continued to pursue industrial policies in 2015 that seek to limit market access for imported goods, foreign manufacturers and foreign service suppliers, while offering substantial government guidance, resources, and regulatory support to Chinese industries. The principal beneficiaries of these policies are state-owned enterprises, as well as other favored domestic companies attempting to move up the economic value chain.

Secure and Controllable ICT Policies

In 2015, global concerns heightened over a series of Chinese measures that would impose severe restrictions on a wide range of U.S. and other foreign information communication technology (ICT) products and services with an apparent long-term goal of replacing foreign ICT products and services. Concerns centered on requirements that ICT equipment and other ICT products and services in critical sectors be "secure and controllable."

Some of these policies would apply to wide segments of the Chinese market. For example, in June 2015, China passed the National Security Law with the stated purpose of safeguarding China's security, but it included sweeping provisions addressing economic and industrial policy. China also drafted laws relating to counterterrorism and cybersecurity in 2015 which, if finalized in their current form, would also impose far-reaching and onerous trade restrictions on imported ICT products and services in China. Additionally, in September 2015, the State Council published a "Big Data Development" plan, which for the first time set a time table for adopting "secure and controllable" products and services in critical departments by 2020.

Other policies would apply to specific sectors of China's economy. A high profile example in 2015 is a measure drafted by the China Banking Regulatory Commission (CBRC) that called for 75 percent of ICT products used in the banking system to be "secure and controllable" by 2019 and that imposed a series of criteria that would shut out foreign ICT providers from China's banking sector. Other specific sectors for which China is currently pursuing "secure and controllable" policies include the insurance sector and the electronic commerce sector.

In 2015, the United States, in concert with other governments and stakeholders around the world, raised serious concerns at the highest levels of government within China. President Obama and President Xi Jinping discussed this issue during the state visit of President Xi in September and agreed on a set of principles for trade in information technologies. The issue was also raised in connection with the June S&ED meeting and the November JCCT meeting with China making a series of additional important commitments with regard to technology policy. These include transparency and nondiscrimination principles, as well as a commitment that measures intended to enhance ICT cybersecurity in the commercial sector will be narrowly tailored and will not impose unnecessary nationality-based conditions or restrictions on the purchase, sale, or use of ICT products.

Indigenous Innovation

In 2015, policies aimed at promoting "indigenous innovation" continued to represent an important component of China's industrialization efforts. Through intensive, high-level bilateral engagement, the United States previously secured a series of critical commitments from China that generated major progress in de-linking indigenous innovation policies at all levels of the Chinese government from government procurement preferences, culminating in the issuance of a State Council measure mandating that provincial and local governments eliminate any remaining linkages by December 2011. Since then, the principal challenge has been to address a range of discriminatory indigenous innovation preferences proliferating outside of the government procurement context.

Using the United States-China Innovation Dialogue, the United States was able to persuade China to take an important step in this direction at the May 2012 S&ED meeting, where China committed to treat IPR owned or developed in other countries the same as IPR owned or developed in China. The United States also used the 2012 JCCT process to press China to revise or eliminate specific measures that appeared to be inconsistent with this commitment. Throughout 2013 and 2014, China reviewed specific U.S. concerns, and the United States and China intensified their discussions. At the December 2014 JCCT meeting, China clarified and underscored that it will treat IPR owned or developed in other countries the same as domestically owned or developed IPR, and it further agreed that enterprises are free to base technology transfer decisions on business and market considerations, and are free to independently negotiate and decide whether and under what circumstances to assign or license intellectual property rights to affiliated or unaffiliated enterprises.

In 2015, China's measures on "secure and controllable" ICT policy (discussed above) included provisions that would create discriminatory indigenous innovation preferences. In addition, China's recent steps to reform its drug review and approval system raised new concerns related to indigenous innovation and technology transfer. For example, in 2015, China's State Council issued a measure that calls for expedited review and approval to be granted to "innovative new drugs with manufacturing capacity shifted to China." Finally, in 2015, the United States continued to urge China to revise its High and New Technology tax preference measures to ensure that it treats IPR owned or developed in other countries the same as domestically owned or developed IPR, and also does not discriminate against companies who conduct research and development outside of China.

Technology Transfer

While some longstanding concerns regarding technology transfer remain unaddressed, and new ones have emerged, such as tying government preferences to the localization of technology in China and granting regulatory review and approval preferences to innovative drug manufacturers that shift their production to China, some progress has been made in select areas. For example, China committed at the December 2013 JCCT meeting not to finalize or implement a selection catalogue and rules governing official use vehicles. The catalogue and rules would have interfered with independent decision making on technology transfer and would have effectively excluded vehicles produced by foreign and foreign-invested enterprises from important government procurement opportunities.

Export Restraints

China continues to deploy a combination of export restraints, including export quotas, export licensing, minimum export prices, export duties and other restrictions, on a number of raw material inputs where it holds the leverage of being among the world's leading producers. Through these export restraints, it appears that China is able to provide substantial economic advantages to a wide range of downstream producers in China at the expense of foreign downstream producers, while creating pressure on foreign downstream producers to move their operations, technologies, and jobs to China. In 2013, China removed its export quotas and duties on several raw material inputs of key interest to the U.S. steel, aluminum and chemicals industries after the United States won a dispute settlement case against China at the WTO. In 2014, as discussed above, the United States won a second WTO case, where the claims focused on China's export restraints on rare earths, tungsten and molybdenum, which are key inputs for a multitude of U.S.-made products, including hybrid automobile batteries, wind turbines, energy efficient lighting, steel, advanced electronics, automobiles, petroleum, and chemicals. China agreed to comply with the WTO's rulings in this second case by May 2015, and it subsequently announced that it had eliminated the export quotas and export duties at issue by that deadline.

Export Subsidies

China has continued to provide a range of injurious subsidies to its domestic industries, some of which appear to be prohibited under WTO rules. The United States has addressed these subsidies both through countervailing duty proceedings conducted by the Commerce Department and through dispute settlement cases at the WTO, including a new dispute launched in 2015. The United States and other WTO Members also have continued to press China to notify its subsidies to the WTO in accordance with its WTO obligations. Since joining the WTO 14 years ago, China has not yet submitted to the WTO a complete notification of subsidies maintained by the central government, and it has not yet notified any of its sub-central government subsidies.

Excess Capacity

Chinese government actions and financial support in manufacturing industries like steel and aluminum have contributed to massive excess capacity in China, with the resulting over-production distorting global markets and hurting U.S. producers and workers in both the United States and third country markets such as Canada and Mexico. While China recognizes the severe excess capacity problem in the steel and aluminum industries, among others, and has taken steps to try to address this problem, there have been mixed results.

From 2000 to 2014, China accounted for more than 75 percent of global steelmaking capacity growth. Currently, China's capacity alone exceeds the combined steelmaking capacity of the European Union (EU), Japan, the United States, and Russia. China has no comparative advantage with regard to the energy and raw material inputs that make up the majority of costs for steelmaking, yet China's capacity has continued to grow exponentially and is estimated to have exceeded 1.4 billion metric tons (MT) in 2014, despite weakening demand domestically and abroad. While China's steel production is slowing and China may produce approximately 2 to 3 percent less steel in 2015 than in 2014, steel demand in China is projected to decrease 5 percent this year. As a result, China's steel exports grew to be the largest in the world, at 93 million MT in 2014, a 50 percent increase over 2013 levels, despite sluggish steel demand abroad. In 2015, there is rising concern that China's steel exports are still growing and may have increased 25 percent in the first 10 months of 2015, as compared to the same period in 2014.

Similarly, monthly production of aluminum in China doubled between January 2011 and July 2015 and continues to grow. Large new facilities are being built with government support, including through energy subsidies. China's aluminum excess capacity is contributing to a severe decline in global aluminum prices, harming U.S. plants and workers.

Excess capacity in China – whether in the steel industry or other industries like aluminum – hurts U.S. industries and workers not only because of direct exports from China to the United States, but because lower global prices and a glut of supply make it difficult for even the most competitive producers to remain viable. Domestic industries in many of China's trading partners have continued to respond to the effects of the trade-distortive effects of China's excess capacity by petitioning their governments to impose trade remedies such as antidumping and countervailing duties.

Value-added Tax Rebates and Related Policies

As in prior years, in 2015, the Chinese government attempted to manage the export of many primary, intermediate, and downstream products by raising or lowering the value-added tax rebate available upon export. China sometimes reinforces its objectives by imposing or retracting export duties. These practices have caused tremendous disruption, uncertainty, and unfairness in the global markets for some products, particularly downstream products where China is a leading world producer or exporter, such as products made by the steel, aluminum, and soda ash industries. These practices, together with other policies, such as excessive government subsidization, also have contributed to severe excess capacity in these same industries. A positive development took place at the July 2014 S&ED meeting, when China agreed to improve its value-added tax rebate system, including by actively studying international best practices, and to deepen communication with the United States on this matter, including regarding its impact on trade. To date, however, China has not made any movement toward the adoption of international best practices.

Strategic Emerging Industries

In 2010, China's State Council issued a decision on accelerating the cultivation and development of "strategic emerging industries" (SEIs) that called upon China to develop and implement policies designed to promote rapid growth in government-selected industry sectors viewed as economically and strategically important for transforming China's industrial base into one that is more internationally competitive in cutting edge technologies. China subsequently identified seven sectors of focus under the SEI initiative, including energy saving and environmental protection, new generation information technology, biotechnology, high-end equipment manufacturing, new energy, new materials, and new energy vehicles.

To date, import substitution policies have been included in some SEI development plans at the sub-central government level. For example, a development plan for the light-emitting diode (LED) industry issued by the Shenzhen municipal government included a call to support research and development in products and technologies that have the ability to substitute for imports. Shenzhen rescinded the plan in 2013 following U.S. Government intervention with China's central government authorities.

Similarly, some central and sub-central government measures use local content requirements as a condition for enterprises in SEI sectors to receive financial support or other preferences. For example, in the high-end equipment manufacturing sector, China has maintained an annual program that conditioned the receipt of a subsidy on an enterprise's use of at least 60 percent Chinese-made components when manufacturing intelligent manufacturing equipment. Citing WTO concerns, the United States began pressing China in 2014 to repeal or modify these measures. In 2015, China reported that it had decided not to renew this subsidy program.

In addition, an array of Chinese policies designed to assist Chinese automobile enterprises in developing electric vehicle technologies and in building domestic brands that can succeed in global markets continued to pose challenges in 2015. As with other measures and policies previously discussed, these policies have also generated serious concerns about discrimination based on the country of origin of intellectual property, forced technology transfer, research and development requirements, investment restrictions and discriminatory treatment of foreign brands and imported vehicles. Although significant progress has been made in addressing some of these policies, more work remains to be done.

Import Ban on Remanufactured Products

China prohibits the importation of remanufactured products, which it typically classifies as used goods. China also maintains restrictions that prevent remanufacturing process inputs (known as cores) from being imported into China's customs territory, except special economic zones. These import prohibitions and restrictions undermine the development of industries in many sectors in China, including mining, agriculture, healthcare, transportation, and communications, among others, because companies in these industries are unable to purchase high quality, lower cost remanufactured products produced outside of China.

Standards and Technology

In the standards area, there are two principal types of challenges. First, Chinese government officials in some instances have reportedly pressured foreign companies seeking to participate in the standards-setting process to license their technology or intellectual property on unfavorable terms. Second, China has continued to pursue unique national standards, such as the ZUC algorithm, in a number of high technology areas where international standards already exist, such as 3G and 4G telecommunications standards, Wi-Fi standards, and information security standards. With respect to conformity assessment for telecommunication equipment, there continues to be a lack of transparency in China's testing and certification procedures for mobile phones as well as redundant testing requirements that affect U.S. telecommunication companies' market access. To date, bilateral engagement has yielded minimal progress in resolving these matters.

GOVERNMENT PROCUREMENT

The United States continues to press China to take concrete steps toward fulfilling its commitment to accede to the WTO Government Procurement Agreement (GPA) and to open up its vast government procurement market to the United States and other GPA parties. To date, however, the United States, the EU, and other GPA parties have viewed China's offers of coverage as highly disappointing in scope and coverage. China submitted its fifth revised offer in December 2014. This offer showed progress in a number of areas, including thresholds, entity coverage, and services coverage. Nonetheless, it fell short of U.S. expectations and remains far from acceptable to the United States and other GPA parties as significant deficiencies remain in a number of critical areas, including thresholds, entity coverage, services coverage, and exclusions.

China's current government procurement regime is governed by two primary laws. The Government Procurement Law, which is administered by the Ministry of Finance, governs purchasing activities conducted with fiscal funds by state organs and other organizations at all levels of government in China. The Tendering and Bidding Law falls under the jurisdiction of the National Development and Reform Commission and imposes uniform tendering and bidding procedures for certain classes of procurement projects in China, notably construction and works projects, without regard for the type of entity that conducts the procurement. Both laws cover important procurements that GPA Parties would consider to be government procurement eligible for coverage under the GPA. The United States will continue to work with the Chinese government to ensure that China's future GPA offers include coverage of government procurement regardless of which law it falls under, including procurement conducted by both government entities and other entities, such as state-owned enterprises.

INVESTMENT RESTRICTIONS

China seeks to protect many domestic industries through a restrictive investment regime, which adversely affects foreign investors in services sectors, agriculture, extractive industries, and manufacturing sectors. In line with its own plans for domestic reform, including as expressed through the Third Plenum Decision, China continues to consider improvements to its foreign investment regime, including through the use of a "negative list" to govern access. However, many aspects of China's current investment regime, including lack of substantial liberalization, maintenance of a case-by-case administrative approval system, and the potential for a new and overly broad national security review, continue to cause foreign investors great concern. In addition, foreign enterprises report that Chinese government officials may condition investment approval on a requirement that a foreign enterprise transfer technology, conduct research and development in China, satisfy performance requirements relating to exportation or the use of local content, or make valuable, deal-specific commercial concessions.

The United States has repeatedly raised concerns with China about its restrictive investment regime. To date, this sustained bilateral engagement has not led to a significant relaxation of China's investment restrictions, nor has it appeared to curtail *ad hoc* actions by Chinese government officials.

Meanwhile, the United States and China have committed at high levels to seek to conclude a high standard bilateral investment treaty (BIT). Building on China's commitment at the July 2013 S&ED meeting to negotiate a BIT that will provide national treatment at all phases of investment, including market access (*i.e.*, the "pre-establishment" phase of investment), and will employ a negative list approach in identifying exceptions (meaning that all investments are permitted except for those explicitly excluded), the United States and China exchanged initial negative list offers in June 2015. Subsequently, as agreed at the June 2015 S&ED meeting, the two sides exchanged revised, improved negative list offers in September 2015. During the state visit of President Xi later that month, the United States and China reaffirmed, as a top economic priority, the negotiation of a high-standard BIT that represents on each side an open and liberalized investment regime. These negotiations remain ongoing.

Trade Remedies

China's regulatory authorities in some instances seem to be pursuing antidumping and countervailing duty investigations and imposing duties for the purpose of striking back at trading partners that have exercised their WTO rights against China, even when necessary legal and factual support for the duties is absent. The U.S. response has been the filing and prosecution of three WTO disputes. The decisions reached by the WTO in those three disputes – the most recent of which was issued in July 2015 – confirm that China failed to abide by WTO disciplines when imposing the duties at issue.

SERVICES BARRIERS

Overview

The prospects for U.S. service suppliers in China are promising, given the size of China's market and the Chinese leadership's stated intention to promote the growth of China's services sectors. The United States continues to record a substantial surplus in trade in services with China, as the United States' cross-border supply of services into China totaled $43 billion in 2014. In addition, services supplied through majority U.S.-invested companies in China totaled $43 billion in 2013, the latest year for which data is available. This success has been largely attributable to the market openings phased in by China pursuant to its WTO commitments, as well as the U.S. Government's comprehensive engagement with China's various regulatory authorities, including in the pursuit of sector openings that go beyond China's WTO commitments.

Nevertheless, in 2015, numerous challenges persisted in a range of services sectors. As in past years, Chinese regulators continued to use discriminatory regulatory processes, informal bans on entry and expansion, overly burdensome licensing and operating requirements, and other means to frustrate efforts of U.S. suppliers of banking, insurance, telecommunications, Internet-related, audiovisual, express delivery, legal and other services to achieve their full market potential in China. Some sectors, including electronic payment services and theatrical film distribution, have been the subject of WTO dispute settlement. While China declared an intent to further liberalize a number of services sectors in its Third Plenum Decision, few concrete steps have been taken.

Electronic Payment Services

China continues to place unwarranted restrictions on foreign companies, including the major U.S. credit card and processing companies, that supply electronic payment services to banks and other businesses that issue or accept credit and debit cards. The United States prevailed in a WTO case challenging those restrictions, and China agreed to comply with the WTO's rulings by July 2013, but China has not yet taken needed steps to authorize access by foreign suppliers to this market. The United States is actively pressing China to comply with the WTO's rulings and also is considering appropriate next steps at the WTO.

Theatrical Film Distribution

In February 2012, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO dispute that the United States had won. The two sides signed a memorandum of understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year, along with substantial additional revenue for foreign film producers. Significantly more U.S. films have been imported and distributed in China since the signing of the MOU, and the revenue received by U.S. film producers has increased significantly. However, China has not yet fully implemented its MOU commitments, including with regard to critical commitments to open up film distribution opportunities for imported films. As a result, the United States has been pressing China for full implementation of the MOU, particularly with regard to films that are distributed in China on a flat-fee basis rather than a revenue-sharing basis. At the June 2015 S&ED meeting, China committed to ensure that any Chinese enterprise licensed to distribute films in China can distribute imported flat-fee films on their own and without having to contract with or otherwise partner with China Film Group or any other state-owned enterprise. China further committed that SAPPRFT, China Film Group, or any other state-owned enterprise would not directly or indirectly influence the negotiation, terms, amount of compensation, or execution of any distribution contract between a licensed Chinese distributor and a U.S. flat-fee film producer.

Banking Services

China has exercised significant caution in opening up the banking sector to foreign competition. In particular, China has imposed working capital requirements and other requirements that have made it more difficult for foreign banks to establish and expand their market presence in China. China has limited the sale of equity stakes in existing state-owned banks to a single foreign investor to 20 percent, while the total equity share of all foreign investors is limited to 25 percent. Another problematic area involves the ability of U.S. and other foreign banks to participate in the domestic currency business in China. This is a market segment that foreign banks are most eager to pursue in China, particularly with regard to Chinese individuals. Under existing governing regulations, only foreign-funded banks that have had a representative office in China for two years and that have total assets exceeding $10 billion can apply to incorporate in China. Moreover, after incorporating, these banks only become eligible to offer full domestic currency services to Chinese individuals if they can demonstrate that they have operated in China for three years and have had two consecutive years of profits. The regulations also restrict the scope of activities that can be conducted by foreign banks seeking to operate in China through branches instead of through subsidiaries.

Insurance Services

China's regulation of the insurance sector has resulted in market access barriers for foreign insurers, whose share of China's market remains very low. In the life insurance sector, China only permits foreign companies to participate in Chinese-foreign joint ventures, with foreign equity capped at 50 percent. The market share of these joint ventures is less than four percent. For the health and pension insurance sectors, China also caps foreign equity at 50 percent. While China allows wholly foreign-owned subsidiaries in the non-life insurance (*i.e*., property and casualty) sector, the market share of foreign-invested companies in this sector is only one percent. China's market for political risk insurance is completely closed to foreign participation. China has recently modified its treatment of insurance brokerage in the latest version of its Foreign Investment Catalogue, but it is not clear that any liberalization is actually taking place on the ground. Meanwhile, some U.S. insurance companies established in China continue to encounter difficulties in getting the Chinese regulatory authorities to issue timely approvals of their requests to open up new internal branches to expand their operations.

Telecommunications Services

Restrictions maintained by China on value-added telecommunications services have created serious barriers to market entry for foreign suppliers seeking to provide value-added services. Since China's accession to the WTO, the number of licenses granted to foreign suppliers is less than three dozen, compared to hundreds granted to Chinese suppliers. In addition, China's restrictions on basic telecommunications services, such as informal bans on new entry, a requirement that foreign suppliers can only enter into joint ventures with state-owned enterprises, and exceedingly high capital requirements, have blocked foreign suppliers from accessing China's basic services market. In May 2013, China introduced rules establishing a pilot program for the resale of mobile services, which can increase competitive opportunities in China's heavily concentrated market. The United States is very concerned that foreign firms continue to be excluded from the pilot program, while China has issued licenses to more than a dozen Chinese suppliers. China pledged to open this sector to foreign investment by 2016, but implementing regulations that would make such entry possible have yet to be issued.

Internet-related Services

China's Internet regulatory regime is restrictive and nontransparent, affecting a broad range of commercial services activities conducted via the Internet. In particular, China's treatment of foreign companies seeking to participate in the development of cloud computing, including remote data processing provided over the Internet, raises concerns. For example, China has imposed value-added telecommunications licensing requirements on this sector, even though the services at issue are not telecommunications services. Furthermore, although most value-added services are open to foreign investment subject to a 50 percent equity limitation, China has indicated that cloud computing, regulated under its Internet Data Center license, remains off limits for foreign suppliers. The only evident exception is companies investing under the Hong Kong Closer Economic Partnership Agreement, through which only one foreign company has successfully entered the market.

Over the past decade, China's filtering of cross-border Internet traffic has posed a significant burden to foreign suppliers, hurting both Internet sites themselves, and users who often depend on them for their businesses. Outright blocking of websites appears to have worsened over the past year, with 8 of the top 25 most trafficked global sites now blocked in China. Much of the blocking appears arbitrary; for example, a major home improvement site in the United States, which would appear wholly innocuous, is typical of sites likely swept up by the Great Firewall.

Audiovisual Services

China's restrictions in the area of theater services have wholly discouraged investment by foreign suppliers, and China's restrictions on services associated with television and radio greatly limit participation by foreign suppliers. The burgeoning market for Internet-delivered programming, while initially promising, has been severely constrained by nontransparent quotas designed to favor local production, and content review procedures that put foreign content at a significant disadvantage in the market. The quota, set at 30 percent of the content made available by each website, is implemented though a nontransparent method of calculation. The content review rules, which require a full season of episodes to be submitted to gain approval, results in delays to market which result in stimulating demand for pirated versions of popular content, undermining the value of these legitimate channels of distribution.

Express Delivery Services

The United States continues to raise concerns with China regarding implementation of the 2009 Postal Law and related regulations. China has blocked foreign companies' access to the document segment of China's domestic express delivery market, and it does not have a strong track record of providing nondiscriminatory treatment in awarding foreign companies business permits for access to the package segment of China's domestic express delivery market, where it also applies overly burdensome regulatory approaches.

Legal Services

China has issued measures intended to implement the legal services commitments that it made upon joining the WTO. However, these measures, among other concerns, impose lengthy delays for the establishment of new offices and prohibit foreign law firms from hiring Chinese licensed lawyers to practice Chinese law.

AGRICULTURE

Overview

China is the second largest agricultural export market for the United States, with more than $20 billion in U.S. agricultural exports in 2015. Much of this success resulted from intensive engagement by the United States with China's regulatory authorities. Notwithstanding this success, China remains among the least transparent and predictable of the world's major markets for agricultural products, largely because of uneven enforcement of regulations and selective intervention in the market by China's regulatory authorities. As in past years, seemingly capricious practices by Chinese customs and quarantine agencies delay or halt shipments of agricultural products into China. Sanitary and phytosanitary (SPS) measures with questionable scientific bases and a generally opaque regulatory regime frequently create difficulties and uncertainty for traders in agricultural commodities, who require as much certainty and transparency as possible. Market access promised through the tariff-rate quota (TRQ) system set up pursuant to China's WTO accession agreement has yet to be fully realized. At the same time, China has been steadily increasing domestic support for key commodities, and reports commissioned by certain U.S. farm groups have concluded that China may be exceeding its WTO limits.

Beef, Poultry and Pork

In 2015, beef, poultry and pork products were affected by questionable SPS measures implemented by China's regulatory authorities. For example, China continued to block the importation of U.S. beef and beef products, more than eight years after these products had been declared safe to trade under international scientific guidelines established by the World Organization for Animal Health (known by its historical acronym OIE), and despite the further fact that in 2013 the United States received the lowest risk status from the OIE, *i.e.*, negligible risk. Regarding poultry, in 2015 China suspended imports of all U.S.-origin poultry and poultry products in direct response to recent outbreaks of highly pathogenic avian influenza (HPAI) in the United States. China continued to impose avian influenza-related import restrictions that are inconsistent with OIE guidelines despite successful U.S. mitigation measures.

Food Safety Law and Other SPS Measures

In 2015, the United States continued to engage China on its new food safety law and plan for implementation. On December 9, 2015, China released the "Draft Implementing Rules for the 2015 Food Safety Law." China has indicated that there will be several hundred additional measures published that provide the details for this draft measure. To date, China has not notified the draft measure to the WTO SPS Committee to allow for further comments and discussion with trading partners. China is also in the process of revising large numbers of maximum residue levels (MRLs) for additives and contaminates for imported food products, but much work remains to ensure that the changes are all notified in a timely manner to avoid trade disruptions. The United States will continue to engage China on the importance of science-based policies and the need for timely notifications of these and other food safety issues.

Biotechnology Approvals

In 2015, delays persisted in China's approvals of agricultural products derived from biotechnology, resulting in increased uncertainty among technology providers, farmers and traders of U.S. corn, soy, and alfalfa. In December 2014, China approved for import three outstanding biotechnology products of significant importance to U.S. farmers, including two soybean events and one corn event. However, China did not approve any new biotechnology varieties in 2015. During President Xi's U.S. visit in September 2015, China fulfilled an agreement made at the December 2014 JCCT meeting to hold an annual, multi-ministry dialogue with the United States at the Vice Minister level to discuss policies to support increased agricultural innovation. In September 2015, using this new dialogue, the United States emphasized the ways in which transparent, science-based policies can support the development and use of innovative agricultural technologies, and discussed the benefits of increased use of innovative technologies in agriculture for enhancing global food security and for climate change mitigation and adaption strategies. China agreed to improve its regulatory process and begin reviewing biotechnology products in a transparent, timely, science-based, and predictable manner and reaffirmed these promises at the 2015 JCCT.

Agricultural Support

Over the past several years, China has been significantly increasing domestic subsidies and other support measures for its agricultural sector. China has established a direct payment program, instituted minimum support prices for basic commodities and sharply increased input subsidies. China has implemented a cotton reserve system, based on minimum purchase prices, and cotton target price programs. China also has begun several new support schemes for hogs and pork, along with a purchasing reserve system for pork. China submitted its most recent notification concerning domestic support measures to the WTO in May 2015, but it only provided information on domestic supports through 2010. The United States remains concerned that the methodologies used by China to calculate support levels, particularly with regard to its price support policies and direct payments, result in underestimation of the overall level of support.

TRANSPARENCY

Overview

One of the core principles reflected throughout China's WTO accession agreement is transparency. China's WTO transparency commitments in many ways required a profound historical shift in Chinese policies. Although China has made strides to improve transparency following its accession to the WTO, there remains a lot more for China to do in this area.

Publication of Trade-related Laws, Regulations and Other Measures

In its WTO accession agreement, China committed to adopt a single official journal for the publication of all trade-related laws, regulations, and other measures, and China adopted a single official journal, to be administered by MOFCOM, in 2006. To date, it appears that some but not all central government entities publish trade-related measures in this journal, and these government entities tend to take a narrow view of the types of trade-related measures that need to be published in the official journal. As a result, while trade-related administrative regulations and departmental rules are more commonly (but still not regularly) published in the journal, it is less common for other measures such as opinions, circulars, orders, directives and notices to be published, even though they are in fact all binding legal measures. In addition, China does not normally publish in the journal certain types of trade-related measures, such as subsidy measures, nor does it normally publish sub-central government trade-related measures in the journal.

Notice-and-Comment Procedures

In its WTO accession agreement, China committed to provide a reasonable period for public comment before implementing new trade-related laws, regulations, and other measures. China has taken several steps related to this commitment. In 2008, the National People's Congress (NPC) instituted notice-and-comment procedures for draft laws, and shortly thereafter China committed at the Strategic Economic Dialogue that it would also publish proposed trade and economic related administrative regulations and departmental rules for a public comment period of not less than 30 days from the date of publication on the website of the State Council's Legislative Affairs Office (SCLAO). Subsequently, the NPC began regularly publishing draft laws for public comment, and China's State Council often (but not regularly) published draft administrative regulations for public comment. In addition, many of China's ministries improved the frequency with which they publish draft departmental rules for public comment, but the practice remains very irregular. At the May 2011 S&ED meeting, China committed to issue a measure implementing the requirement to publish all proposed trade and economic related administrative regulations and departmental rules on the website of the State Council's Legislative Affairs Office for a public comment period of not less than 30 days. In April 2012, the SCLAO issued two measures that made progress in addressing this requirement. Since then, despite continuing U.S. engagement, little noticeable improvement in the publication of departmental rules for public comment appears to have taken place, even though China confirmed that those two SCLAO measures are binding on central government ministries.

Translations

In its WTO accession agreement, China committed to make available translations of all of its trade-related laws, regulations and other measures at all levels of government in one or more of the WTO languages, *i.e.*, English, French, and Spanish. Prior to 2014, China had only compiled translations of trade-related laws and administrative regulations (into English), but not other types of measures, and China was years behind in publishing these translations. At the July 2014 S&ED meeting, China committed that it would extend its translation efforts to include not only trade-related laws and administrative regulations but also trade-related departmental rules. Subsequently, in March 2015, China issued a measure requiring trade-related departmental rules to be translated into English. This measure also provides that the translation of a departmental rule normally must be published before implementation. The United States is pressing China to ensure that it similarly publishes translations of trade-related laws and administrative regulations before implementation, as required by China's WTO accession agreement.

LEGAL FRAMEWORK

Overview

In addition to the area of transparency, several other areas of China's legal framework can adversely affect the ability of the United States and U.S. exporters and investors to access or invest in China's market. Key areas include administrative licensing, competition policy, the treatment of non-governmental organizations (NGOs), commercial dispute resolution, labor laws, and laws governing land use. For example, a draft law on foreign NGO management was criticized in 2015 by the U.S. and other foreign governments and numerous global stakeholders. The draft law is extremely broad in scope and would negatively impact many critically important activities, including business and investment facilitation typically undertaken by NGOs in China. Corruption among Chinese government officials, enabled in part by China's incomplete adoption of the rule of law, is also a key concern.

Administrative Licensing

Despite numerous changes made by the Chinese government since the issuance of the Third Plenum Decision in November 2013, U.S. companies continue to encounter significant problems with a variety of administrative licensing processes in China, including processes to secure product approvals, investment approvals, business expansion approvals, business license renewals and even approvals for routine business activities. While U.S. companies are encouraged by the overall reduction in license approval requirements and the focus on decentralizing licensing approval processes, U.S. companies report that these efforts have only had a marginal impact on their licensing experiences so far.

Competition Policy

Chinese regulatory authorities' implementation of China's Anti-Monopoly Law poses multiple challenges. One key concern relates to how the Anti-Monopoly Law will be applied to state-owned enterprises, given that a provision in the Anti-Monopoly Law protects the lawful operations of state-owned enterprises and government monopolies in industries deemed nationally important. To date, China has enforced the Anti-Monopoly Law against state-owned enterprises, and it has stated that this law applies to state-owned enterprises, but U.S. stakeholders continues to express concerns that enforcement against state-owned enterprises will be more limited.

Another concern relates to the procedural fairness of Anti-Monopoly Law investigations. U.S. stakeholders have expressed concern about insufficient predictability, fairness, and transparency in the investigative processes of the National Development and Reform Commission (NDRC), including NDRC pressure to "cooperate" in the face of unspecified allegations or face steep fines and limitations imposed by NDRC on the ability of foreign companies to bring counsel to meetings. Through the S&ED and JCCT processes in 2014, the United States was able to secure commitments from China designed to help address most of these matters, although some concerns remain.

In 2015, the United States secured additional commitments from China relating to Anti-Monopoly Law enforcement proceedings. These commitments address the protection of commercial secrets, the independence of Anti-Monopoly Law enforcement, the jurisdiction of courts reviewing administrative Anti-Monopoly Law decisions and Anti-Monopoly Law agencies' processes for reconsidering decisions. Taking into account the pro-competitive effects of intellectual property licensing, China also attaches great importance to maintaining coherent rules relating to intellectual property rights in the Anti-Monopoly Law context.

COLOMBIA

TRADE SUMMARY

The U.S. goods trade surplus with Colombia was $2.4 billion in 2015, a 35.4 percent increase ($639 million) over 2014. U.S. goods exports to Colombia were $16.5 billion, down 17.9 percent ($3.6 billion) from the previous year. Corresponding U.S. imports from Colombia were $14.1 billion, down 23.2 percent. Colombia was the United States' 20th largest goods export market in 2015.

Sales of services in Colombia by majority U.S.-owned affiliates were $5.5 billion in 2013 (latest data available), while sales of services in the United States by majority Colombia-owned firms were $90 million.

U.S. foreign direct investment (FDI) in Colombia (stock) was $7.1 billion in 2014 (latest data available), a 3.9 percent decrease from 2013. U.S. direct investment in Colombia is led by mining, manufacturing, and finance/insurance.

The United States-Colombia Trade Promotion Agreement

The United States-Colombia Trade Promotion Agreement (CTPA) entered into force on May 15, 2012. The CTPA is a comprehensive free trade agreement, under which Colombia immediately eliminated duties on 80 percent of U.S. exports, with most remaining tariffs to be phased out over ten years, and tariffs on some sensitive agricultural products being phased out over longer periods of time. Under the CTPA, Colombia also provides for substantially improved market access for U.S. service suppliers. In addition, the CTPA includes disciplines on customs administration and trade facilitation, technical barriers to trade, government procurement, investment, electronic commerce, telecommunications, intellectual property rights, transparency, and labor and environmental protection.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Local Certification Requirements

Several new directives and guidelines have created growing local certification requirements and other regulatory obstacles for U.S. companies. Decree 1595, finalized in August 2015, requires “medium and high risk” products to obtain local safety conformity certifications unless a country agrees to mutually recognize Colombia’s certifications. To date, Colombia has not articulated the criteria that it would apply to determine these risk categories and, thus, has not clarified the scope of the measure. Other regulations that require local certification include measures addressing electrical installations, electrical equipment (Resolution 181331 of 2009), illumination and public lighting, toy safety (Resolution 3388 of 2008), public passenger vehicles, and fuel blends. Some of these regulations and/or their modifications were not notified through the WTO. Additionally, some stakeholders have expressed concerns regarding a lack of coordination among government ministries and agencies, excessive and duplicative import documentation requirements, vague guidelines, and frequently changing norms that create uncertainty. The U.S. Government has raised these issues in WTO Technical Barriers to Trade Committee meetings, as well as bilaterally, including in CTPA TBT committee meetings.

Energy Drinks

Resolution 4150 of 2009 by the National Food and Drug Surveillance Institute (INVIMA), Colombia's counterpart to the U.S. Food and Drug Administration, notified technical regulations "laying down the requirements to be met by energy drinks for human consumption" and prohibiting the commercialization and sale of energy drinks to population under 14 years of age. The measure was updated in late 2014. Subsequent versions of the draft regulation have required a series of warning labels that must cover 10 percent of the container of energy drinks. These warnings appear to relate to the general risks associated with caffeine consumption, although equally caffeinated products are not subject to this regulation. The United States raised this issue at the CTPA Technical Barriers to Trade Committee meeting held in December 2015, at which time Colombia confirmed that these modifications were going to be set aside. The United States is seeking formal confirmation through WTO fora. In 2015, U.S. exports to Colombia of energy drinks (classified under HS 2202.90.90.90) exceeded $16.2 million.

Sanitary and Phytosanitary Barriers

Live Cattle

Colombia continues to ban imports of U.S. live cattle due to concerns over bluetongue and leucosis. In June 2010, Colombia nominally allowed live cattle imports from the United States, but at the same time imposed restrictive requirements that effectively prevented any such imports. In 2015, the United States continued to raise its ongoing concerns regarding Colombia's bluetongue requirements, including at the CTPA Standing Committee on Sanitary and Phytosanitary Matters (SPS Committee) meeting held in September 2015. At that meeting, USDA's Animal and Plant Health Inspection Service agreed to provide Colombia a draft protocol with a view to advancing the technical discussion.

Beef

Two 2006 letter exchanges between the United States and Colombia fully opened the Colombian market to U.S. beef and beef products from animals of all ages. However, as the side letters predated the United States' 2007 classification by the World Organization for Animal Health (OIE) as "controlled risk" for Bovine Spongiform Encephalopathy (BSE), the side letters use the OIE definition of specified risk materials, which includes the entire vertebral column, rather than the Food Safety Inspection Services' domestic SRM definition that required participation in a USDA Agricultural Marketing Service (AMS) export verification (EV) program. Meat used in processed products was also required to be sourced from establishments that participate in an EV program. Following sustained technical dialogue between the United States and Colombia, new certification statements were agreed to in 2015, which take account of the OIE's classification of the United States as "negligible risk" for Bovine Spongiform Encephalopathy in 2013. These new requirements were operationalized through a November 25, 2015, exchange of letters and became effective on December 7, 2015. Under the new arrangement, all beef and beef products from all federally inspected U.S. establishments are eligible for export to Colombia, rather than only those beef and beef products from establishments that participated in the USDA AMS EV programs under the previous certification requirements.

Rice

In an exchange of letters dated April 15, 2012, Colombia and the United States agreed that Colombia would provide access to U.S. rough rice through the Port of Barranquilla, subject to certification that the shipments were free of *Tilletia horrida* (a rice smut) and the pre-export fumigation of shipments. Following a December 2013 report which indicated that *Tilletia horrida* had been detected in rice production areas in Colombia, Colombian authorities undertook an epidemiologic survey. The United States sought information regarding the status of the survey at the September 2015 CTPA SPS Committee meeting and also raised the possibility of rescinding the existing fumigation requirements for U.S. rice. The United States will continue to engage Colombia with the objectives of expanding the list of eligible ports of entry for U.S. rough rice beyond Barranquilla and securing the elimination of the pre-export fumigation requirement.

Risk Categorization and Associated Import Requirements

Through INVIMA Resolution 719 of 2015, Colombia has assigned risk categories to foods with a view to imposing new requirements on foods depending on the category of risk. The United States is concerned that the criteria that Colombia used to assign risk may not be consistent with international guidelines. Colombia has indicated it intends to apply the envisioned categories to both imported and domestic products. Ministry of Health Decree 539 of March 12, 2014 included numerous new requirements for high risk foods, including plant registration with INVIMA and the inspection of facilities intending to export to Colombia. The United States and Colombia exchanged information and views on these issues at the September 2015 CTPA Standing Committee on Sanitary and Phytosanitary Matters meeting, and the United States will continue to engage with Colombia in addressing the related concerns.

IMPORT POLICIES

Tariffs

About 80 percent of U.S. exports of consumer and industrial products to Colombia became duty free immediately upon the CTPA's entry into force on May 15, 2012. The remaining consumer and industrial product tariffs are to be phased out within 10 years of entry into force, by January 1, 2021.

Colombia applies variable tariffs to imports of certain agricultural products pursuant to the Andean Community's price band system. However, upon entry into force of the CTPA, Colombia stopped imposing variable tariffs on U.S. agricultural exports, and almost 70 percent of U.S. agricultural exports (by value) became duty free. Duties on most other U.S. agricultural goods will be phased out over a period of 5 years to 12 years, depending on the product. Tariffs on the most sensitive products for Colombia, such as some poultry products, some dairy products, sugar, and rice will be phased out over 15 years to 19 years. U.S. agricultural exporters also currently benefit from zero-duty tariff rate quotas on corn, rice, poultry parts, dairy products, sorghum, dried beans, standard grade beef, animal feeds, and soybean oil. Access to the Colombia market for those products will increase as quotas are increased and over-quota duties are phased out over the course of the implementation period.

Nontariff Measures

Truck Scrappage

Prior to March 2013, new freight trucks over 10.5 metric tons (mt) (23,148.54 pounds) could be legally registered in Colombia either by paying a "scrappage fee" to the government, or by demonstrating that an old freight truck of equivalent capacity had been scrapped and its registration cancelled. In March 2013, Colombia issued Decree 486, without public consultation or a transition period, which eliminated the option to pay the "scrappage fee." As a result, scrapping an old truck of equivalent cargo capacity is now a condition for the registration of new freight trucks over 10.5 mt. This change in policy has significantly affected previously robust sales of imported trucks (which are generally over 10.5 mt). In the first year of this policy, such imports reportedly fell 65 percent, and sales-related administration costs rose by $60 million for all importers. In the first two years, U.S. exporters lost a reported $600 million in sales, according to industry officials.

Colombia has since continued to issue scrappage-related decrees, without consultation or transition periods. Most recently, in February 2015, the transportation ministry issued Decree 348, which expands the mandatory scrappage requirement to additional vehicles – cars, trucks, minibuses, campers, and dump trucks used for "special public service." The decree is to be in effect for one year, or until the transportation ministry issues a study of supply and demand for this vehicle segment. On March 18, 2015, in a move to end a trucker strike, the Colombian Transportation Minister reportedly agreed to, among other things, maintain the one-for-one scrappage requirement.

In 2015, the United States continued to raise concerns regarding the scrappage requirement, as well as the lack of a transparent public consultation process and a transition period for the new measures, in multiple fora and at senior and working levels, including in the Organization for Economic Cooperation and Development (OECD) Trade Committee in the context of Colombia's accession to the OECD. Colombia has frequently suggested that it would issue new measures to address U.S. concerns, but there has been no progress to date. The United States will continue to press Colombia for a resolution of this issue to effectively reopen the market to U.S. products.

Internal Taxes on Distilled Spirits and Alcohol Monopolies

Colombia currently assesses a consumption tax on distilled spirits with a system of specific rates per degree (half percentage point) of alcohol strength (Law 788 of 2002, Chapter V, as amended by Law 1393 of 2010). Arbitrary breakpoints based on alcohol content appear to result in a lower tax rate on spirits produced locally. The CTPA provides certain exceptions for Colombia's measures relating to the taxation of alcoholic beverages, until May 15, 2016. The United States has repeatedly made clear its expectation that Colombia meet this timeframe. In January 2016, the EU sought consultations with Colombia regarding taxation and *departamento* practices with respect to imported spirits under the WTO dispute settlement mechanism, and the United States participated in those consultations as a third party.

In November 2015, the Santos administration and two members of the Colombian congress submitted three separate bills aimed at reforming aspects of the liquor tax system and oversight of monopolies at the *departamento* (state or provincial) level. While the outcome of these reform efforts is uncertain, the version originally submitted by the Santos administration would replace the current tax structure (including the breakpoints) with a combination of a "specific tax" based on alcohol content and an *ad valorem* tax on the retail price. The bill also contains provisions that appear aimed at disciplining practices of the *departamento* level alcohol monopolies. However, the United States has concerns regarding a provision that would appear to allow the *Departamentos* that produce a distilled spirit called "aguardiente" to temporarily suspend the issuance of permits for the introduction of distilled spirits, including rum, that are imported or originates in other *Departamentos*, for an extended period of time. The United States will continue to monitor the development of the bill and engage with Colombia regarding U.S. concerns, particularly when Colombia's legislative sessions begin again in March 2016.

Mobile Phones Decree

On October 16, 2015, Colombia's trade ministry published Decree 2025, which "establishes measures to control the import and export of smart phones and their parts" as part of its strategy to address phone theft. The decree established extensive administrative requirements for trade of mobile phones and creates barriers to export them for legitimate purposes, such as warranty repairs. The decree mandates that each mobile phone has a government-issued International Mobile Equipment Identity (IMEI) verification certificate at the time of import and requires all importers and exporters to pre-register with the National Police to be allowed to trade in mobile phones. Additionally, it prohibits all imports and exports of mobile devices and parts via mail or express delivery, and broadly prohibits mobile phone imports and exports with very few exceptions (*e.g*., travelers, temporary export for outward processing, and for waste electrical and electronic equipment). Officials have reportedly counseled companies to fill out forms incorrectly (for example, by stating exports are temporary) to be able to import or export products. The United States will work through the Memorandum of Understanding signed in September 2015 between Colombia and the U.S. Federal Communications Commission to exchange information on risk reduction strategies not based on trade restrictions.

Biologic and Biosimilar Medicines Regulations

In September 2014, Colombia issued a decree establishing a framework for marketing approval of biological and biosimilar medicines. It established three approval pathways. The third pathway the "abbreviated comparability" pathway, appears to be inconsistent with international norms for biosimilars pathways. It is currently unclear what data, clinical trials, or other information will be required to demonstrate biosimilarity with the reference products. The decree has not yet taken effect because the implementing guidelines have not been finalized. The United States will continue to monitor the implementation of the Decree to assess its impact on fair competition in the Colombian market.

Health Registrations Dependent on Price Review

The National Development Plan 2014-2018 gives the health ministry the authority to require two additional assessments before medicine and medical devices can receive or renew sanitary registrations, which allow a product to be sold in Colombia: (1) a health technology assessment by the Institute for Health Technological Evaluation; and (2) a price determination by the health ministry. Stakeholders report that this provision has already delayed the granting and renewal of sanitary registrations for innovative pharmaceutical products.

Third Party Customs Observers

In 2014, Colombia began to implement a 1999 decree that allows third party "customs observers" at ports of entry to provide technical support to customs inspectors. The "customs observers," some of whom are from national producer organizations that represent products that directly compete with the U.S. product being imported, are permitted to review product quantities, weights, and customs values, and to identify appropriate commodity codes for agricultural products. Although "customs observers" do not have the authority to reject shipments, they have reportedly caused delays in the release of U.S. exports. For example, the customs authority's classification of U.S. poultry as "high risk" for technical contraband (for which it did not provide justification) has allowed domestic producers to request to be present for all imports of U.S. poultry, resulting in both delays and additional costs. Additionally, samples of some products, such as ethanol, are sent for testing to the laboratories of local producers that compete directly with U.S. exporters, raising concerns about possible conflicts of interest.

"Luxury Tax" on Vehicles Valued at $30,000 and Above

Colombia charges a 16 percent consumption tax for vehicles with a Free on Board (FOB) value of $30,000 and above. Imported vehicles below this value are subject to a tax of eight percent. The $30,000 value has not been adjusted for inflation in two decades. As a result, an increasing number of vehicles, particularly imported vehicles, fall into the higher tax bracket. (Generally, cars containing above three liter engines have a FOB value over $30,000.) The majority of vehicles assembled in Colombia typically fall below the $30,000 level, and domestic vehicles are not valued using an FOB calculation. Importers reportedly frequently choose to strip vehicles of the latest safety and technology advances to keep the value under $30,000 and avoid paying at a higher tax rate.

Ethanol

In April 2014, the Ministry of Mines and Energy published a decree that allowed Colombia to set import quantity limits on ethanol and establish a licensing mechanism for importing firms to allow for imports in cases of domestic shortfall. The United States continues to engage with Colombia on this issue.

Import Procedures

A number of stakeholders report frustrations with Colombia's burdensome import process. For example, Colombia has yet to automate its import documents procedures. However, in March 2016, Colombia issued a customs reform decree (Decree 390 of 2016) that is intended to modernize and reform its customs practices, including with respect to express delivery. The United States will continue to monitor Colombia's implementation of the new customs provisions and to engage with Colombia on customs issues.

GOVERNMENT PROCUREMENT

Under the CTPA, Colombia grants national treatment to U.S. goods, services, and suppliers in procurements covered by the Agreement. The CTPA expands U.S. firms' access to procurements opened by ministries, departments, congress, courts, and first tier sub-central entities, as well as a number of Colombia's government enterprises, including its majority state-owned oil company, Ecopetrol. In addition, Colombia does not apply Law 816 of 2003 to CTPA-covered procurements, as that law mandates preferential treatment for tenders that provide Colombian goods or services.

Colombia is not a signatory to the WTO Agreement on Government Procurement, but it has been an observer to the WTO Committee on Government Procurement since February 1996.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Colombia remained on the Watch List in the 2015 Special 301 Report. Colombia's implementation of certain intellectual property rights (IPR) provisions of the CTPA was interrupted in 2013 when the Constitutional Court invalidated on procedural grounds the law enacting those obligations. While Colombia has made progress on implementing some of the remaining IPR provisions in the CTPA, other obligations remain outstanding. Colombia anticipates that the remaining CTPA-related implementation measures will be introduced or significantly advanced in 2016. The United States will continue to engage with Colombia at political and technical levels to complete implementation as soon as possible.

Companies are increasingly concerned with the growing use of micro-chipped Free-to-Air (FTA) boxes, used exclusively for pirating broadcasting signals. Although Colombia does not officially prohibit the importation of these products, it has started to take some measures to restrict their use in response to U.S. concerns. In November 2014, Colombia issued a guideline which prohibited the use of FTA boxes with decodification capacities on satellite services provided by the government (primarily to provide satellite television services to municipalities that had no previous access). In July 2015, the government established separate tariff heading for different types of signal decoder devices, including one for micro-chipped FTA boxes, which should allow the Colombian customs authority to control the entry of these products. Additionally, the government requires Internet service providers to take down webpages that contain software updates needed to decrypt TV signals. The 2014-2018 National Development Plan included a requirement that government agencies develop action plans to address piracy of paid television. The United States will continue to monitor the effectiveness of these measures and continue to engage with Colombia on these issues.

Colombia began implementing a system identifying geographical indications (GIs) in 2013 in response to European Union applications to register a range of GIs in Colombia. While Colombia has clarified with respect to a number of types of cheeses which terms would be considered generic in Colombia, the United States has engaged extensively with Colombia on the issue to ensure that market access for U.S. agricultural producers is preserved and will continue to do so.

SERVICES BARRIERS

The CTPA grants U.S. service suppliers substantially improved market access. Some restrictions, such as economic needs tests and residency requirements, still remain in sectors such as accounting, tourism, legal services, insurance, distribution services, advertising, and data processing.

Telecommunications

Spectrum

Spectrum is critical to the provision of mobile telecommunications services and it is essential that suppliers do not interfere with each other's assignments of spectrum. Stakeholders report that Colombia Telecomuniciones interfered with Avantel's spectrum assignment on multiple occasions in 2015, and Avantel alleges that the interference continues. The United States continues to urge the government of Colombia to investigate and resolve these issues in a timely manner.

Roaming

In previous Section 1377 Reports, USTR has expressed concerns with Colombia's enforcement of roaming arrangements, particularly with regards to arrangements between dominant providers and their smaller competitors. The failure of the government of Colombia to ensure functioning, operational roaming arrangements between suppliers in its market and to respond in a timely and adequate manner to complaints regarding such arrangements remains a source of concern. It was not until December 2015 that Comcel, designated as dominant by the Colombian government, completed the required technical capabilities on its network to support automatic roaming between Comcel and Avantel. Avantel has not been able to operationalize roaming with Colombia Telecomunicaciones.

Auctions

Timely and efficient allocation of spectrum is critically important to suppliers of mobile telecommunications services. In September 2015, the Ministry of Information Technologies and Communications ("MinTIC"), issued a Request for Proposal (RFP) for allocation of the 700 MHz spectrum. However, due to a lack of qualified applicants, MinTIC has indicated it will reissue the RFP. It is important for the growth of the mobile market in Colombia that the government adopt in a timely manner a plan for allocation of this spectrum.

Distribution Services

Commercial Agency

A section of Colombia's commercial code has certain provisions for agents in the event of termination of a commercial agent (sales representative) contract that makes it difficult and costly for companies to terminate such a contract. The United States has been working with Colombia to address this issue for a number of years. Colombia's Congress is currently considering legislation to address this, and the United States will continue to monitor the progress of this issue.

COSTA RICA

TRADE SUMMARY

The U.S. trade balance with Costa Rica shifted from a goods trade deficit of $2.5 billion in 2014 to a goods trade surplus of $1.7 billion in 2015. U.S. goods exports to Costa Rica were $6.1 billion, down 11.7 percent ($814 million) from the previous year. Corresponding U.S. imports from Costa Rica were $4.5 billion, down 53.0 percent. Costa Rica was the United States' 38th largest goods export market in 2015.

Sales of services in Costa Rica by majority U.S.-owned affiliates were $1.5 billion in 2013 (latest data available), while sales of services in the United States by majority Costa Rica-owned firms were $63 million.

U.S. foreign direct investment (FDI) in Costa Rica (stock) was $955 million in 2014 (latest data available), a 4.3 percent decrease from 2013. U.S. direct investment in Costa Rica is led by manufacturing, professional, scientific, and tech. services, and information.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR, or “Agreement”) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006 and for the Dominican Republic in 2007. The CAFTA-DR entered into force for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services and includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, labor, and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Costa Rican Ministry of Health requires a Good Manufacturing Practices (GMP) certificate or a License of Operation as a prerequisite for approval of cosmetics and toiletries registrations in Costa Rica. However, U.S. manufacturers have difficulty in complying with this requirement because a U.S. Federal Government certificate of this kind does not exist. U.S. companies have, in some cases, been able to comply with the requirement by submitting documents from state or local authorities or trade organizations. However, for U.S. manufacturers unable to obtain such documents, the regulation results in an inability to gain the approval necessary to sell in the Costa Rican market. The United States has explained that the U.S. Federal Government does not issue the GMP certificate, but the issue persists.

Beginning in 2014, producers of dietary supplements have expressed concerns to the U.S. Embassy regarding Costa Rican product registration and technical regulations related for nutritional and dietary supplements.

Since the United States does not regulate nutritional and dietary supplements as pharmaceuticals, U.S. manufacturers of these products generally do not have the certification and product analysis required under the Central American Technical Regulation for Natural Medicines.

Sanitary and Phytosanitary Barriers

In September 2013, Costa Rica banned the import of fresh potatoes from the United States allegedly due to excess soil in some shipments and the presence of "zebra chip," a disease that causes striping of potatoes. To date, Costa Rica has not been willing to negotiate a new protocol to reopen the market. However, the United States continues to engage with Costa Rica to resolve this issue.

Importers have complained that the Ministry of Agriculture (MAG) is using phytosanitary import permits as a tool for stopping or delaying imports of onions from the United States, and that MAG's failure to issue permits in a timely manner has resulted in the loss of market access for onions this year.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Costa Rica applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

Under the CAFTA-DR, however, 100 percent of originating U.S. consumer and industrial goods have entered Costa Rica duty free since January 1, 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Costa Rica duty free and quota free. In addition, more than half of U.S. agricultural exports currently enter Costa Rica duty free under the Agreement. Costa Rica will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2022 for chicken leg quarters; 2025 for rice; and 2028 for dairy products). For certain agricultural products (rice, pork, dairy, poultry), tariff-rate quotas (TRQs) will permit duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period. Costa Rica's CAFTA-DR commitments provide for liberalizing trade in fresh potatoes and onions through continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including Costa Rica, committed to improve transparency and efficiency in administering customs procedures. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal transshipment of goods.

Costa Rica's Information Technology Customs Control (TICA) system is designed to allow for a single automated customs declaration process, with a centralized database, including electronic payment, integrated risk analysis and connectivity with public and private institutions. Some have argued that TICA is one of the best customs systems in Central America. However, the system has suffered breakdowns as the volume of entries has increased since its implementation in 2006, and upgrades are needed to facilitate the import and export of goods without undue delays.

Costa Rica is in the process of ratifying the WTO Trade Facilitation Agreement, which must first be approved by the Costa Rican Legislative Assembly and then by the Costa Rican Constitutional Court.

In February 2015, Costa Rican Customs resolved an issue related to the value-added tax (VAT) imposed on imported carbonated beverages. As a result, the end consumer pays the VAT on imported carbonated beverages, and local producers include the VAT in their cost of the goods.

Both imported and domestic beers are subject to a consumption tax of 0.22332 colones per milliliter. However, imported beer is subject to a 10 percent customs tax, from which locally produced beer is exempt. Mexican beer manufacturers are reportedly also exempt from the customs tax, following a successful claim in 2001 that the tax was unconstitutional. Costa Rican courts are continuing their review as is the Ministry of Finance. The United States is continuing to follow this issue.

GOVERNMENT PROCUREMENT

Some U.S. company representatives have commented that they find it difficult to compete with domestic suppliers in Costa Rican government procurement because bids are often due within three to six weeks of the procurement announcement. U.S. companies interpret the short deadlines as reflecting Costa Rica's reluctance to attract foreign bidders to its government procurement processes. The United States will continue to monitor Costa Rica's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations.

The electronic procurement platform "Mer-link" or "SICOP" provides a single purchasing platform for all participating ministries with an entirely paperless procurement process based on a secure database, allowing enhanced levels of transparency and competition in the procurement process. Over 70 government entities have adopted the program over the past 4 years and it continues to expand. Nevertheless, the Costa Rican public sector continues to host a number of incompatible and deficient procurement systems.

Costa Rica is not a signatory to the WTO Agreement on Government Procurement. Costa Rica became an observer in June 2015.

EXPORT SUBSIDIES

Under the CAFTA-DR, Costa Rica may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). Costa Rica has modified its free trade zone regime in order to conform to this requirement. While tax holidays are available for investors in free trade zones, sources have expressed concern that the Ministry of Foreign Trade (COMEX) exercises significant discretionary power using undefined criteria in determining what investors qualify for Free Trade Zone status, making it unpredictable and nontransparent.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Costa Rica was again on the Watch List in the 2015 Special 301 report. Key concerns include Costa Rica's need to place a higher priority on intellectual property rights (IPR) protection and enforcement, including to impose deterrent penalties where appropriate, and to follow through on longstanding plans to end government use of unlicensed software. On another matter of concern, the United States engaged extensively with Costa Rica as it prepared legislative amendments governing protections for geographical indications (GIs), in anticipation of action on applications from the European Union, which were received in 2013, to register a range of GIs in Costa Rica. During that ongoing engagement, the United States has stressed the need for use of CAFTA-DR consistent protections and processes, including providing public notice and opportunity for opposition, cancellation, transparency, and impartiality in decision making. Costa Rica's National Registry issued multiple unfavorable GI rulings during 2015 on long-pending cheese cases, raising additional concerns. The United States will continue to monitor Costa Rica's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Insurance

While foreign companies operate in most segments of the market, mandatory insurance categories such as worker's compensation and basic automobile liability are still serviced only by the National Insurance Institute (INS), despite being open to new entrants. New market entrants continue to face challenges in light of the market power INS derives from its former monopoly position. Specific concerns relate to deceptive advertising by the former monopoly, a cumbersome and nontransparent product approval process, and the extension of exclusivity contracts between INS and insurance retailers designated as agents.

Telecommunications

Under the CAFTA-DR, Costa Rica has progressively opened important segments of its telecommunications market, including private network services, Internet services, and mobile wireless services, which are now formally open for competition as a matter of law or regulation. However, while this market opening is a notable achievement, Costa Rica's new wireless service providers continue to face obstacles, including reluctance by some municipal governments to approve cell tower construction necessary to support new providers and expand coverage areas.

INVESTMENT BARRIERS

Costa Rica's regulatory environment can pose significant barriers to investment. One common problem is inconsistent action between institutions within the central government or between institutions in the central government and municipal governments. The resulting inefficiency in regulatory decision-making is especially noticeable in infrastructure projects, which can languish for years between the award of a tender and the start of project construction. Construction now underway on a new container terminal at Costa Rica's main Atlantic port, a public-private partnership project that is critical to facilitating trade, was delayed by more than 13 months, reportedly costing the investing private company more than $300 million.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a concern and a constraint to successful investment in Costa Rica. Administrative and judicial decision-making appear at times to be inconsistent, nontransparent, and very time consuming.

In July 2009, Costa Rica notified levels of agricultural domestic support to the WTO for 2007 that were above its $15.9 million Total Aggregate Measurement of Support (TAMS) ceiling on trade-distorting domestic support. Costa Rica's subsequent notifications to the WTO for the years 2008 through 2012 listed domestic support expenditures at ever increasing levels, reaching $109.7 million in 2010. In 2013, domestic support expenditures dropped to $86.1 million, still well above Costa Rica's WTO ceiling. Between 2009 and 2013, Costa Rica's price support for rice accounted for most of its notified TAMS, and rice accounted for a majority of its notified TAMS prior to 2009. Between 2009 and 2013, Costa Rica's domestic production of rice has increased while U.S. rice exports to Costa Rica have dropped by 37 percent. In May 2013, the government of Costa Rica issued Decree #37699-MEIC, which reduced the price support by a modest amount and stated that the then current price support mechanism for rice would be eliminated starting in March 2014. However, in January 2014, Costa Rica delayed that deadline by a year until March 2015. In January 2015, Costa Rica announced a four-year safeguard, imposing an additional 24.88 percent tariff on pounded rice. The safeguard amount will decline annually to a final tariff of 6.22 percent for the last year. The safeguard affected our-of-quota rice imports from the United States. On February 27, 2015 the government of Costa Rica published Executive Decree #38884-MEIC which established producer prices for dry and clean paddy rice and also set the minimum and maximum price for different presentations and qualities of milled rice, either locally produced or imported. Those prices took effect on June 8, 2015. The overarching issue of excessive domestic support for rice remains, as the reference price system does nothing to change the effective level of the support, only the classification of it.

In a separate rice issue, in 2015 Costa Rican customs authorities initiated an origin verification process for rice imported during 2013 from the United States. The authorities are questioning the origin of the rice (primarily imported under the CAFTA-DR tariff rate quota) imported by at least 15 different importers. The importers, many of which are small importers who took advantage of the TRQs, face steep fines in case they cannot provide all the information required by the Customs Department, which according to Customs will prove the country of origin as the United States. Importers have been asked to provide an exhaustive amount of information, unrelated to the question of whether the rice is of U.S. origin, and official USDA documents such as APHIS' phytosanitary export certificates and FGIS' rice grading certificates are not considered proof of the origin, but are merely considered part of the evidence in the case.

As the Costa Rican government has increased tax collection efforts in recent years, several U.S. companies have found themselves facing what they consider to be novel or inconsistent interpretations of tax regulations and principles. Adoption of a new set of transfer-pricing regulations in September 2013 represented a significant advance by the Costa Rican government in the area of transparency and predictability. The United States will continue to monitor implementation of the regulations and other tax measures.

DOMINICAN REPUBLIC

TRADE SUMMARY

The U.S. goods trade surplus with Dominican Republic was $2.5 billion in 2015, a 27.3 percent decrease ($928 million) over 2014. U.S. goods exports to Dominican Republic were $7.1 billion, down 9.9 percent ($788 million) from the previous year. Corresponding U.S. imports from Dominican Republic were $4.7 billion, up 3.1 percent. Dominican Republic was the United States' 34th largest goods export market in 2015.

Sales of services in Dominican Republic by majority U.S.-owned affiliates were $1.6 billion in 2013 (latest data available).

U.S. foreign direct investment (FDI) in Dominican Republic (stock) was $1.2 billion in 2014 (latest data available), a 3.5 percent increase from 2013. U.S. direct investment in Dominican Republic is led by manufacturing, information, and wholesale trade.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or "Agreement") entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services and includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, the Dominican Republic applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions.

However, under the CAFTA-DR, as of January 1, 2015, 100 percent of originating U.S. consumer and industrial goods enter the Dominican Republic duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter the Dominican Republic duty free and quota free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Also, under the CAFTA-DR, as of 2015, 83 percent of U.S. agricultural products qualify for duty-free treatment when exported to the Dominican Republic. The Dominican Republic will eliminate remaining tariffs on nearly all agricultural goods by 2020 (2025 for chicken leg quarters, 2028 for some dairy products and rice). Tariff-rate quotas (TRQs) permit duty-free access for specified quantities of 47 different agricultural products, including ice cream, selected cuts of beef, cheddar cheese, and yogurt, with the duty-free amount progressively expanding during the tariff phase-out period.

Nontariff Measures

The Dominican Ministry of Agriculture continues to administer the issuance of sanitary and phytosanitary import licenses in order to regulate trade in sensitive commodities. The United States continues to raise concerns regarding this matter with Dominican authorities and is working to eliminate this practice. This is a regular concern with respect to trade in some sensitive products (*e.g.*, dry beans, potatoes, onions, garlic and recently hatching eggs), but intermittently with respect to other products as well.

Under the CAFTA-DR, TRQs for agricultural products are to be made available for the entire calendar year, beginning on January 1 of each year. However, the Dominican Republic has often issued quota allocations several months into the year. In addition, both the issuance of quotas for sensitive products and the distribution of import licenses, which allow importers to exercise their quota rights, have frequently been delayed. While the Ministry of Agriculture made substantial improvements to its administration of TRQs in 2013 and 2014, 2015 CAFTA-DR quotas were not issued until March, while 2016 quotas were issued on February 5. The United States will continue to engage on these issues with the Dominican Republic and will monitor its performance with regard to the timely opening of the TRQs, the timely distribution of import licenses, and the distribution of appropriate quota volumes to allow TRQ products to enter the Dominican Republic as of January 1 of each year.

The Dominican Republic maintains a ban on imports of all used vehicles over five years old, and took an exception under the CAFTA-DR to the obligation not to impose import restrictions for this measure. Since late 2011, importers of U.S.-made used vehicles less than five years old have reported that the Dominican customs service has frequently challenged the eligibility of those vehicles to be considered as originating and therefore eligible for preferential tariff treatment under the CAFTA-DR, citing technical difficulties in demonstrating compliance with the rules of origin. The United States continues to engage with the Dominican Republic to address complaints received from exporters of used cars of U.S. manufacture.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Dominican government entities, including key ministries and state-owned enterprises, on the same basis as Dominican suppliers. The anticorruption provisions in the CAFTA-DR apply *inter alia* to government procurement. Nevertheless, U.S. suppliers have complained that Dominican government procurement is frequently not conducted in a transparent manner and that corruption is widespread. The U.S. Government has engaged with the Dominican government on this issue and transparency has increased in its procurement system over the last few years. The United States will continue to monitor the Dominican Republic's government procurement practices to ensure they are applied in a manner consistent with CAFTA-DR obligations.

The Dominican Republic is not a signatory to the WTO Agreement on Government Procurement.

SUBSIDIES

The Dominican Republic does not have export promotion schemes other than tariff waivers for inputs imported by firms in the free trade zones. Under Law 139 of 2011, the Dominican Republic levies a 2.5 percent tax on goods sold from free trade zones into the local market.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2015, the Dominican Republic remained on the Watch List in the Special 301 Report. Key concerns cited in the report include the widespread availability of pirated and counterfeit goods, satellite signal piracy, and a longstanding patent application backlog. Despite these concerns, progress recently has been made in a few areas. The Dominican Republic continued its efforts to strengthen regulatory protection against pharmaceutical patent infringement. In 2014, the government of the Dominican Republic created an office in the Public Ministry responsible for preventing pharmaceutical patent infringement. This office prosecutes makers and sellers of counterfeit drugs and food products and works with the National Police to execute raids, close illegitimate pharmacies and food retailers, and make arrests. Although the Dominican Republic's patent office (ONAPI) granted more patents in 2014 than in 2013, the large backlog of pending patent applications continues to grow. ONAPI is in the process of digitizing patents and creating an online application and retrieval system, but these efforts will take several years to complete. The U.S. Patent and Trademark Office continues to offer technical assistance to complete this modernization effort, and the United States looks forward to continuing to work with the Dominican Republic to address these and other issues.

SERVICES BARRIERS

Telecommunications

The United States has expressed a number of concerns with the timeliness and effectiveness of the telecommunications regulator in the Dominican Republic, INDOTEL, in carrying out its obligations under CAFTA-DR and the WTO General Agreement on Trade in Services, including ensuring that its major suppliers offer a cost-based termination rate, timely allocation of spectrum in an objective and transparent manner, facilitation of roaming arrangements, and prompt decisions on the renewal of operators' concession agreements. The United States continues to work with the Dominican Republic to ensure that it fulfils its obligations to an open and competitive telecommunications sector.

OTHER BARRIERS

Many U.S. firms and citizens have expressed concerns that corruption in government, including in the judiciary, continues to be a constraint to successful investment in the Dominican Republic. Administrative and judicial decision-making at times is perceived as inconsistent, nontransparent, and overly time-consuming.

ECUADOR

TRADE SUMMARY

The U.S. goods trade deficit with Ecuador was $1.5 billion in 2015, a 42.5 percent decrease ($1.1 billion) over 2014. U.S. goods exports to Ecuador were $5.9 billion, down 27.8 percent ($2.3 billion) from the previous year. Corresponding U.S. imports from Ecuador were $7.4 billion, down 31.5 percent. Ecuador was the United States' 39th largest goods export market in 2015.

Sales of services in Ecuador by majority U.S.-owned affiliates were $1.1 billion in 2013 (latest data available), while sales of services in the United States by majority Ecuador-owned firms were $5 million.

U.S. foreign direct investment (FDI) in Ecuador (stock) was $650 million in 2014 (latest data available), a 11.9 percent increase from 2013. U.S. direct investment in Ecuador is led by mining, manufacturing, and wholesale trade.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Resolution 116 - Product Certificate

Resolution 116, issued by Ecuador's Foreign Trade Committee (COMEX) on December 4, 2013, continues to restrict the importation of certain U.S. products by requiring U.S. exporters and Ecuadoran importers obtain certificates of recognition – through a conformity assessment process conducted in Ecuador – to demonstrate that products conform to Ecuador's technical regulations. Ecuadorian officials maintain that the requirements, which were not notified to the WTO, remain necessary to protect the health and safety of Ecuadorian consumers, but officials have also stated that the measures are intended to protect local producers as part of Ecuador's policy of import substitution, which is described in detail below.

On June 3, 2014, the Minister of Industry and Productivity (MIPRO) – which at that time was negotiating a Multiparty Trade Agreement with the EU, Colombia, and Peru – signed MIPRO Agreement 14-241, which creates an exception to Resolution 116 for products of EU origin. Agreement 14-241 states that products of EU origin can be imported with only a sworn statement by the importer that the product meets Ecuadorian technical regulations instead of requiring a certificate of recognition.

The United States has raised concerns regarding Resolution 116 and other trade restrictions with senior Ecuadorian officials. The United States intends to continue to raise these concerns in 2016, both bilaterally and in the WTO TBT Committee.

COMEX resolutions can be found on the COMEX web site at http://comercioexterior.gob.ec/comex.

Processed Foods – Nutritional Labeling and Quality Compliance Requirements

Executive Decree No. 4522, issued in November 2013 by the Ministry of Health of Ecuador's National Agency for Regulation, Control, and Sanitary Surveillance (ARCSA), requires that all processed and packaged food products include a label that includes a set of colored bars, which reflect low, medium, or high content of salt, sugar, and fat. For food packages smaller than 14.4 cm, the decree does not require an icon, but an advisory message stating, "For your health, reduce the consumption of this product". The

Decree also requires an advisory statement for foods that contain less than 50 percent "natural" content. Ecuador defines a "natural food" as "a food present in nature that has not been transformed."

Ecuador also requires a certificate demonstrating compliance with these labeling provisions pursuant to COMEX Resolution 116. A separate certificate of recognition is required for food products for which the Ecuadorian Standards Institute (INEN) has issued a standard. The list of products requiring this separate certificate includes all U.S. and third-country processed food product imports. Although like domestic products must also obtain the INEN certificate, implementation of this requirement has halved the imports of dozens of high-value added food products, including preserved meat and vegetable products, jams, sauces, and other food products.

The United States, with Ecuador, continues to explore alternatives to the certificates, including the use of State or Federal Certificates of Free Sale, a Supplier's Declaration of Conformity, or a determination of equivalence with INEN's requirements.

Mandatory Labeling of Foods Derived From Agricultural Biotechnology

Technical regulation RTE-INEN-022 requires products containing at least 0.9 percent genetically-engineered components (*i.e.,* transgenics) are required to display a label with the statement "contains transgenics".

Sanitary and Phytosanitary Barriers

Ecuador requires separate import permits for all agricultural products from three different offices within the Ministry of Agriculture: Livestock, Aquaculture, or Fishing (MAGAP), which can make the process both lengthy and burdensome. Businesses complain that the certificate process lacks scientific basis and is at odds with World Organization for Animal Health (OIE) and Codex Alimentarius Commission standards. On occasion, Ecuador appears to use the SPS import permit process in a discretionary and unwarranted manner to impede agricultural imports.

COMEX Resolution 019 mandates that AGROCALIDAD (Ecuador's national SPS authority) require an SPS certificate for imported processed agricultural products, including low-risk, cooked products. Importers of U.S.-origin food products, especially U.S. fast food franchisees report import processing delays caused by confusion among government agencies over how to enforce the resolution, as well as by officials intentionally delaying the entry of imported products as part of Ecuador's policy of import substitution.

AGROCALIDAD banned all U.S. origin poultry products on April 16, 2015. While AGROCALIDAD lifted the ban for processed and cooked poultry and poultry products in May 2015, U.S. origin live fowl, chilled/frozen poultry meat and poultry products, and eggs/egg products remain banned regardless of their region of origin. This ban has adversely affected U.S. restaurant franchisees in Ecuador.

IMPORT POLICIES

Ecuador has imposed a broad range of tariff and non-tariff restrictions on trade in goods, services and investment, as well as weakening protection of intellectual property rights. This trend began several years ago, but accelerated in 2014 and 2015 as Ecuador's balance of payments circumstances and economic growth declined. These measures have created uncertainty in Ecuador's market, which reduces investment, penalizes Ecuadorian workers and businesses, and denies the people of Ecuador a choice of competitively priced, high quality goods and services.

As part of the policy of import substitution, Ecuadorian officials seek commitments from companies to increase local production and decrease imports. According to Ecuador's Coordinating Minister for Production, Employment, and Competitiveness, over 900 companies had signed import substitution agreements with the government. Some of these importers have complained that the government coerced them into the agreements by utilizing Resolution 116 technical requirements as a reason to block their imports until they agreed to sign (*see paragraph on Resolution 116 under Technical Barriers to Trade*).

The United States has objected to Ecuador's discriminatory restrictions on trade in a variety of fora – bilaterally, through the WTO and its various committees, and in coordination with other countries affected by Ecuador's increasingly protectionist measures. The United States will continue to press Ecuador to reverse its protectionist policies to comply fully with its international commitments.

Tariffs

On March 11, 2015, COMEX Resolution 011-2015 took effect, instituting tariff surcharges of 5 to 45 percent on about 3,000 tariff lines, accounting for 30 percent of imported products as measured by the value of 2014 imports. Ecuador indicated the increased tariffs would reduce imports by about $2.2 billion, or about 11 percent of non-petroleum imports in 2014, and were necessary to safeguard the country's balance of payments due to an unfavorable economic climate. These tariffs replaced those included in Resolution 050-2014, which had placed tariffs only on goods from Peru and Colombia, ostensibly to address the depreciation of the currencies of Peru and Colombia relative to the U.S. dollar. In June 2015, Ecuador informed other WTO Members that it would phase out all tariff surcharges by June 2016.

When Ecuador joined the WTO in January 1996, it bound most of its tariff rates at 30 percent *ad valorem* or less, except for agricultural products covered by the Andean Price Band System (APBS). Ecuador agreed to phase out its participation in the APBS when it joined the WTO; however, to date, Ecuador has taken no steps to phase out use of the APBS. The most recent WTO Trade Policy Review (TPR) of Ecuador in 2011 reported that Ecuador's tariff structure had become more complex "with the increase in the number of *ad-valorem* rates and the adoption of compound duties." The TPR indicated that Ecuador's applied simple average most-favored-nation (MFN) tariff rate was 9.3 percent in 2011. As Ecuador has implemented trade restrictions since the TPR, the actual average applied MFN tariff rate for agricultural products was 18.8 in 2014.

Specific tariff changes by sector in recent years include:

Construction Materials

COMEX Resolution 002-2014, issued January 14, 2014, raised tariff rates of 144 sub-tariff items, including metal and construction items such as doors, windows, cables, and brushes. The tariff rates vary between 10 percent and 25 percent, although COMEX resolution 027, issued August 25, 2014, reversed some of the increases.

Consumer goods

COMEX Resolution 023, issued July 17, 2014, created a $42 tariff on packages shipped via international courier. Consumers may receive packages that weigh less than four kilograms and are valued at less than $400 and may receive no more than five packages per year, with a total value not to exceed $1,200. COMEX Resolution 033, issued September 19, 2014, modified Resolution 023 to provide a waiver from the $42 tariff for packages sent by Ecuadorian residents abroad, up to a limit of 12 packages or $2,400 dollars.

Agricultural products

Ecuador's continued use of the APBS affects many U.S. agricultural exports. For some U.S. exports, such as wheat, barley, malt barley, and their byproducts, the total duty (*ad valorem* tariff plus variable levy) is often zero percent. However, total duties can be as high as 45 percent for pork and 86 percent for chicken parts. One product on which the APBS has had a particularly adverse impact is U.S. soybean-meal. In light of uncertainty over whether Ecuador would extend the temporary tariff exemption under the APBS, Ecuadorian importers diverted approximately $50 million in U.S. soybean-meal exports to other countries from late 2014 through early 2015, and Ecuadorian animal feed manufacturers often sourced lower quality soybean meal from South American trading partners that have negotiated preferential market access with Ecuador.

Nontariff Measures

Importers must register with Ecuador's National Customs Service to obtain a registration number for all products.

Agriculture

Regulations requiring import permits from Ecuador's Ministry of Agriculture affect imports of U.S. food and agricultural products. These import licenses generally require several approvals within MAGAP, including from the Under Secretary for Livestock Development, the Under Secretary for Commerce, the corresponding consultative committee, and AGROCALIDAD. This non-science based prior authorization system is vulnerable to lobbying by domestic producers seeking to block or impede imports.

COMEX Resolution 102 and MAGAP Resolution 299-A (enacted in June 2013) impose a mandatory, cumbersome process for allocating import licenses for cheese, butter, milk, potatoes (including French fries), beef, pork, chicken, turkey, beans, sorghum, and corn. Resolution 299-A specifies that import licenses are not granted automatically, but rather are issued based on the level of domestic production relative to demand. Resolution 299-A requires importers to present to MAGAP their yearly import requirements in addition to documentation for technical review. The review results are shared with domestic producers. Resolution 299-A prohibits imports during periods of high domestic production, but excludes Andean Community members from the resolution.

For a number of agricultural products, MAGAP has established consultative committees. These committees are composed of private sector representatives and government officials. Originally conceived as an advisory body for recommending production and agricultural development policies, these committees now seek to block imports to encourage domestic production.

Automotive

MIPRO Resolution 14-453, dated October 6, 2014, provided that, as of October 6, 2015, Ecuador would no longer accept U.S. Federal Motor Vehicle Safety Standards (FMVSS) and would require all automobiles sold in Ecuador to meet the safety standards established by the UN Economic Commission for Europe (UN ECE). U.S. companies reported that this regulation could impact $150 million of U.S. car and truck exports to Ecuador annually. Following substantial engagement by the U.S. Government, on August 25, 2015, Ecuador announced that it would postpone implementation of the regulation until October 6, 2016. The United States will continue to communicate to Ecuadorian officials the advantages to Ecuador of accepting automobiles and trucks meeting U.S. FMVSS.

Ecuador continues to apply an often changing array of quotas in order to restrict automobile imports. COMEX Resolution 66, issued June 11, 2012, limited vehicle imports to 68 percent of the total value imported in 2010. Resolution 77, approved July 30, 2012, identified 50 vehicle importers allowed to import under the quota system. These measures, together with Resolution 96 of 2012, established an import quota in total units and value per dealer (as opposed to by vehicle type).

COMEX Resolution 049, issued December 29, 2014, reduced the value and unit quotas on imported motor vehicles and complete knock-downs (CKDs) that were established by Resolutions 65 and 66 in 2012. Resolution 003, issued February 3, 2015, and Resolution 019, issued May 5, 2015, further adjusted the quota reductions. The unit quotas were reduced by about 48 percent for motor vehicles and 25 percent for CKDs.

Consumer Goods

Ecuador applies a special consumption tax (ICE) on a number of products, including alcohol, perfumes, video games, firearms, airplanes, helicopters, boats, and cable television service. Many of the products to which the ICE applies are imported, while many products that are domestically produced are excluded. On December 24, 2014, Ecuador issued Resolution 1109, which increased the specific per liter tax to $7.10 for every liter equivalent of alcohol.

Mobile phones

Ecuador has restricted phone imports since June 2012. On May 30, 2015, Ecuador issued Resolution 024-2015, extending these restrictions until December 31, 2015. Cell phones are also subject to a 15 percent *ad valorem* tariff.

GOVERNMENT PROCUREMENT

Ecuador is not a signatory to the WTO Agreement on Government Procurement. Bidding on government procurement can be cumbersome and non-transparent. The lack of transparency poses a risk that procuring entities will manipulate the process to their advantage.

For example, Public Enterprises have broad flexibility to make procurements with reduced legal oversight. Ecuador's Public Procurement Law establishes exceptions for procurements made according to special rules established by presidential decrees, for exploration and exploitation of hydrocarbons, for emergency situations, and for national security contracts. Article 34 of the Public Procurement Law allows public enterprises to follow special procurement rules, provided the National Public Procurement Service (SERCOP) issues an open-ended authorization for purchases considered within "the nature of the enterprise."

Ecuador also requires that preferential treatment be given to locally produced goods, especially those produced by the constitutionally created "social and solidarity economy," as well as micro and small enterprises.

Foreign bidders are required to register and submit bids for government procurement through an online system (http://www.compraspublicas.gob.ec). Foreign bidders must have a local legal representative in order to participate in government procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The procedures and penalties for intellectual property crimes were repealed in August 2014 when a new penal code came into effect. Ecuador was moved to the Special 301 Priority Watch List from the Watch List in April 2015 because of the lack of criminal procedures and penalties for commercial scale counterfeiting and piracy. In August 2015, Ecuador's National Assembly passed an amendment reinstating criminal procedures and penalties.

In addition to copyright and trademark enforcement challenges, U.S. companies face exorbitant fees for patent registration and maintenance. Market access is further limited for the pharmaceutical and agricultural chemical industries by the lack of protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for their products. Additionally, Presidential Decree 522, which has yet to be implemented, may limit the use of registered trademarks on off-patent and generic medicines in Ecuador.

The United States will continue to engage Ecuador on these issues in 2016, including through the Special 301 process.

SERVICES BARRIERS

Credit Bureaus

On September 12, 2014, Ecuador enacted the Monetary and Financial Code that regulates the financial, insurance, and capital markets. Article 357 of the law established the National Data Registry as the only depository of credit information to be allowed in Ecuador. The law as written would force U.S. and other foreign credit agencies to close. No date has been established for when Article 357 takes effect. At least one private bureau remained operational as of December 2015.

Telecommunications

On February 10, 2015, the National Assembly passed a law that requires telecommunications companies with at least a 30 percent market share to pay 0.5 percent of their revenue to the government. The law increases the required payments on a progressive basis up to nine percent of revenue for companies with market share of 75 percent or more. The requirement applies to mobile telephone, subscription television, Internet, and fixed-line telephone service providers.

The February 2015 telecommunications law also established a new unified independent regulator, Agency for Regulation & Control of Telecommunications (ARCOTEL). USTR will continue to work with ARCOTEL to ensure that Ecuador fulfils its obligations to an open and competitive telecommunications sector.

INVESTMENT BARRIERS

Ecuador's investment climate remains marked by uncertainty, owing to the government's unpredictable and frequently restrictive economic policies. Regulations and laws since 2007 limit private sector participation in sectors deemed "strategic," most notably in the extractive industries. In addition, inconsistent application and interpretation of investment laws negatively impact the transparency and stability of Ecuador's investment regime. This legal complexity increases the risks and costs of doing business in Ecuador.

In 2010, the Ecuadorian government enacted a hydrocarbons law that requires all contracts in the extractive industries to be in the form of service, or “for fee” contracts, rather than production sharing agreements. Several foreign companies declined to renegotiate their contracts and instead opted to negotiate compensation agreements for operations that they subsequently turned over to the Ecuadorian government.

Ecuador withdrew from the Convention on the Settlement of Investment Disputes (ICSID Convention), effective January 7, 2010. In September 2009, the Ecuadorian government requested approval from the country’s National Assembly to terminate 13 bilateral investment treaties (BITs), including Ecuador’s BIT with the United States, arguing that the BITs contained provisions that were unconstitutional. On November 24, 2010, Ecuador’s Constitutional Court ruled that provisions within Ecuador’s BIT with the United States were unconstitutional. To date, the Ecuadorian government has not terminated its BIT with the United States.

Ecuador’s National Assembly approved a public-private partnership law on December 15, 2015, intended to attract investment. The law allows increased private participation in some sectors and offers incentives including the reduction of the income tax, value added tax, and capital exit tax for investors in certain projects. Potential investors have expressed guarded optimism that the incentives in the law will be attractive enough to stimulate new investment.

EGYPT

TRADE SUMMARY

The U.S. goods trade surplus with Egypt was $3.3 billion in 2015, a 34.0 percent decrease ($1.7 billion) over 2014. U.S. goods exports to Egypt were $4.7 billion, down 26.6 percent ($1.7 billion) from the previous year. Corresponding U.S. imports from Egypt were $1.4 billion, down 0.3 percent. Egypt was the United States' 43rd largest goods export market in 2015.

Sales of services in Egypt by majority U.S.-owned affiliates were $1.3 billion in 2013 (latest data available), while sales of services in the United States by majority Egypt-owned firms were $3 million.

U.S. foreign direct investment (FDI) in Egypt (stock) was $21.3 billion in 2014 (latest data available), a 13.4 percent increase from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Vehicles

In June 2014, Egypt adopted EU-based emissions and safety regulatory standards for vehicles. Although Egypt previously indicated it would apply these new standards to both imported and locally produced vehicles, the implementation currently targets imported cars and trucks. These new standards have resulted in reduced sales for U.S. manufacturers that do not already produce versions of certain vehicle models that satisfy the EU standards. Additionally, Egypt applies the same EU-based emission and safety regulatory standards to replacement parts, and it is frequently not possible to use parts built in conformity with EU standards to service vehicles built to U.S. regulatory requirements.

Another restrictive element of Egypt’s law is that it prohibits the importation of used vehicles for commercial purposes and only allows for the importation of new passenger vehicles within the year of manufacturing. However, used vehicles may be imported for personal use upon verification of ownership.

In May 2014, the Egyptian Ministry of Trade and Industry issued a decree banning the importation of motorcycles and three wheel vehicles except for tricycles and chassis for trade. The decree bans the importation of CBUs (Completely Built Units) yet allows the importation of SKD (Semi Knocked Down) motorcycle chassis and engines. This ban remains in place today.

Seed Potatoes

In 2012, the Egyptian government issued a ministerial decree authorizing seed potato imports from all origins, including the United States. Prior to this decree, Egypt only permitted imports of seed-potatoes from EU countries. However, Egypt is not granting import permits for seed potato imports from the United States, including imports for field trials to address state-specific sanitary and phytosanitary (SPS) concerns. In December 2015, in response to a new request, Egypt again refused to issue import permits to complete field trials in time for the 2016 season.

Poultry Parts and Offal

Since 2003, Egypt has maintained a *de facto* ban on poultry parts and offal from all origins, only permitting imports of whole, frozen birds. Although Egypt cites halal slaughter concerns, Egypt's General Organization for Veterinary Services (GOVS) inspected and approved 22 U.S. poultry establishments for export to Egypt in September 2013, certifying that U.S. slaughtering processes and food safety measures are in accordance with Islamic halal practices. The impact of the *de facto* poultry ban on U.S. trade is estimated at $100 million. Egypt has also banned imports of heat-treated feather meal since March 2012.

Foreign Manufacturers Registration

The Ministry of Industry and Trade issued decree 43/2016 requiring the registration of foreign manufacturers who export to Egypt for specific finished products, where the "General Organization for Exports and Imports Control "known as GOEIC would handle the registration process. The registration is for manufacturers of finished consumer products such as: dairy products, furniture, fruits, textiles, confectioneries, home appliances and others and will go into effect March 16, 2016. Goods from non-registered manufacturers will not be cleared through customs.

The decree differentiated between documents represented by manufacturers and trade mark owners in terms of the required documents. Manufacturers should provide a certificate of the legal entity and the license issued for the factory, list of items produced by the factory and their trademarks, the trademark of the product and the trademarks produced by means of a license from the owner, and a certificate proving that the factory applies a quality control system issued by an entity recognized by the International Laboratory Accreditation Cooperation (ILAC) or by The International Accreditation Forum (IAF). While Trademark owners should provide a certificate proving that the trademark is registered and the items produced under this trademark, Certificate from the company who owns the trademark listing the distribution centers which are licensed to supply the items with this trademark, a Certificate proving that the factory applies a quality control system issued by an entity recognized by the International Laboratory Accreditation Cooperation (ILAC) or by The International Accreditation Forum (IAF). All the documents must be notarized from the respective exporting country (Chamber of Commerce), the Egyptian Embassy in that country, and then from the Ministry of Foreign Affairs in Egypt.

Sanitary and Phytosanitary Barriers

In recent years the Egyptian government has made limited progress in taking a more scientific approach to sanitary and phytosanitary measures. Despite these improvements, importers of U.S. agricultural commodities continue to face unwarranted barriers such as those that lack technical and scientific justification.

Beef and Beef Products

In June 2014, Egypt made two notifications to the WTO TBT and SPS Committees of requirements that would establish a zero tolerance level for synthetic hormones and a low maximum residue level for naturally-occurring hormones in foodstuffs of animal origin. In February 2015, Egypt removed the requirement on naturally-occurring hormones. Egypt's zero-tolerance policy is not consistent with Codex Alimentarius Commission standards, and the United States and other like-minded trading partners have engaged extensively with Egyptian authorities to dissuade them from adopting these trade-prohibitive regulations. While implementation of this measure came into effect in January 2015, there have been no reports to date of detained or rejected shipments of U.S. beef and beef products.

Wheat, Soybeans and Corn

The Egyptian Central Administration for Plant Quarantine (CAPQ) requires that wheat, soybean and corn imports be free from *Ambrosia spp*. weed seeds. If ambrosia seeds are detected in a shipment by CAPQ's inspector, the importer is required to seize the shipment under the supervision of the CAPQ. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has reassured CAPQ of the integrity and transparency of USDA's Federal Grain Inspection Service (FGIS).

Agricultural Biotechnology

In March 2012, Egypt's Ministry of Agriculture and Land Reclamation issued a decree "temporarily suspending" the cultivation of corn seeds developed through agricultural biotechnology. This suspension followed media reports critical of products of agricultural biotechnology.

Feather Meal

The Ministry of Agriculture and Land Reclamation's Decree 448 (March 19, 2012) bans the importation of heat-treated feather meal. Egypt cites concerns about avian influenza and nutritional value as a justification for the ban. Egypt's ban on heat-treated feather meal is not consistent with OIE guidelines on avian influenza.

IMPORT POLICIES

Tariffs

On January 26, 2016, Egypt issued Presidential Decree 26 further increasing high tariffs on approximately 100 "non-essential" items, including sunglasses, nuts, cut flowers, fireworks, grapes, strawberries, apples, pineapples, video games, chewing gum, watches, and seafood (including shrimp and caviar). Tariffs on fish are 20 percent. Tariffs on cut flowers are 40 percent and those on fresh and dried nuts increased from 10 percent to 20 percent. Tariffs on some fresh fruits, including strawberries, increased from 10 percent to 20 percent, while those on apples and pears increased from 30 to 40 percent.

Egypt maintains high tariffs on a number of other products. The tariff on passenger cars with engines of less than 1,600 cubic centimeters (cc) is 40 percent, and the tariff on cars with engines of more than 1,600 cc is 135 percent. In addition, cars with engines over 2,000 cc are subject to an escalating sales tax of up to 45 percent. Tariffs on a number of processed and high-value food products, including poultry meat, range from 20 percent to 30 percent. There is a 300 percent tariff on alcoholic beverages for use in the tourism sector, including for hotels, plus a 40 percent sales tax. The tariff on alcoholic beverages for use outside the tourism sector ranges from 1,200 percent on beer and 1,800 percent on wine to 3,000 percent on sparkling wine and spirits. Foreign movies are subject to tariffs amounting to 46 percent. They are also subject to sales taxes and box office taxes higher than those for domestic films.

Customs Procedures

In its efforts to establish modern customs centers at major ports, the Ministry of Finance has attempted to implement new information technology systems to facilitate communications among ports and airports. However, implementation of these systems continues to be delayed. Egypt has still not implemented systems to accept advance information on international cargo and the lack of automated manifesting process makes it difficult for the Customs Authority efficiently to target suspect shipments for inspection. The delays also negatively affect the Customs Authority's capability to process manifests and entry documentation, including for customs valuation, which affects its ability to efficiently assess applicable taxes and tariffs.

The lack of automated manifest collection and of internal coordination, in addition to inefficient inspection procedures, has resulted in significant customs delays. The Ministry of Finance has invested in new x-ray scanning technology to enhance inspection capacity and reduce delays. However, lack of maintenance has been a problem in the past for similar technologies, and it is not certain that new technology will improve efficiency.

Legislation drafted in 2008 to streamline procedures and facilitate trade has yet to be submitted to parliament for consideration. It remains unclear whether the new parliament will take up this issue in 2016.

Egypt's practice of consularization, which requires that exporters secure a stamp from Egyptian consulates on all documents for goods exported to Egypt – at a cost of $100 to $150 per document – also adds significant costs in money and time to such exports.

Import Bans and Barriers

Either the National Nutrition Institute or the Drug Planning and Policy Center of the Ministry of Health and Population (MoHP) must register and approve all nutritional supplements, specialty foods, and dietary foods. While there is no law that prohibits the importation of nutritional supplements in finished pill form, import licenses are not provided. The definition of specialty foods is broad and includes processed foods with labels claiming that the food is "high in" or "enriched with" vitamins or minerals. The government attempts to complete the approval process in six to eight weeks, but occasionally some products face longer waiting periods for approval. Importers must apply for a license to import specialty food products and renew the license every one to five years, depending on the product, at a cost of approximately $1,000 per renewal.

The MoHP must approve the importation of new, used, and refurbished medical equipment and supplies. This requirement does not differentiate between the most complex computer-based imaging equipment and basic supplies. The MoHP approval process consists of a number of steps which can be burdensome. Importers must submit a form requesting the MoHP's approval to import, provide a safety certificate issued by health authorities in the country of origin, and submit a certificate of approval from the U.S. Food and Drug Administration or the European Bureau of Standards. The importer must also present an original certificate from the manufacturer indicating the production year of the equipment and, if applicable, certifying that the equipment is new. All medical equipment must be tested in the country of origin and proven safe. The importer must prove it has a service center to provide after-sales support for the imported medical equipment, including spare parts and technical maintenance.

GOVERNMENT PROCUREMENT

A 1998 law regulating government procurement requires procuring entities to consider technical factors, along with price, in awarding contracts. A preference is granted to Egyptian companies whose bids are within 15 percent of the price of other bids. In the 2004 Small and Medium Sized Enterprises (SMEs) Development Law, Egyptian SMEs were given the right to supply 10 percent of the goods and services in every government procurement contract.

Egyptian law grants potential suppliers certain rights, such as expedited return of their bid bonds and an explanation of why a competing supplier was awarded a contract. However, concerns about a lack of transparency remain. For example, the Prime Minister retains the authority to determine the terms, conditions, and rules for procurement by specific entities. The Prime Minister may also grant authorities the right to use sole-source contracting for a project, and thus government procurement may occur without the solicitation of proposals.

Egypt is neither a signatory to, nor an observer of, the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Egypt remained on the Watch List in the 2015 Special 301 Report. The United States remains concerned about the lack of enforcement in major cases involving trademark violations, online piracy, entertainment software piracy, and book piracy. The lack of speed and effectiveness in processing trademark and patent applications are obstacles for growth. The United States will continue to engage Egypt on these issues.

SERVICES BARRIERS

Egypt restricts foreign equity in construction and transport services to 49 percent. Egypt also limits the employment of non-nationals to 10 percent of an enterprise's general workforce, although the Ministry of Manpower and Migration can waive this limitation. In computer related industries, Egypt requires that 60 percent of senior executives are Egyptian within three years of the start-up date of the venture.

Banking

Foreign banks are able to buy shares in existing banks, but are not able to secure a license to establish a new bank in Egypt, as commercial banking licenses have not been issued since 1979. Three state-owned banks (Banque Misr, Banque du Caire, and the National Bank of Egypt) control approximately 40 percent of the banking sector's total assets.

Despite having a large and well-developed formal financial sector, a significant portion of small-scale financial transactions are undocumented or remain outside of the formal banking system. The Egyptian National Postal Organization (ENPO), for example, remains Egypt's primary provider of retail banking services in terms of geographical reach and number of accounts.

In recent years, Egypt's banking sector has become highly dependent on high-yield government debt for profitability. Stakeholders report instances of "crowd-out" as small businesses and entrepreneurs compete with government debt for investment and bank lending. The government of Egypt has taken limited steps to encourage increased SME lending by banks.

Egypt's banks play a central role in the country's allocation of hard currency, which in recent months has become a priority issue as both foreign corporations and Egyptian importers compete for scarce hard currency. Banks are allocated currency in regular auctions by the Central Bank, and are required to prioritize hard currency access for the importation of essential goods.

Telecommunications

The state-owned telephone company, Telecom Egypt, lost its legal monopoly on the local, long-distance, and international telecommunication sectors in 2005. Nevertheless, Telecom Egypt continues to hold a *de facto* monopoly in the fixed line sector, primarily because the National Telecommunications Regulatory Authority (NTRA) has not approved additional licenses to compete in these sectors. There is competition in mobile networks at the local level.

NTRA has been working on a unified license regime that would allow a company to offer both fixed line and mobile networks, but it has not been finalized. Adoption of a unified license regime would allow

Telecom Egypt, currently operating in the fixed line market, to enter the mobile market and the three mobile providers to enter the fixed market.

The lack of competition among internet service and fixed landline providers translates into high prices, low Internet speeds, and poor service quality. In October 2014, Brand Finance ranked two Egyptian companies, Telecom Egypt and Mobinil, among the most expensive providers of telecommunications in the Arab world. The Ministry of Information and Telecommunications has stated that 4G services and broadband will be instituted once the unified license regime is finalized.

Courier and Express Delivery Services

ENPO must grant special authorization to foreign owned private courier and express delivery service suppliers seeking to operate in Egypt. In addition, although express delivery services constitute a separate, for-profit, premium delivery market, ENPO requires private express operators to pay a postal agency fee of 10 percent of annual revenue on shipments of less than 20 kilograms. ENPO imposes an additional fee on private couriers and express delivery services of £E5 ($0.75) on all shipments under 5 kilograms.

INVESTMENT BARRIERS

Labor rules require that companies employ at least 90 percent Egyptian citizens (75 percent in Free Zones). Similarly, foreigners are not allowed to operate sole proprietorships or partnerships. Egypt's trade regulations allow foreigners to act as commercial agents with respect to the import of goods for trading purposes, but prohibit foreigners from acting as importers themselves. A foreign company wishing to import for trading purposes must do so through an Egyptian importer.

Although Egypt is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, U.S. investors have complained that Egyptian courts are not consistent in their approach to the recognition of foreign arbitral awards. In their view, the arbitration enforcement mechanism can in some cases require re-litigating the dispute in court. For foreign court judgments, only a few foreign states' judgments are enforceable in Egypt. There is also a perception that, in some cases, the domestic judicial system is subject to political influence.

EL SALVADOR

TRADE SUMMARY

The U.S. goods trade surplus with El Salvador was $718 million in 2015, a 21.0 percent decrease ($191 million) over 2014. U.S. goods exports to El Salvador were $3.3 billion, down 1.4 percent ($46 million) from the previous year. Corresponding U.S. imports from El Salvador were $2.5 billion, up 6.0 percent. El Salvador was the United States' 51st largest goods export market in 2015.

U.S. foreign direct investment (FDI) in El Salvador (stock) was $2.8 billion in 2014 (latest data available), a 1.9 percent decrease from 2013.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services as well as includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, labor, and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Since 2013, U.S. companies have been disadvantaged by onerous labeling regulations issued by the Ministry of Health. Though recent legislation was supposed to do away with such restrictions, they continue to be applied, and the United States is working closely with affected U.S. companies and associations to address these concerns.

El Salvador requires a “Certificate of Free Sale” to register food products, cosmetics, and hygienic products in El Salvador. Since no such equivalent certificate exists in the United States for these products, local companies at times have difficulties complying with this requirement in order to import U.S. products.

The Ministry of Health has drafted regulations without adhering to its domestic procedures for consultation and notification processes and then attempted to enforce such unapproved regulations via unofficial notifications. Labeling requirements that are not contemplated by laws have also been inserted into implementing regulations.

In June 2015, El Salvador issued the implementing regulation for the Act for the Promotion, Protection and Support of Breast Feeding, which defines requirements for sanitary registration, restricts marketing and advertising, and sets out labeling requirements for breast milk substitutes. This measure was set into force immediately without notification to the WTO, and still lacks certainty as to what information must appear on the label. The United States is monitoring the implementation of the measure and has requested El Salvador notify it to the WTO to allow WTO Members a comment period and reasonable interval for implementation.

Sanitary and Phytosanitary Barriers

El Salvador's Ministry of Agriculture (MAG) has issued a new requirement for animal origin products which requires that a plant certification be conducted by MAG personnel at origin. Under the CAFTA-DR, El Salvador granted equivalence to the U.S. beef, pork, and poultry inspection systems. Thus, this requirement only applies to U.S. animal origin products not covered by this equivalence.

The Ministry of Agriculture requires plant inspections in the United States by El Salvadoran officials to accept U.S. seafood imports into El Salvador, rather than accepting the results of the U.S. National Oceanic and Atmospheric Administration (NOAA) and the U.S. Food and Drug Administration (FDA) inspections of U.S. seafood plants. The United States will continue to work with the MAG to ask the MAG to recognize NOAA and FDA inspections in El Salvador.

Food product testing requirements are often redundant and add a burden to the cost of introducing a product to the Salvadoran market. El Salvador does not distinguish between low- and high-risk products, therefore extensive laboratory tests are mandatory for all food products, even for those products that would be considered low-risk in other markets. This requirement applies when importing samples (products that companies may or may not actually end up importing). To register product samples, the Ministry of Health requires large quantities of the product for testing, including samples of different flavors of the same product.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, El Salvador applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions. However, under the CAFTA-DR, as of January 1, 2015, 100 percent of originating U.S. consumer and industrial goods enter El Salvador duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also now enter El Salvador duty free and quota free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Eighty-four percent of U.S. agricultural product exports by product line are eligible for duty-free treatment in El Salvador under the CAFTA-DR as of 2015. El Salvador will eliminate its remaining tariffs on nearly all agricultural products by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain agricultural products, tariff-rate quotas (TRQs) permit duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period. El Salvador will liberalize trade in yellow corn through a 5 percent continual expansion of the initial 350,000 metric ton TRQ for 15 years, after which unlimited quantities will be permitted.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including El Salvador, committed to improve transparency and efficiency in administering customs procedures. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods. In 2013, Salvadoran Customs implemented nonintrusive inspections with x-rays at border crossings. These inspections have resulted in detection of over 2,000 cases of anomalies, such as trafficking of drugs or false declarations of goods. At the same time, while designed to facilitate cross-border movements the procedures have resulted in considerable delays, causing losses to exporters and importers. Customs is also increasingly charging fines when the shipment's weight differs from that presented on the paperwork, without taking account of shipping losses or providing an opportunity to amend the manifest.

In October 2015, El Salvador's Legislative Assembly approved a new amendment to the Customs Simplification Law, including a required $18 fee for incoming packages and cargo. Though the private sector made observations and met with Customs beforehand to discuss the amendment, it is concerned that this input was not taken into account, and that certain language in the amendment might be interpreted as authorizing the Ministry of Finance to impose additional fees without proper consultation, with potential negative effects on trade.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurements covered by the Agreement. In accordance with the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Salvadoran government entities, including key ministries and state-owned enterprises, on the same basis as Salvadoran suppliers. The anticorruption provisions in the CAFTA-DR apply *inter alia* to government procurement.

As a result of the U.S. Government raising irregularities in the Ministry of Agriculture's bean and corn seed procurements in 2013 and 2014, procurement procedures were modified to be brought in line with CAFTA-DR norms and were open to both national and international producers.

Concerns were raised when the government of El Salvador's autonomous Port Operator (CEPA) directly awarded contracts for ground services at the international airport, as well as for an onsite solar energy project in 2015. The non-competitive contracts were awarded despite a Salvadoran Supreme Court decree that CEPA is subject to the public procurement provisions of LACAP. As of the end of 2015, the legality of the contract awards were still being debated. The United States has raised these concerns with the government of El Salvador and continues to follow the development of this issue to ensure El Salvador's covered procurements are conducted consistent with CAFTA-DR obligations.

El Salvador is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

El Salvador has eliminated its Export Processing Zones and Marketing Act, an export subsidy program with permanent tax exemptions based on export performance and instituted El Salvador's Free Trade Zone Law, which grants tax credits based on the number of workers employed and investment levels.

The Salvadoran government operates a form of duty drawback, consisting of a refund of custom duties paid on imported inputs and intermediate goods exclusively used in the production of products exported outside of the Central American region.

Under the CAFTA-DR, El Salvador may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods).

INTELLECTUAL PROPERTY RIGHTS PROTECTION

To implement its CAFTA-DR intellectual property rights (IPR) obligations, El Salvador undertook legislative reforms providing for stronger IPR protection and enforcement. Despite these efforts, the piracy of optical media, both music and video, in El Salvador remains a concern. Optical media imported from the United States into El Salvador are being used as duplication masters for unauthorized copies of copyrighted works. The United States has expressed concern to the Salvadoran government about insufficient actions against illegally copied software as well as inadequate enforcement efforts against cable and satellite signal piracy and the competitive disadvantage it places on legitimate providers of this service. The United States remains concerned about the adequacy of implementation of regulations to protect against the unfair commercial use, as well as unauthorized disclosure, of test and other data generated to obtain marketing approval for pharmaceutical products. The effectiveness of the system to address patent issues expeditiously in connection with applications to market pharmaceutical products is unclear. The United States will continue to monitor El Salvador's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

In 2015, El Salvador eliminated its discriminatory $0.04 per minute tax on international calls. On October 29, 2015, however, the Legislative Assembly passed a special tax of five percent on fixed and mobile telecommunications services, pay television services, fixed and wireless Internet access services, and the transfer and import of telecommunications equipment. The proceeds of the tax will be used to fund government security initiatives. The tax has been challenged in Salvadoran court as unconstitutional "double taxation."

INVESTMENT BARRIERS

While there are few formal investment barriers in El Salvador, investment can be impeded by nontransparent and duplicative regulations, and by licensing and regulatory decision-making processes that appear to be inconsistent and contradictory. Such barriers have affected sectors including energy, mining, and retail sales. Foreign direct investment inflows are paltry compared to other countries in the region. On December 18, 2014, the Legislative Assembly approved the Judicial Stability Law, which guarantees some level of judicial and contractual certainty for national and foreign enterprises that undertake new investments in El Salvador. In addition to providing tax rate stability (by prohibiting indirect taxes and new taxes), the new law also promises customs regulatory stability and free transfer abroad of proceeds generated by investments. The law applies to specific targeted sectors: aeronautics, agro industry, electronics, energy, strategic infrastructure, logistics, health services, distance business services, tourism, telecommunications, and various manufacturing.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in El Salvador. Administrative and judicial decision-making appear at times to be inconsistent, nontransparent, and very time consuming. Bureaucratic requirements have at times reportedly been excessive and unnecessarily complex. A proposed Sovereignty and Food and Nutrition Security Law may include trade protectionist measures; the National Association of Private Enterprise (ANEP) is also concerned it may impose onerous advertising restrictions under the guise of protecting public nutritional health.

On November 26, 2015, the Legislative Assembly approved reforms to the Law on Credit History which, among other changes, reduced from three years to one the maximum period that credit rating agencies could retain negative credit information in their databases, once a debt was paid in full. When the original debt is less than half of the monthly minimum wage in the trade/services sector (at this time, a debt of $120), the negative information cannot be retained for more than six months. Credit rating agencies state that the reforms will increase their costs, raise interest rates, and hinder access to credit. There is also concern, in some quarters that the Office of the Superintendent of the Financial System, which regulates credit rating agencies and can access their data, is not subject to these maximums.

The Ministry of Finance requires vendors to pay a two percent charge on credit card purchases made by their customers, which the Ministry refunds to vendors through offsets on value-added taxes paid by the vendors on local purchases. However, the Ministry of Finance has been unable to find a way to refund the two percent charge to those vendors who make few or no local purchases but sell imported goods.

ETHIOPIA

TRADE SUMMARY

The U.S. goods trade surplus with Ethiopia was $1.2 billion in 2015, a 14.9 percent decrease ($217 million) over 2014. U.S. goods exports to Ethiopia were $1.6 billion, down 6.8 percent ($114 million) from the previous year. Corresponding U.S. imports from Ethiopia were $310 million, up 49.9 percent. Ethiopia was the United States' 66th largest goods export market in 2015.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Since September 2009, Ethiopia has had in place a biosafety proclamation that restricts commercial imports of agricultural biotechnology products by imposing burdensome documentation and testing requirements. Food aid shipments are exempt from these requirements. In August 2015, the President of Ethiopia signed into law an amendment to the biosafety proclamation that establishes a legal framework that is expected to support the cultivation of genetically-engineered (GE) cotton in the country. The government is in the process of revising the proclamation's underlying implementing directives to spell out the specific requirements for introducing GE cotton.

IMPORT POLICIES

Tariffs

According to the latest WTO estimates, published for 2012, Ethiopia's average applied tariff rate is 17.3 percent. Foreign exchange generation, not protection of local industry, appears to be the primary reason for Ethiopia's tariff levels; however, high tariffs are applied to protect certain domestic industries, including textiles and leather.

Nontariff Measures

An importer must obtain a letter of credit for the total value of an import transaction and apply for an import permit before an order can be placed. Even with a letter of credit, import permits are not always granted.

Foreign Exchange Controls

Ethiopia's central bank administers a strict foreign currency control regime and the local currency (birr) is not freely convertible. Larger firms, state-owned enterprises, enterprises owned by the ruling party, and businesses in priority manufacturing export sectors or emergency food importation do not typically face major problems obtaining foreign exchange, but less well-connected importers, particularly smaller, new-to-market firms, face delays in arranging trade-related payments. The unreliability of the foreign exchange supply in Ethiopia's banks has negatively affected the ability of all manufacturers to import essential inputs and industrial capital goods on a timely basis.

GOVERNMENT PROCUREMENT

A high proportion of Ethiopian import transactions are for government consumption, reflecting the heavy involvement of the government in the overall economy. Tender announcements are usually made public, but a number of major procurements have not gone through an open tendering process. Bureaucratic procedures and delays in the decision-making process sometimes impede foreign participation in procurements. U.S. firms have complained about the abrupt cancellation of some procurements, a perception of favoritism toward Chinese competitors who often include financing packages at terms unavailable on the free market in their tender offers, and a frequent requirement that would-be suppliers appear in person to collect solicitation packages. Business associations complain that state-owned enterprises have enjoyed advantages over private firms in government procurement. U.S. firms have complained about the transparency of the tendering process or the failure of procurement agencies to respect tender terms; however, there has been progress this area and at least one U.S. firm has successfully utilized the government appeals process to reverse an unfair tendering decision.

Ethiopia is neither a party nor an observer to the WTO Agreement on Government Procurement, but has joined the U.S. Trade and Development Agency's Global Procurement Initiative, which is dedicated to assisting public officials in emerging economies to better understand the total cost of ownership for procurement of goods and services related to infrastructure projects and how to establish procurement practices and policies that integrate life-cycle cost analysis and best-value determination in a fair, transparent manner.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Ethiopia was not listed in the 2015 Special 301 Report. While the Ethiopian Intellectual Property Office is responsible for the administration and enforcement of intellectual property rights (IPR) in Ethiopia, it focuses mainly on protecting domestic content and has taken virtually no action to confiscate or impede the sale of pirated foreign works in Ethiopia. Ethiopia is a member of the World Intellectual Property Organization; however, it has not ratified most of the major IPR treaties, including the Berne Convention and Madrid Protocol.

Trademark infringement continues to be widespread in Ethiopia. The lack of enforcement capacity means the government of Ethiopia only responds to IPR challenges brought to the attention of Ethiopia's competition commission. Furthermore, IPR enforcement is often unpredictable due to an overall lack of coordination between government agencies.

SERVICES BARRIERS

Banking and Financial Services

Ethiopia's investment code prohibits foreign investment in banking, insurance, and financial services. There are 16 private commercial banks in addition to three public banks. Few international banks maintain representative offices.

Telecommunications

The state-owned Ethio-Telecom maintains a monopoly on wired and wireless telecommunications and Internet service and is closed to private investment. The Value Added Service Directive No. 2/2005 allows private companies to provide Internet service through the government's infrastructure, but implementing regulations have yet to be promulgated. The Ministry of Information and Communication Technology allows companies and organizations whose operations are Internet-dependent or are located in remote areas of the country to use Very Small Aperture Terminals (VSATs), but it does not allow the general public to use VSATs. Many multi-national companies assert that the current quality of service still impedes information transfer and general business operations.

Logistics

Logistics backlogs can occur because the shipment process remains paper-based. Companies importing goods into the country have also raised concerns with delivery delays and difficulties in estimating the full logistics cost. Within Ethiopia, most goods are transported by trucks from the Port of Djibouti to Addis Ababa and other parts of the country. Ethiopia's government-owned companies dominate the truck transportation market, and the overall number of trucks is insufficient to meet demand. Plans to restore and dramatically expand Ethiopia's rail systems are underway but rail systems are not yet fully operational. The government announced a new Ethiopian National Logistics Strategy in 2015 that may open opportunities for private enterprise and greater efficiencies overall.

INVESTMENT BARRIERS

A number of formal and informal barriers impede foreign investment in Ethiopia. Investment in the telecommunications services and defense industries is permitted only in partnership with the Ethiopian government. The banking, insurance, and micro-credit industries are restricted to domestic investors. Other areas of investment reserved exclusively for Ethiopian nationals include broadcasting, domestic air transport services (using aircraft with a seating capacity of over 20 passengers), and forwarding and shipping agency services. Foreign investors are also barred from investing in a wide range of retail and wholesale enterprises (*e.g.*, printing, restaurants, and beauty shops).

While the government continues to emphasize the importance of privatization and developing the private sector generally and most tenders are open to foreign participation, some investors bidding in these tenders have alleged a lack of transparency in the process. Foreign investors in formerly state-owned businesses subject to privatization reportedly have encountered problems in transferring title, delays in evaluating tenders, and tax arrears.

All land in Ethiopia belongs to the state; there is no private land ownership. Land may be leased from local and regional authorities for up to 99 years. Current land-lease regulation places limits on the duration of construction projects; allows for revaluation of leases at a government-set benchmark rate; places previously owned land ("old possessions") under leasehold; and restricts the transfer of leasehold rights.

OTHER BARRIERS

Parastatal and Party-affiliated Companies

Ethiopian and foreign investors alike complain about patronage networks and *de facto* preferences shown to businesses owned by the government, including preferential access to bank credit, foreign exchange, land, and procurement contracts, as well as favorable import duties.

Judiciary

Companies that operate businesses in Ethiopia assert that its judicial system remains inadequately staffed and inexperienced, particularly with respect to commercial disputes. While property and contractual rights are recognized, and there are commercial and bankruptcy laws, judges often lack understanding of commercial matters and the scheduling of cases often suffers from extended delays. Contract enforcement remains weak, though Ethiopian courts will at times reject spurious litigation aimed at contesting legitimate tenders. Ethiopia has announced plans to modernize and revise the country's commercial code but little progress is evident to date.

EUROPEAN UNION

TRADE SUMMARY

The U.S. goods trade deficit with the European Union (EU) was $153.3 billion in 2015, a 7.9 percent increase ($11.3 billion) over 2014. U.S. goods exports to the EUwere $272.7 billion, down 1.3 percent ($3.5 billion) from the previous year. Corresponding U.S. imports from the EU were $426.0 billion, up 1.9 percent.

U.S. exports of services to the EU were an estimated $219.3 billion in 2014 (latest data available), and U.S. imports were $168.7 billion. Sales of services in the EU by majority U.S.-owned affiliates were $558.7 billion in 2013 (latest data available), while sales of services in the United States by majority European Union-owned firms were $451.5 billion.

U.S. foreign direct investment (FDI) in European Union (stock) was $2.5 trillion in 2014 (latest data available), a 4.7 percent increase from 2013. U.S. direct investment in the European Union is led by nonbank holding companies, finance/insurance, and manufacturing.

OVERVIEW

The United States and the 28 Member States of the EU share the largest and most complex economic relationship in the world. Trade and investment flows between the United States and the EU are a key pillar of prosperity on both sides of the Atlantic.

Transatlantic trade flows (goods and services trade plus earnings and payments on investment) averaged $4.3 billion each day of 2013. The total stock of transatlantic investment was over $5.1 trillion in 2013. Countries around the world benefit significantly from the prosperity generated by this transatlantic relationship.

U.S. exporters and investors nonetheless face persistent barriers to entering, maintaining, or expanding their presence in certain sectors of the EU market. Some of the most significant barriers, which have endured despite repeated efforts at resolution through bilateral consultations or WTO dispute settlement, have been highlighted in this report for many years. Many are highlighted again in this year’s report.

The United States plans to make substantial progress in reducing or eliminating remaining EU barriers to trade and investment by concluding the Transatlantic Trade and Investment Partnership (T-TIP) agreement. U.S.-EU negotiations on this comprehensive trade and investment agreement were launched in July 2013, following an announcement by President Obama and EU leaders. .

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

European Standardization and Conformity Assessment Procedures

The European Union’s approach to standards-related measures, including its conformity assessment framework, and its efforts to encourage governments around the world to adopt its approach, creates a challenging environment for U.S. exporters and has resulted in a lack of reciprocal access to the EU market and processes for U.S. manufacturers and certification and testing bodies. In particular, the EU system creates additional burdens for producers who do not manufacture their products to European regional standards.

Products sold in the EU must comply with the essential requirements of relevant European legislation. Product requirements in a variety of sectors (from toy safety to pressure equipment) are regulated through New Approach legislation. Under the New Approach, conformity with European regional standards (called European harmonized standards or ENs) provide the method by which such requirements can be fulfilled. If a manufacturer uses the ENs referenced in the *Official Journal of the European Union* under the relevant legislation, its products are presumed to be in compliance with the requirements. The CE mark is applied to products that conform to the relevant EN standard, and the CE mark is a key indicator that the product complies with EU legislation, enabling the free movement of products within the European market. ENs, however, can only be developed through the European Standards Organizations (CEN,[1] CENELEC,[2] and ETSI[3]) as directed by the European Commission through a standardization request. While the New Approach in theory allows other standards to be used to meet essential requirements, U.S. producers report that in practice the costs and uncertainty associated with not using an EN and attempting to demonstrate that use of alternative standards fulfill essential requirements can be prohibitive. For example, if a manufacturer chooses not to use an EN, it needs to assemble a technical file through a costly and arduous process indicating how the product meets the essential requirements and, even if a manufacturer assembles such a file, there is no predictability that EU or Member State authorities will treat the product as conforming with essential requirements on the basis of that file. As a result, U.S. producers often feel compelled to use the relevant EN for products they seek to sell on the EU market, even if the U.S. products are produced according to relevant international standards providing similar or even higher safety levels.

Moreover, because non-EU persons are generally excluded from CEN or CENELEC technical committees and in the limited instances where they are allowed to participate they are not allowed to vote, when a U.S. producer uses an EN it is likely using a standard that has been developed through a process in which it had no meaningful opportunity to participate. This is particularly the case for SMEs and other companies that do not have a European presence. The opportunity for U.S. stakeholders to influence the technical content of EU directives setting out essential requirements (*i.e.*, technical regulations) is also limited. This is because when the EU notifies proposed directives containing essential requirements to the WTO, the EU does not identify the specific CEN or CENELEC standards for which the presumption of compliance will be given and only notifies directives after the Commission has transmitted them to the Council and Parliament and is no longer in a position to revise the directive in light of comments received. As a consequence, U.S. stakeholders often do not have the opportunity to comment on critical technical elements of proposed technical regulations and conformity assessment procedures contained in EU directives nor the standards that may be used to fulfill directives' essential requirements.

Additionally, the United States has serious concerns regarding the EU's conformity assessment framework, as set out in Regulation (EC) No 765/2008 and Decision 768/2008. Regulation 765 requires each Member State to appoint a single national accreditation body and prohibits competition among Member States' national accreditation bodies. The regulation further specifies that national accreditation bodies shall operate as public, not-for-profit entities. This regulation in effect prohibits use of trade-facilitative international accreditation schemes, and precludes U.S. accreditation bodies from offering their services in the EU with respect to any mandatory third party conformity assessment requirements.

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[1] Committee for Standardization.
[2] European Committee for Electrotechnical Standardization.
[3] European Telecommunications Standards Institute.

Decision 768 sets out reference provisions to be used in EU Directives establishing conformity assessment requirements for products falling within the New Approach. Directives applying Decision 768 require that any mandatory third party conformity assessment be performed by a body that has been designated as a "Notified Body" and permit only bodies "established under national law" to become Notified Bodies. In practice, the EU interprets "established under national law" as a requirement that anybody seeking designation as a Notified Body must be established in the EU and, in particular, in the Member State from which it is seeking such designation. This raises serious market access concerns for U.S. producers, whose products may have been tested or certified by conformity assessment bodies located outside the EU, and denies U.S. conformity assessment bodies the opportunity to test and certify products for the EU market. This lack of reciprocal treatment of U.S. conformity assessment bodies, in contrast to the U.S. approach to conformity assessment, adds increased time to market and requires U.S. testing and certification bodies to establish operations in the EU to remain competitive.

The EU also promotes adoption of European regional standards in other markets – and often requires the subrogation of non-EU standards to European regional standards as a condition of providing assistance to, or affiliation with, other countries, which can give EU manufacturers commercial advantages in those markets. The withdrawn standards can be international standards that U.S. producers use, which may be of equal or superior quality to the European regional standards that replaced them. U.S. producers thus must choose between the cost of redesigning or reconfiguring the product or exiting the market.

Refrigeration Appliances: Regulation on Fluorinated 67 Greenhouse Gases (F-Gas)

The EU adopted a new regulation phasing-down and phasing-out the use of many high global warming potential (GWP) F-gases on April 14, 2014. Consistent with President Obama's Climate Action Plan regarding U.S. leadership on global efforts to phase down the consumption and production of climate damaging hydrofluorocarbons (HFCs), the United States strongly supports the objectives of the EU's regulation, including its approach that includes both a phase down of HFCs and specific appliance bans. However, a particular ban contained in the proposed measure raised concerns for some U.S. household refrigerator manufacturers. Indeed, several U.S., Korean, and Japanese commenters on the regulation expressed concerns with particular product bans, tight timelines for implementation and the unwillingness of the EU to meet with some impacted industries.

Chemicals: Registration, Evaluation, Authorization, and Restriction of Chemicals

The EU regulation for the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) began as a Communication from the Commission in 2001, "White Paper on Strategy for a future Chemicals Policy (REACH)." The European Parliament approved the REACH regulation and the European Council formally adopted it in December 2006. The REACH regulation entered into force on June 1, 2007, and will be fully implemented by 2018. REACH impacts virtually every industrial sector because it regulates chemicals as a substance, in preparations and in products. It imposes extensive registration, testing, and data requirements on tens of thousands of chemicals. REACH also subjects certain identified hazardous chemicals to an authorization process that would prohibit them from being placed on the EU market unless a manufacturer or user has obtained permission from the Commission.

Concerns regarding various aspects of REACH have been raised at nearly every WTO TBT Committee meeting since 2003 by many WTO Members, including the United States. WTO Members have indicated the need for greater transparency in the development and implementation of REACH requirements, and frequently cite the need for further information and clarification, as well as problems producers have in understanding and complying with REACH's extensive registration and safety data information requirements.

Nanomaterials

Among the substances subject to REACH are nanomaterials, or chemical substances or materials that are manufactured and used at a very small scale (down to 10,000 times smaller than the diameter of a human hair), which are used in products ranging from batteries to antibacterial clothing. The Commission is working to adopt implementing regulations to adapt the data requirements for nanomaterials in REACH registration dossiers. The Commission published an impact assessment regarding the regulations in March 2014.

Although REACH provides a standardized plan for reporting and registering nanoscale ingredients or products containing nanomaterials, several EU Member States have begun to develop their own such registries, which often include exemptions for pigments and food additives. The Commission published its impact assessment on the feasibility of adopting an EU-wide registry of nanomaterials in November 2014. The impact assessment raised significant concerns about the efficacy of establishing such a registry, and the Commission has expressed no desire to move forward with this project.

Community Rolling Action Plan

There is also concern over a lack of transparency and science-based analysis associated with the Community Rolling Action Plan (CoRAP). CoRAP is part of the REACH substance evaluation process and is updated every March. Its purpose is to allow Member States and ECHA to prioritize substances that are suspected of being hazardous to human health or the environment. Depending on the outcome of the evaluation, a substance evaluated under CoRAP may be considered for classification as a substance of very high concern (SVHC) and become subject to authorization and restriction procedures. It is also possible that after evaluation, a substance will be found to pose no such risk. ECHA has established criteria for selecting substances for placement on the list. These criteria address concerns about hazard, exposure, and tonnage. Member States are encouraged, but not obliged, to use the ECHA criteria. The most recent CoRAP list was approved by ECHA on March 17, 2015. The most recent list contains 134 substances, which will be evaluated through 2017. CoRAP preliminary reports should be made available to interested U.S. companies, even if they have not yet registered the particular substance, but the reports are currently made available only to registrants. More transparency on the part of the EU with respect to U.S. stakeholders impacted by the CoRAP process would help reduce costs and address U.S. stakeholders' concerns.

SVHC Roadmap

The United States has also continued to raise concerns bilaterally with the EU on the lack of public notice and comment associated with the "Risk Management Options" (RMO) analysis phase of the SVHC Roadmap. Under the Commission's Roadmap for evaluation of individual SVHCs, at the request of the Commission, a Member State competent authority or ECHA will conduct an RMO analysis to determine whether regulatory risk management is required for a given substance and to identify the most appropriate regulatory instrument to address a concern. The regulatory decision may be to pursue authorization or restriction, address the concern via other legislation, or take no action. The Commission's SVHC Roadmap identifies five minimum criteria for the RMO analysis and states that the RMO is not meant to be public. Beyond this, the authority drafting the RMO has discretion with respect to the level of detail provided in its analysis and whether or not stakeholder consultation is appropriate. ECHA has said that documenting the RMO analysis and sharing it with other Member States and the Commission promotes early discussion and should ultimately lead to a common understanding on the regulatory action pursued. The United States supports the EU's efforts to conduct RMO analysis and believes the RMO analysis should be implemented in a harmonized and consistent manner by Member States. But regulatory decisions taken under this process may significantly impact trade. To prevent or minimize unnecessary potential adverse effects on trade, the RMO analysis should be subject to public notice and comment, with the views expressed by commenters taken into account by the Member State or ECHA irrespective of the domicile of the commenter.

Court of Justice of the European Union, Judgment in the Case C-106/14

On September 10, 2015, in case C-106/14, the Court of Justice of the European Union (CJEU) released an important ruling on the notification and information duties applicable to the producers and importers of articles under REACH. Where such producers and importers are dealing in more than one ton per year of any SVHC and the SVHC is present in articles at over 0.1 percent by weight, the CJEU held that the notification and information duties applied to each individual component "article" as defined by REACH, and not just to the whole assembled or finished "article."

Under Article 7 of the REACH regulation, producers and importers of articles must notify ECHA of SVHCs present in articles in quantities over one ton per producer or importer per year. Since the REACH regulation came into force in 2007, there has been disagreement amongst the Member States on whether the 0.1 percent threshold should apply to the constituent components of an assembled article or to the assembled article as a whole. The view of the Commission and Member States (with the exception of Austria, Belgium, Denmark, Germany, Sweden and France) has been that the 0.1 percent threshold applies to the assembled article. The CJEU disagreed. The court's conclusion is contrary then to existing ECHA guidance, which will now be revised, and it has wide implications for producers and importers of articles and components. This ruling is expected to require non-EU producers of articles to provide more information on SVHCs in individual components so as to enable their EU importers to comply with the revised obligations.

The United States is concerned that products which are part of assembled articles will now be required to register as separate articles. The United States is currently investigating the trade impact to manufactured products such as vehicles, ICT equipment, and medical devices.

ECHA has issued a press release explaining how it intends to update its guidelines on substances in articles to adapt to the CJEU ruling. ECHA plans to proceed in two stages:

- In the coming months, ECHA will publish a quick update to correct the parts of REACH that differ from the CJEU ruling. The update will be carried out using a fast-track procedure, without stakeholder consultation. Only the Competent Authorities for REACH and CLP (the CARACAL) will be consulted.

- ECHA will also conduct a more comprehensive restructuring and review of the Guidance on Requirements for Substances in Articles, previously published in April 2011, which will provide examples aligned with the CJEU ruling. This comprehensive update will also review the current examples in light of experience and will address the questions received by ECHA since publication of the guidelines. The comprehensive review will follow the ordinary three-step consultation process, including consultation of accredited stakeholders.

Renewable Fuels: Renewable Energy Directive

In April 2009, the EU adopted the Renewable Energy Directive (RED) (2009/28/EC), with the objective of helping to lower its greenhouse gas emissions (GHG), reducing its dependence on foreign oil, and increasing rural development. RED establishes mandatory national targets for the share of energy from renewable sources by 2020. It also establishes a methodology and accounting system by which Member States may record and calculate GHG savings as compared to a baseline for fossil fuels. According to the Commission, this comparison quantifies the total amount of GHG savings in the EU and progresses toward the EU's overall goal of a 20 percent reduction in GHG emissions versus 1990 levels by 2020. In order to count toward Member State specific renewable energy use targets, or benefit from incentives, RED requires that biofuels and feedstocks for biofuels meet certain sustainability criteria. RED also sets the reporting and verification requirements for obtaining sustainability certifications. In addition to the sustainability requirements, on April 28, 2015, the European Parliament voted to approve a cap on the use of first-generation biofuels (made from crops such as palm oil, soy, and rapeseed) at seven percent of EU transport energy consumption. The decision will result in amendments to the Fuel Quality Directive (FQD) and RED. Further, biofuel suppliers will be obligated to report the estimated level of greenhouse gas emissions caused by indirect land use change (ILUC).

The United States strongly supports the emissions reduction objectives of RED, but has expressed concerns both bilaterally and in the WTO that the directive's paperwork and verification requirements are more burdensome than necessary for the achievement of its goals. Under Article 18(4) of RED, which provides for bilateral agreements, the Commission and the United States jointly established the U.S.-EU Technical Working Group on the RED (TWG), to examine how long-standing U.S. conservation programs address RED sustainability criteria and create the framework for a bilateral agreement to accept U.S. exports of biofuel feedstock as compliant with the sustainability goals of RED. During the final meetings of the TWG, the Commission stated that U.S. conservation laws and programs must correspond exactly to those outlined in the RED sustainability criteria if the EU is to consider U.S. exports of biofuel feedstock as compliant with RED sustainability criteria.

One method to meet the sustainability and GHG savings requirements of RED is to certify biofuel production through a voluntary certification system. In April 2015, the U.S. Soybean Export Council submitted an application to the Commission to recognize the U.S. Soybean Sustainability Assurance Protocol (SSAP) as a voluntary certification scheme. The SSAP recently met the Dutch Feed Industry Association's requirements for sustainable feedstuffs, but additional work remains to be done by the U.S. soybean industry before the Commission would be willing to consider SSAP as meeting the RED sustainability criteria.[4]

Transport Fuel: Fuel Quality Directive

The EU's revised FQD, adopted in 2009 as part of the EU's Climate and Energy package, requires fossil fuel suppliers to reduce the lifecycle greenhouse gas intensity of transport fuel by six percent by 2020. The directive granted the Commission the power to develop a methodology for calculating GHG life-cycle emissions for transport fuels. The United States strongly supports the goal of FQD for reducing GHG emissions. The United States, however, has raised concerns with the Commission about the lack of transparency and opportunity for public comment in the development of the Commission proposal for the methodology for calculating GHG life-cycle emissions for transport fuels.

Trucks: Maximum Authorized Dimensions

U.S. stakeholders have long raised concerns that the EU's truck length requirements were too prescriptive and unnecessarily restricted U.S. exports of aerodynamic and fuel efficient trucks to Europe. On April 15, 2013, the EU issued a "Proposal for a Directive of the European Parliament and of the Council amending

[4] Source: USDA FAS, EU Biofuels Annual 2015.

Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic." The United States engaged in extensive discussions with the EU at the WTO TBT Committee and bilaterally in other fora on the overly restrictive nature of this regulation. On April 29, 2015, the EU adopted the proposed Directive 2015/719/EU amending Directive 96/53/EC that included several elements to promote greater energy efficiency, including revisions that would allow truck tractor-semitrailer combinations to exceed 16.5 meters in length and to add flaps to the rear of the vehicle. In particular, Article 9a allows vehicle combinations to "exceed the maximum lengths laid down in point 1.1 of Annex I to this Directive provided that their cabs deliver improved aerodynamic performance, energy efficiency and safety performance." By May 27, 2017, the Commission must assess the need to develop the technical requirements for type-approval of trucks equipped with such cabs. These changes will become applicable three years after the transposition or application of these amendments to type-approval rules within the framework of 2007/46/EC. The United States will continue to monitor the development of these technical specifications to ensure they will allow for the acceptance of longer American aero-nosed truck tractors in the EU market.

Nutritional Labeling

EU framework regulation 1169/2011 on the provision of food information to consumers went into effect on December 13, 2014, except for the provision on mandatory nutrition labeling, which will become effective December 13, 2016. The measure regulates the display of product information on product packaging and online stores ostensibly to provide consumers with information related to nutrition, ingredients, and allergens.

The United States has concerns regarding how certain elements of regulation 1169/2011 will be implemented and is monitoring developments closely. Specifically, the principal concern of U.S. stakeholders is that regulation 1169/2011 appears to provide wide latitude for Member States to adopt non-uniform and potentially inconsistent implementing regulations. U.S. stakeholders are thus concerned about the burden of meeting multiple labeling requirements, particularly if those requirements cannot be met through stickering or supplemental labeling. During the consultative process, the United States has sought assurances that imported products will be subject to harmonized EU requirements, regardless of port of entry, and that compliance with national schemes (such as the United Kingdom and Ireland's traffic light requirements) would remain voluntary.

Fishery and Aquaculture Labeling

Commission Regulation 1379/2013 identifies specific requirements for the labeling of fishery and aquaculture products intended for the retail sector. This regulation only concerns products from Chapter 3 of the Tariff Harmonized System, and not products from Chapter 16 (e.g., not canned products). Since December 13, 2014, all fishery and aquaculture products for sale at retailers and mass caterers must provide the following information: the commercial name of the species, the production method (e.g., aquaculture or fishery product), the fishing gear, and the catch area (products caught at sea must identify the area of capture, which is taken from the FAO list).

The United States is working bilaterally to better understand the rationale and basis for mandatory labeling requirements that appear more stringent than those found in the Codex General Standard. The United States is also seeking assurances that only harmonized EU requirements will be mandatory and that national labeling requirements remain voluntary.

Agriculture Quality Schemes

In 2012, the EU adopted Regulation 1151/2012 "on quality schemes for agricultural products and foodstuffs." Regulation 1151/2012 combines into one regulation rules for three different EU schemes and adds new rules on optional terms. The regulation applies to a range of agricultural products and covers: Protected Designations of Origin (PDO) and Protected Geographical Indications (PGI); "Traditional Specialties Guaranteed" (TSG); and optional quality terms. Optional quality terms are intended to provide additional information about product characteristics such as "first cold-pressed extra virgin olive oil" and "virgin olive oil." A separate measure addressing the marketing standards for wine and spirits was notified to the WTO on September 11, 2011.

The three schemes covered by the regulation are either: (1) certification schemes for which detailed specifications have been laid down and are checked periodically by a competent body; or (2) labeling schemes, which are subject to official controls and communicate the characteristics of a product to the consumer. Schemes can indicate that a product meets baseline requirements but can also be used to show "value-adding qualities," such as specific product characteristics or farming attributes (e.g., production method, place of farming, mountain product, environmental protection, animal welfare, organoleptic qualities, Fair Trade, etc.). Schemes can be voluntary or mandatory.

The United States submitted comments on the "Proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes (COM (2010)733)" to the EU on August 2, 2011, and received a response from the EU in December 2011. The United States comments focused on optional quality terms aspect of the proposal and asked the EU to clarify the level of specificity required to identify a "place of farming," as well as the legitimate objective for this requirement. The U.S. comments also highlighted concerns that the proposal sought to establish a framework that would provide a "legal basis" for expanding place of farming requirements to all processed products made from specified commodities. The EU responded that "place of farming" will be applied on a case-by-case basis, following impact assessments, and further noted that the definition of "place of farming" will vary from one product to another.

The United States remains concerned that "place of farming" requirements are unclear, difficult to comply with, and lack a basis in international standards. Codex, for instance, maintains no recommendation for place of farming designations and has rejected proposals that would have expanded country of origin designations to foods with multiple ingredients, because such labeling caused consumer confusion.

Further, the United States remains concerned over certain aspects of the TSG requirements, including whether "prior use of a name" includes a trademark or prior geographical indication. The United States is also seeking clarification of the manner of precedence used in determining TSG requirements relative to trademarks. Despite assurances from the EU that the provisions of EU 1151/2012 "ensure that a prior trademark is not affected by the registration of a TSG," it remains unclear whether prior use of a trademark will be grounds for opposing registration of a TSG. Finally, U.S. stakeholders have expressed concern about the EU's decision to shorten the comment period to oppose a registration from six months to two months.

The United States continues to stress to the Commission that common usage names of products should not be absorbed into quality schemes, whether for wine or other products. If a Codex standard exists, or if a name is used in a tariff schedule or by the World Customs Organization, the United States believes that the name should be excluded from the quality schemes. The United States has further argued that new certification and labeling quality schemes not be required for market access; however, where the EU implements such schemes, efforts should be made to acknowledge voluntary U.S. industry definitions.

Similarly, U.S. processes and procedures should be acceptable for labeling requirements, and system and process comparability with industry definitions should be sought in order to minimize any negative market access impact for U.S. exports.

Wine Traditional Terms

Separate from its regulation on agricultural quality schemes, the EU continues aggressively to seek exclusive use for EU producers of "traditional terms," such as "tawny," "ruby," and "chateau," on wine labels. Such exclusive use of traditional terms impedes U.S. wine exports to the EU, including U.S. wines that include these traditional terms within their trademarks. U.S. wines sold under a trademark before 2005 can continue to use the terms, but products sold more recently cannot. In June 2010, U.S. stakeholders submitted applications to be able to use the terms in connection with products sold within the European Union. In 2012, the EU approved the applications for use of two terms, "cream" and "classic," but the EU's delayed application approval process for other terms continues to be a significant concern. The United States has repeatedly raised this issue in the WTO TBT Committee in recent years, and has also pursued bilateral discussions, including through the T-TIP negotiations. Beyond approving the two terms, however, the EU has not taken any visible steps to address U.S. concerns.

Representatives from the European Commission Directorate for Agriculture and Rural Development (DG AGRI) have indicated that the EU is reforming its application process. They acknowledged difficulties with the term-by-term approval process and suggested that the Commission would develop a different approval procedure. The Commission has not provided any timeline for completing the application process reforms.

In 2014, the World Wine Trade Group (WWTG), which includes major wine-producing countries, such as Argentina, Australia, Canada, Chile, Georgia, New Zealand, South Africa, and the United States, conveyed to DG AGRI that WWTG countries were frustrated with the EU's application process and concerned that it may be more trade restrictive than necessary. The Commission replied in February 2015 that it is discussing with Member State governments the conditions under which traditional terms may be used for labeling, but it did not commit to a timeline for resolving the issue.

Distilled Spirits Aging Requirements

The EU requires that for a product to be labeled "whiskey" (or whisky) it must be aged a minimum of three years. The EU considers this a quality requirement. U.S. whiskey products that are aged for a shorter period cannot be marketed as "whiskey" in the EU market or other markets that adopt EU standards, such as Israel and Russia. The United States views a mandatory three-year aging requirement for whiskey as unwarranted. Recent advances in barrel technology enable U.S. micro-distillers to reduce the aging time for whiskey. In 2014, the United States continued to urge the EU and other trading partners to end whiskey aging requirements that are restricting U.S. exports of whiskey.

Sanitary and Phytosanitary Barriers

The United States remains concerned about a number of measures the EU maintains ostensibly for the purposes of food safety and protecting human, animal, or plant life or health. Specifically, the United States is concerned that these measures unnecessarily restrict trade without furthering their safety objectives because they are not based on scientific principles, or maintained with sufficient scientific evidence, or applied to the extent necessary. Moreover, the United States believes there are instances where the EU should recognize current U.S. food safety measures as equivalent to those maintained by the EU because they achieve the same level of protection. If the EU recognized the equivalence of U.S. measures, trade could be facilitated considerably.

Hormones and Beta Agonists

The EU maintains various measures that impose bans and restrictions on meat produced using hormones, beta agonists, and other growth promotants, despite scientific evidence demonstrating that such meat is safe for consumers. Because of these measures, U.S. meat products cannot be exported to the EU unless it is verified through costly and burdensome programs that hormones, beta agonists, or other growth promotants have not been used in their production.

For example, the EU continues to ban the use of the beta agonist ractopamine, which promotes leanness in animals raised for meat. The EU maintains this ban even though international standards promulgated by Codex have established a maximum residue level (MRL) for the safe trade in products produced with ractopamine. The Codex MRL was established following scientific study by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) that found ractopamine at the specified MRL does not have an adverse impact on human health.

The EU's ban on growth promotant hormones in beef has been found to be inconsistent with its WTO obligations. Specifically, in 1996, the United States brought a WTO dispute settlement proceeding against the European Communities (the EU predecessor entity) over its ban on beef treated with any of six growth promotant hormones. A WTO dispute settlement panel concluded -- and a subsequent report of the WTO Appellate Body affirmed -- that the ban was maintained in breach of the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Following the failure by the EU to implement the recommendations of the WTO Dispute Settlement Body (DSB) to bring itself into compliance with its WTO obligations, the United States was granted permission by the WTO in 1999 to apply retaliatory tariffs. The United States levied *ad valorem* tariffs of 100 percent on imports of certain EU products. The value of the retaliation, $116.8 million, represented the damage that the hormone ban caused to U.S. beef sales to the EU.

In September 2009, the United States and the Commission signed a Memorandum of Understanding, which established a new EU duty-free import quota for grain-fed, high quality beef (HQB) as part of a compromise solution to the U.S.-EU hormone beef dispute. Since 2009, Argentina, Australia, Canada, New Zealand, and Uruguay have also become eligible to ship under the HQB quota, and as a result, the market share of U.S. beef in the HQB quota has decreased and currently represents 45 percent of the quota. Since 2014, the United States has engaged in discussions with the EU on the future operation of the MOU.

The United States will continue to engage the EU regarding the unscientific ban on meat and animal products produced using hormones, beta agonists, and other growth promotants.

Animal Cloning

Currently, the EU Novel Foods and Novel Food Ingredients Regulation (Novel Foods Regulation) issued in 1997 is the only EU measure that potentially addresses the use of animal cloning for food production.[5] The Novel Foods Regulation would appear to encompass food products derived directly from cloned animals, but not food products derived from the offspring of clones.[6] Food products subject to the Novel

[5] Regulation (EC) No 258/97.

[6] The Novel Foods Regulation covers certain types of "foods and food ingredients which have not hitherto been used for human consumption to a significant degree within the Community..." *Id.*

Foods Regulation require a pre-market authorization by the EU Member State decision and potentially the Commission in order to be imported or sold in the EU.

In January 2008, the Commission proposed a revision of the EU's Novel Foods Regulation to simplify the authorization procedure for placing new food products on the market. However, the proposed revision failed in significant part due to a disagreement among the Commission, the European Parliament and the Council regarding the need for specific rules on food from cloned animals.

In December 2013, the Commission published two new proposals[7] on animal cloning, in conjunction with a new proposal for a novel foods regulation. One of the proposed directives (the Cloning Technique Proposal) would ban animal cloning for food purposes in the EU and the import of cloned animals or embryos, while the other (the Cloning Food Proposal) would ban the marketing of food, both meat and dairy, from cloned animals, but not from their offspring. However, both of these proposals appear to be inconsistent with risk assessments done by competent authorities in the EU and other countries that show no differences in terms of food safety between food products produced from cloned animals or their offspring and those produced from conventionally-bred animals.

In June 2015, the European Parliament's Agriculture and Rural Development (AGRI) Committee and Environment, Public Health and Food Safety (ENVI) Committee, adopted a joint report proposing amendments to the Commission's aforementioned proposals that would vastly extend their scope and impact and change the measure from a directive into a regulation. The substance of these proposed amendments include permanent bans on clones and their descendants for all farmed animals, including fish and poultry, as well as bans on all agricultural products derived from them, including food, semen, and embryos. The proposed amendments also include a ban on cloning of animals for sports. In September 2015, the full Parliament, or Plenary, approved the AGRI/ENVI report and amendments. The Council has begun discussions on the Parliament's amendments at a working level as part of its first reading position.

Agricultural Biotechnology

Delays in the EU's approval process for biotech crops has prevented biotech crops from being placed on the EU market even though the events have been approved (and grown) in the United States. Moreover, the length of time taken for EU approvals of new biotech crops appears to be increasing. As of March 14, 2016, 40 biotech applications (for import, renewal, or cultivation approval) await the European Food Safety Authority's (EFSA) scientific review, while 14 applications are pending approval at the Commission level.

The EU's own legally prescribed approval time for biotechnology imports is approximately 12 months, i.e., six months for the review with the EFSA and six months for the political committee process (comitology). However, in practice, total approval times are taking an average of 47 months. In April 2015, the Commission adopted ten new authorizations for biotech crops for food or feed use, seven renewals of existing authorizations for food or feed use, and two new authorizations for the import of biotech cut flowers.[8] While welcomed, these approvals took 17 months in the comitology process. Since April 2015, three soy and two corn applications for food and feed imports have completed the comitology process. On December 4, the EU authorized the import of the two genetically engineered corn products for food/feed use. The three soy applications are still pending approval by the Commission.

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[7] (1) Proposal for a Directive of The European Parliament and of The Council on the cloning of animals of the bovine, porcine, ovine, caprine and equine species kept and reproduced for farming purposes (Cloning Technique Proposal) and (2) Proposal for a Council Directive on the placing on the market of food from clones (Cloning Food Proposal).
[8] Source: USDA FAS, GAIN Report: EU Agricultural Biotechnology Annual 2015.

Between 1998 and 2003, the EU failed to approve any biotech products for sale in the EU. In 2003, the United States initiated a WTO dispute settlement proceeding against the EU. A WTO dispute settlement panel concluded that the EU applied a general *de facto* moratorium on the approval of biotech products. The WTO panel found this moratorium was inconsistent with the EU's obligations under the SPS Agreement because it led to undue delays in the completion of EU approval procedures. The WTO panel also found that various EC member State safeguard measures were inconsistent with WTO obligations as they were not based on a risk assessment.

Currently, exports of U.S. corn have been adversely impacted because of concerns that the exports may contain a low level presence of biotech crops that have not yet received EU approval resulting in the entire shipment being rejected. This possibility of low level presence exists precisely because the United States has approved products that the EU has yet to approve. U.S. exports of distillers' dried grains and corn gluten feed continue but could be disrupted by the detection of an unapproved crop. U.S. rice exports remain well below the levels seen before the discovery of an unapproved event (LL 601) in the U.S. rice crop. Although no agricultural biotech rice varieties are currently grown in the United States, EU approval of this single rice event (LL62), which was originally requested in the EU in 2004, could reduce commercial uncertainty associated with concerns about the detection of low-level presence in a shipment. The United States continues to work with the EU to support trade in corn byproducts, but success will depend on the EU addressing the larger issue of delays in the biotech approval process.

Pathogen Reduction Treatments

The EU maintains measures that prohibit the use of any substance other than water to remove contamination from animal products unless the substance has been approved by the Commission. U.S. exports of beef, pork, and poultry to the EU have been significantly hurt as a result because the Commission has failed to approve various pathogen reduction treatments (PRTs). PRTs are antimicrobial rinses used to kill pathogens that commonly exist on meat after slaughter. The PRTs at issue have been approved by the U.S. Department of Agriculture, after establishing their safety on the basis of scientific evidence.

In 1997, the EU began blocking imports of U.S. products that had been processed with PRTs, which have been safely used by U.S. meat producers for decades. Between 1998 and 2008, various EU agencies issued scientific reports concerning poultry processing and reaffirmed the findings of U.S. food safety authorities that residues of four PRTs -- chlorine dioxide, acidified sodium chlorate, trisodium phosphate, and peroxyacids – do not pose a health risk to consumers.

In May 2008, the Commission prepared a proposal that approved the use of the four PRTs during the processing of poultry, but imposed unscientific highly trade restrictive conditions with respect to their use. Member States rejected the Commission's proposal in December 2008.

The United States believes the use of PRTs are a critical tool during meat processing that helps further the safety of products being placed on the market. The United States has engaged the EU to share scientific data regarding the safe use of PRTs, and the United States will continue to engage the EU regarding the approval of PRTs in pork and poultry.

Export Certification

EU certification requirements are limiting U.S. agricultural exports such as meat, dairy, eggs, processed products, and animal byproducts, adding unnecessary costs to the movement of exports in Europe, irrespective of whether these goods are destined for commercial sale in the EU, transiting through the EU, or even intended for cruise ships or U.S. military installations located in the EU. These requirements often appear inconsistent with international standards and to have been implemented without scientific evidence or a risk assessment. Moreover, the certificates are often very complex and burdensome to the point that it is very difficult to verify the applicable certification requirements. For example, the level of detail required on the certificate (e.g., the specific attestation language) necessitates a multitude of forms being required for each product containing references to multiple levels of EU legislation that in turn cites other legislation. The multitude of forms also creates enormous confusion and burden for manufacturers and exporters, as well as U.S. regulatory agencies, EU Member State authorities, and EU importers. Codex guidance and ongoing work in APEC seek to limit certification to the minimum amount of information necessary to ensure the safety of the product being traded. The United States continues to engage the EU in various international fora and bilaterally, including through T-TIP, to find a resolution of these concerns regarding the EU's certification requirements.

Somatic Cell Count

Somatic cell count (SCC) refers to the number of white blood cells in milk. The count is used as a measure of milk quality and as indicators of overall udder health – it does not, however, have any bearing on the safety of the milk itself. Since April 1, 2012, the EU has required imports of dairy products that require EU health certificates to also comply with EU SCC requirements. Specifically, the EU requires certification to establish that the SCC does not exceed 400,000 cells per milliliter, a threshold that is significantly lower than the U.S. requirement for Grade A milk at 750,000 cells per milliliter. The certification necessary to meet the EU requirement is burdensome, requiring farm level sampling and a Certificate of Conformance. Accordingly, while U.S. dairy products can continue to be shipped to the EU, the EU's SCC requirements hinder trade by adding unnecessary costs. The United States continues to engage the EU regarding their SCC requirement in the appropriate technical working groups.

EU Flavorings

In the EU, the food industry can only use flavoring substances that are on the EU Flavouring list.[9] On July 29, 2015, five substances (1-methylnaphthalene, furfuryl methyl ether, difurfuryl sulphide, difurfuryl ether, and ethyl furfuryl ether) were deleted from the list. These five substances are generally recognized as safe (GRAS) by the Flavor and Extract Manufacturers Association (FEMA) for their intended use as flavoring substances. FEMA makes a GRAS determination following an expert panel's evaluation of the substance. The expert panel includes experts in toxicology, organic chemistry, biochemistry, metabolism, and pathology. Accordingly, the United States and other countries, including China, Japan, Brazil, and Mexico, accept the use of flavorings deemed by FEMA to be GRAS. In addition, these five substances have already been evaluated, or are under consideration by, other safety assessment bodies such as JECFA. The United States will continue to raise this issue with the EU.

Citrus Canker

In 2010, the United States petitioned the EU with a request to remove a requirement that citrus fruit exports to the EU be sourced from groves displaying no symptoms of the disease citrus canker. This EU requirement has effectively eliminated EU market access for a majority of Florida citrus groves. The United States provided the EU with a substantive, peer-reviewed risk analysis that concluded citrus fruit, including symptomatic fruit, was "highly unlikely" to be a vector of citrus canker. The United States continues to request a derogation from the existing EU import requirements relating to citrus canker.

[9] See Annex I of Regulation 1334/2008) & Regulation 872/2012.

Proposal for Categorization of Compounds as Endocrine Disruptors

The EU is considering measures that would proscribe the use of various pesticides by the agriculture industry on the basis that they may be classified as endocrine disruptors (EDs). EDs are naturally occurring compounds or man-made substances that may mimic or interfere with the function of hormones in the body. While the United States shares public health concerns with respect to EDs, the United States is concerned that the EU appears to be contemplating approaches to regulating these compounds that are not based on scientific principles and evidence, thereby restricting trade without improving public health.

In early November 2012, the EU released a proposal for the definition, identification, and categorization of EDs. Under the options proposed, the EU could ban a substance without considering exposure and evaluating the weight of evidence to determine whether there are any actual adverse effects to human and animal health. Active substances that are considered to have endocrine disrupting properties could potentially be banned and be required to be either withdrawn entirely or limited to permissible levels in food set at a default residue level of 0.01 ppm.

The U.S. agricultural industry is concerned that the proposal may lead to restrictions on "suspected EDs" based purely on bioactivity without considering issues such as dosage and exposure. The restrictions on suspected EDs could remove products that are safe in light of their application or even promote the transition to alternatives whose health effects may be less well understood. The proposal also provides no specific criteria to evaluate data to determine the specific properties and the methods to use to assure scientific validity.

In 2013, after internal consultation, the Commission decided to conduct an impact assessment to evaluate the possible impact of its proposal along with other policy options for the final ED criteria. In June 2014, the Commission published the long-awaited roadmap for the impact assessment. The United States, eight other foreign governments, and 27,000 stakeholders submitted official comments on the roadmap to the EU. The U.S. submission expressed concern that the options in the EU's roadmap omitted a risk-based scientific approach to EDs, which is likely to have severe implications both for EU growers and suppliers that export to the EU. The United States also suggested that a more extensive and developed public consultation process could result in measures that meet the objective of protecting human, animal, or plant life or health, while not unnecessarily restricting trade. The United States continues to monitor this issue and raise our concerns in international and bilateral fora.

Animal Byproducts, Including Tallow

The EU considers all animal byproducts sourced from animals raised under conditions not essentially identical to those in the EU to be hazardous materials (category 1 and 2 materials). Between 2002 and the present, the EU has made modifications to its regulations and implementation practices governing animal byproducts that have resulted in the treatment of U.S. products as being considered hazardous. The current EU interpretation of the animal byproducts regulations could potentially prevent most exports of U.S. animal byproducts. Several Member States border inspection posts have already begun to block consignments of various technical blood products.

Tallow exported to the EU must meet criteria that are not scientifically justified and significantly exceed the recommendations of the World Animal Health Organization (OIE). The United States has requested that tallow be allowed entry into the EU for any purpose without verification other than that the tallow and derivatives made from this tallow contain no more than a maximum level of insoluble impurities consistent with international guidelines. Specifically, tallow with less than 0.15% insoluble impurities does not pose any risk of Bovine Spongiform Encephalopathy. Tallow under these specifications should be allowed for import without any animal health-related requirements according to the OIE's international – and scientifically based – guidelines. The United States continues to request that the EU determine a resolution for these concerns.

Live Cattle

U.S. live cattle from the United States are not authorized to be exported to the EU, or transited through the EU en route to third countries due to EU certification requirements for several bovine diseases. Although the U.S. Animal and Health Inspection Service (APHIS) successfully resolved issues related to bovine leucosis and bluetongue in 2003, the EU subsequently established certification requirements for Bovine Spongiform Encephalopathy (BSE) that precluded U.S. exports. Since then, the EU model certificate has been amended to align the BSE requirements with the OIE Code. Although the United States can now meet the BSE certification requirements, U.S. exporters remain frustrated because the United States and EU have not agreed on the conditions and format for the export certificate. APHIS continues to work with the EU to resolve the remaining import health conditions and agree on a mutually acceptable certificate through the Animal Health Technical Working Group.

Certification Requirements for Marinated Pork

The EU meat preparations certificate for marinated pork includes the condition that the product must be frozen. The United States is concerned that this condition has resulted in a *de facto* ban on shipments of chilled marinated pork, which by definition is not frozen. The United States will continue to engage with the EU on this issue.

Specified Risk Materials Certification Requirement

The EU has a different definition of specified risk materials (SRM) than the United States for the animal tissues most at risk of harboring the transmissible spongiform encephalopathies. The EU requires that materials exported to the EU meet the EU's SRM definition and be derived from carcasses of animals that can be confirmed as never having been outside of regions that the EU considers to be of negligible risk for BSE. Although the U.S. has been recognized by OIE as having negligible risk, the source cattle for U.S. ruminant origin animal byproduct exports may not necessarily come from negligible risk countries. The SRM requirement thus unnecessarily impedes U.S. exports of ruminant origin animal byproducts, and would potentially limits the market for ovine/caprine meat were other market impediments removed.

This requirement otherwise has not been an issue for bovine meat for human consumption, because the special EU required production controls in the non-hormone treated cattle (NHTC) program already provides the necessary verifications regarding the history of the animal. The United States has requested the removal of the EU's "born and raised" requirement for all U.S. commodities. Consistent with the recommendations of OIE, it is the BSE status of the country of export that should determine whether SRMs have to be removed. The United States continues to raise this issue in the appropriate bilateral technical working groups, and the WTO SPS Committee.

Pesticides and Maximum Residue Limits

Regulation (EC) No. 1107/2009, which governs the registration of crop protection products, establishes several hazard-based "cut-off" criteria that exclude certain categories of products from consideration for normal authorization for use in the EU. For such products, the EU will not perform a risk assessment. Rather, it will discontinue EU authorization for a particular product at the time of re-approval, or, in the case of new products, declare them to be ineligible for authorization, based solely on their intrinsic properties, without taking into account important risk factors such as level of exposure or dosage. The United States is concerned that a large number of safe and widely-used substances will not be reapproved or not have reasonable import tolerances set for their use due to these arbitrary cut-off criteria when current registrations expire.

Complicating matters further, MRLs and import tolerances are established under separate legislation, Regulation (EC) No. 396/2005, and a list of approved substances is listed in Commission implementing Regulation 540/2011. The regulatory decision-making process under Regulation (EC) 396/2005 is purportedly risk-based rather than hazard-based. Accordingly, the relationship between the hazard based approach of Regulation 1107/2009 and Regulation 396/2005 remains unclear. The United States is concerned that for substances not approved under Regulation 1107/2009 due to the cut-off criteria, the EU may decide to ignore the normal risk assessment process of Regulation 396/2005 and automatically reset the MRLs and import tolerances to the default level of 0.01 mg/kg, which is not commercially viable.

Resetting MRLs and import tolerances to the default level could have a significant negative effect on agricultural production and trade. U.S. stakeholders have estimated the potential damage to U.S. exports at over $5 billion and global trade damage at over $75 billion. Discontinuing the use of critical substances without a proper science-based risk assessment is not a realistic option for the EU, since doing so would have serious adverse effects on agricultural productivity and global markets.

Fosetyl-al

Fosetyl-al is a fungicide that is not authorized to be used on nut trees in the United States. The United States does allow the use of phosphonate fertilizers on nut trees, however, because such fertilizers have low toxicity. In late 2013, the Commission changed the designation of phosphonates as both a fertilizer and pesticide to only a pesticide. However, the Commission did not establish an MRL for phosphonate-containing products. Instead, it simply included any residues found as being under the EU's MRL for fosetyl-al. In short, the Commission now considers the use of phosphonate fertilizers as treatment with fosetyl-al. The application of the fosetyl-al MRL to phosphonates would result in several U.S. nuts and fruits exceeding the MRL and thus being prohibited from the EU market.

On November 9, 2015, the Standing Committee on Plants, Animals, Food and Feed (PAFF) approved the draft Commission Regulation to extend the temporary MRL of 75 mg/kg for almonds, cashew nuts, hazelnuts, macadamias, pistachios, and walnuts until March 1, 2019. Under the higher MRL, U.S. trade is able to continue. The draft act was formally adopted by the Commission on January 25, 2016, but made retroactive to January 1, 2016, to minimize trade disruptions. The Commission instructed Member States to follow this guidance for import checks and sampling.

The United States was pleased by the extension of the temporary MRL for tree nuts. However, a number of other U.S. producers will be affected when the new shipping season starts as a result of the temporary fosetyl-al MRL reverting to the default level of 2 mg/kg. For example, exports of fresh and processed commodities such as stone fruits (apricots, cherries, peaches, and plums), berries (raspberries, blueberries, and blackberries), figs, and papayas became subject to the default MRL as of January 1, 2016. Some fruit and berry commodity groups are gathering residue monitoring data and preparing information to submit to the Commission, but while these commodity groups are preparing their submissions, more than $100 million of fresh and dried fruit and berry exports (including $68 million of dried plums alone) may no longer be able to enter the EU.

DPA

In 2009, the EU removed Diphenylamine (DPA) as a plant protection product authorized for use within the EU. Subsequently, the EU established a MRL of 0.1 parts per million (ppm) for DPA on apples and pears. The United States and Codex have a harmonized standard of 10 ppm for apples and 5 ppm for pear. The EU MRL was implemented on March 2, 2014, and affects both domestic and imported products. The MRL will be reviewed two years following the implementation date, resulting in an MRL further below the limit detection. However, the MRL of 0.1 ppm already greatly limits the use of DPA on U.S. products destined for the EU. Such a low MRL could also result in rejection of untreated fruit due to inadvertent cross-contamination during handling and storage. Without the use of DPA or a workable MRL that accounts for cross contamination, the European market is significantly limited for U.S. apple and pear exports. The United States will continue to engage the EU regarding this issue.

Member State SPS Measures

Agriculture Biotech Cultivation Opt-Out

In March 2015, the EU adopted a directive that allows Member States to ban the cultivation of genetically engineered (GE) plants in their respective territories for non-scientific reasons. Under the transitional measures, the Member States had until October 3, 2015, to request to be excluded from the geographical scope of the authorizations already granted or in the pipeline. Nineteen countries have "opted-out" of GE crop cultivation for all or part of their territories. These decisions will not lead to a change in the field, since none of the five European countries (Spain, Portugal, Czech Republic, Slovakia, and Romania) that currently grow GE corn are opting out.[10]

Seventeen countries and four regions in two countries (Wallonia in Belgium; Northern Ireland, Scotland, and Wales in the United Kingdom) have opted-out of cultivation. The 17 countries that requested their entire territory to be excluded from the geographical scope of biotech applications are: Austria, Bulgaria, Croatia, Cyprus, Denmark, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Slovenia, and Poland. All of these (17 countries plus regions in two countries) have decided to ban the cultivation of Monsanto 810 corn (MON810) and the seven varieties of corn that are in the pipeline, apart from Denmark and Luxembourg that have only banned MON810 and three from the seven varieties of corn in the pipeline.

Austria: After the release of EU Directive 2015/412, which allows Member States to restrict or ban the cultivation of GE plants in their territory, the Austrian government issued the Biotech Cultivation Framework Law on August 3, 2015. This law streamlines the requirements for Austrian states to continue banning the cultivation of biotech crops. The specific federal bans are for the cultivation of MON810 and the import and processing of Monsanto's GT73 rapeseed, Monsanto's 863 corn, and other non-U.S varieties.

French Ban on Food Packaging Containing Bisphenol A

The production or import of food containers containing Bisphenol A (BPA) has been banned in France since January 1, 2015. The law applies to all products manufactured using BPA, where the BPA is "intentionally" used to manufacture part or all of the final product, or where the BPA comes from an environmental or adventitious source. The French law contradicts an EFSA opinion of January 21, 2015, which stated that BPA does not present any risk to consumers. On September 17, 2015, France's

[10] Source: USDA FAS, GAIN Report: 19 European countries restrict the cultivation of GE crops.

Constitutional Commission issued a ruling on the legality of the BPA as presented by the European and International Plastics industry. The Constitutional Commission overturned the ban on BPA in food containers produced in France for export, but upheld the prohibition of BPA in the sale and import of substances in France on the basis of the precautionary principle. In parallel to this action, the EU Commission initiated an infringement procedure against France for violation of the EU single market. On November 20, 2015, a roadmap was released with five different possible outcomes from the Commission, ranging from accepting the BPA ban for the entire EU to overturning France's ban partially to completely. The next Commission consultation meeting for BPA will take place during the second quarter of 2016. The United States is following the Commission's infringement procedure closely and will continue to advocate for a science-based outcome.

MARKET ACCESS

Non-Agriculture

Pharmaceutical Products

U.S. pharmaceutical stakeholders have expressed concerns regarding several Member State policies affecting market access for pharmaceutical products, including nontransparent procedures and a lack of meaningful stakeholder input into policies related to pricing and reimbursement, such as therapeutic reference pricing and other price controls. Such policies reportedly create uncertainty and unpredictability regarding investment in these markets and can undermine incentives to market and innovate further. These policies have been identified in several Member States, including Austria, Belgium, Czech Republic, France, Hungary, Lithuania, Poland, Portugal, and Romania. Additional detail on some of these Member State policies follows. Pharmaceutical firms have also expressed concern regarding recent changes to European Medicines Agency (EMA) policy regarding disclosures of clinical trial data, including potential disclosure of confidential commercial information submitted to EMA by pharmaceutical firms seeking marketing authorization. The United States continues to engage with the EU and individual Member States on these matters.

Austria: U.S. companies have expressed concern regarding the degree of transparency of, and opportunity for meaningful stakeholder input in, the reimbursement rules and determinations for biosimilar pharmaceutical products. U.S. companies also criticize as excessive the "solidarity contribution" for the sector, which are a prerequisite to receiving reimbursement for prescribed drugs, as part of Austria's deficit reduction policies.

Belgium: Over the past 15 years, U.S. pharmaceutical companies have repeatedly expressed concern about the Belgian government's lack of adequate transparency in the decision-making process related to cost-containment measures in the pharmaceutical sector. These companies have identified several tax-related measures, such as a 6.73 percent turnover tax, the 1 percent crisis tax, the 0.13 percent marketing tax, and the claw back tax (an additional 1.93 percent of turnover in 2015), as exemplifying such concerns. In July 2015, the Belgian government announced that the 1 percent crisis tax will be abolished in 2017. The United States continues to highlight the need for closer dialogue with the government and meaningful opportunities for stakeholder input into budget and pricing decisions.

Czech Republic: While pharmaceutical approvals in the Czech Republic often exceed the EU timetables, U.S. stakeholders report that the duration for such approvals has decreased incrementally in recent years. Regarding the Czech Republic's system for determining pricing and reimbursement levels for pharmaceutical products, U.S. stakeholders continue to express concerns about such determinations. For example, U.S. stakeholders continue to raise questions regarding the Czech government's practice of setting maximum medicine prices based on the average of the three lowest prices in a basket of countries (currently a group of 18 Member States). Such determinations should be made transparently and include meaningful opportunities for stakeholder input, including engagement by Czech authorities with stakeholders regarding their concerns regarding how such practices reflect the Czech market and adequately incentivize innovation in research and development of pharmaceutical products. Additionally, the United States urges the Czech Republic to engage meaningfully with stakeholders regarding their concerns that such policies incentivize third parties to re-export pharmaceuticals to third-country markets, where they are sold at a profit.

France: Pharmaceutical industry stakeholders continue to raise concerns about the French pharmaceutical market, including with respect to the significant tax burden on the industry and the constraints facing the sales of reimbursable medicines, sales of which have dropped by two percent for the third consecutive year. As an example of such constraints, U.S. stakeholders have expressed concern that market access for drugs in France is slower than elsewhere in Europe, resulting from delays in reimbursement approvals of 440 days after marketing authorization, compared to the 180 days required by EU law.

Hungary: Pharmaceutical manufacturers have expressed concerns regarding the lack of transparency and stakeholder engagement in Hungarian government volume and pricing determinations; and delays in reimbursement approvals. Stakeholders are also concerned with a series of tax measures, including high sector-specific taxes, high taxes levied on pharmaceutical companies of roughly $50,000 per year for each sales representative that the company employs, and a claw-back tax, which results in considerable uncertainty for pharmaceutical companies that are financially responsible for government overspending with respect to its annual retail pharmaceutical budget. U.S. stakeholders continue to raise questions regarding some of the Hungarian government's pricing and reimbursement policies, including pricing and reimbursement delays of over a year (resulting in extended market access delays), determinations regarding reimbursement based in part on decisions of countries outside of the EU (resulting in an uncertain and non-transparent business environment), and the frequency of changes to, including de-listing of products from, the reimbursement list (resulting in considerable unpredictability in the Hungarian market). The United States urges the Hungary to engage meaningfully with stakeholders regarding their concerns.

Italy: U.S. healthcare companies face an unpredictable business environment in Italy, which includes highly-variable implementation of complex budget policies. One such policy is the "pay-back system," which is a measure that was first applied to hospital pharmaceutical purchases in 2013. Under this policy, pharmaceutical companies must pay back 50 percent of the amount spent over budgetary limits for pharmaceutical spending. Industry estimates that the Italian government has asked for roughly $2.8 billion from pharmaceutical companies between 2013 and 2016 as part of this policy. While several U.S. and European companies have prevailed on appeal to the Regional Administrative Court when challenging the 2013 pay-back calculations, legal challenges to some of the 2014 and 2015 calculations are still pending. Stakeholders have also raised concerns regarding delays in Italy regarding reimbursement determinations. While reimbursement delays have decreased in recent years, the average time between marketing authorization and reimbursement approval in Italy continues to exceed the EU average as well as the period required in EU law.

Lithuania: The United States continues to engage with the government of Lithuania regarding pharmaceutical market access issues. Discussions between the Health Ministry and U.S. stakeholders have made little progress to add innovative drugs to the government's reimbursement list. Stakeholders remain concerned about the lack of transparency in the pricing and reimbursement process for innovative drugs.

Poland: U.S. stakeholders report improved transparency and engagement with the Ministry of Health regarding the development and implementation of cost-containment measures affecting pharmaceutical reimbursement and pricing policies. However, U.S. companies have expressed concern regarding the transparency of, and opportunity for meaningful stakeholder input in, reimbursement rules and determinations for biosimilar pharmaceutical products.

Portugal: U.S. stakeholders report that there continues to be a lack of transparency in the development and implementation of government cost-containment measures. In addition, pharmaceutical companies continue to raise concerns regarding the patent dispute resolution mechanism established under Portuguese Law No. 52/2011, which has been in effect since January 2012. The law does not provide for injunctive relief with respect to the marketing of pharmaceutical products that infringe patents covering pharmaceuticals already authorized to be on the market. Instead, the law provides only for damages for patent infringement. While the arbitration system has proven to be faster than the Portuguese court system, stakeholders report that this mechanism is costly, lacks injunctive relief, and has resulted in questionable rulings.

Romania: Innovative pharmaceutical producers have identified several significant challenges in Romania due to the fact that the government has not updated the lists of innovative pharmaceuticals that are eligible for reimbursement under the national health system, despite repeated requests. According to stakeholder reports, Romania has started the process of adding several new innovative drugs to the reimbursement list, but has not concluded the process to make them available to patients. Numerous applications remain pending with no progress. This severely undermines the ability of U.S. pharmaceutical companies to introduce newer drugs in Romania because the National Health Insurance House will not pay reimbursement for drugs that are not included on the reimbursement list. Both innovative and generic pharmaceutical companies have also started to withdraw drugs from the Romanian market, as the low official prices set in Romania can fall below production costs and create parallel trade problems. The claw-back tax, equivalent to 12.35 percent of total gross sales for the third quarter of 2015, is another major challenge for U.S. stakeholders. This tax rate is determined on the basis of the difference between the state's budget for reimbursable drugs and the amount consumers actually spend on the drugs. U.S. stakeholders continue to raise concerns regarding a lack of transparency, particularly in pricing and computation of the claw-back tax.

Uranium

The United States is concerned that nontransparent EU policies may restrict the import into the EU of enriched uranium, the material from which nuclear power reactor fuel is fabricated. The EU appears to maintain quantitative restrictions on imports of enriched uranium in accordance with the terms of the Corfu Declaration, a joint 1994 European Council and European Commission policy statement that has never been made public or notified to the WTO. The Corfu Declaration appears to limit the acquisition of non-EU sources of supply of enriched uranium, reportedly by reserving 80 percent of the EU enriched uranium market for European suppliers. Such restrictions on imports of enriched uranium may raise concerns in light of the EU's obligations under the WTO. The United States has conveyed to the Commission its concerns about the non-transparent nature of the Corfu Declaration and its application.

Agriculture

Bananas

In June 2010, the United States and the EU signed an agreement designed to lead to a settlement of the longstanding dispute over the EU's discriminatory bananas trading regime. In the agreement, the EU agreed not to reintroduce measures that discriminate among foreign banana distributors and to maintain a nondiscriminatory, tariff-only regime for the importation of bananas. The U.S.-EU agreement complements a parallel agreement, the Geneva Agreement on Trade in Bananas (GATB), between the EU and several Latin American banana-supplying countries (also signed in June 2010), which provides for staged EU tariff cuts to bring the EU into compliance with its WTO obligations.

The agreements marked the beginning of a process that, when completed, will culminate with the resolution of all of the various banana disputes and claims against the EU in the WTO. The GATB entered into force on May 1, 2012, and certification by the WTO of the EU's new tariffs on bananas was completed on October 27, 2012. On November 8, 2012, the EU and the Latin American signatories to the GATB announced that they had settled their disputes and claims related to bananas. On January 24, 2013, the U.S.-EU bananas agreement entered into force. The final step called for in the U.S.-EU agreement is settlement of the U.S. bananas dispute with the EU, provided certain conditions are met.

Concerns have been expressed by U.S. stakeholders about actions taken by Italian customs authorities, and related decisions taken by Italian courts, challenging the use of certain EU banana import licenses under pre-2006 EU regulations. The United States is pressing the Commission to clarify its position on this matter.

Husked Rice Agreement

The United States has ongoing concerns regarding the operation of the U.S.-EU husked rice agreement, which has been in effect since 2005. Under the terms of this bilateral agreement, negotiated as a result of the EU's decision to modify the tariff concessions agreed to in the WTO Uruguay Round, the applied tariff for husked rice imports from the United States is determined by the total quantity of husked rice (excluding basmati) imported by the EU, and is adjusted every six months. Discussions on this subject with the Commission have focused on the annual increase in the import reference volume and the longer-term operation of the tariff adjustment mechanism set out in the agreement. The United States seeks the elimination of EU tariffs on brown rice in the T-TIP negotiations.

Meursing Table Tariff Codes

Many processed food products, such as confectionary products, baked goods, and miscellaneous food preparations, are subject to a special tariff code system in the EU. Under this system, often referred to as the Meursing table, the EU charges a tariff on each imported product based on the product's content of milk protein, milk fat, starch, and sugar. As a result, products that the United States and other countries might consider equivalent for tariff classification purposes sometimes receive different rates of duty in the EU depending on the particular mix of ingredients in each product. The difficulty of calculating Meursing duties imposes an unnecessary administrative burden on, and creates uncertainty for, exporters, especially those seeking to ship new products to the EU.

Subsidies for Fruit and Vegetables

The EU Common Market Organization (CMO) provides a framework for market measures under the EU's Common Agricultural Policy (CAP), including for measures related to the promotion of fruit and vegetables, and entered into force on January 1, 2014. Implementing rules, covering fresh and processed products, are designed to encourage the development of producer organizations (POs) as the main vehicle for crisis management and market promotion. The CMO makes payments to POs for dozens of products, including peaches, citrus fruits, and olives. EU support for the fruit and vegetable sector appears to have been fully decoupled from production decisions in 2014. However, U.S. producers remain concerned about potential hidden subsidies. The United States continues to monitor and review EU assistance in this sector, evaluating potential trade-distorting effects.

Certification of Animal Welfare

In an attempt to "level the playing field," the EU is requiring animal welfare statements on official sanitary certificates. Although the United States supports efforts to promote animal welfare, the EU's certification requirements do not appear to advance any food safety or animal health objectives, and thus do not belong on sanitary certificates. The U.S. position is that official sanitary and phytosanitary certificates – the purpose of which is broadly limited to prevent harm to animal, plant, or human health and life from diseases, pests, or contaminants – should only include statements related to animal, plant, or human health, such as those recommended by Codex, OIE, and the International Plant Protection Convention.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2015, the EU took several steps with respect to intellectual property rights protection, including with respect to copyright, trademarks, and trade secrets. Among those steps, the EU's approach to geographical indications continues to be problematic for the United States and its stakeholders, including those that rely on trademark protection and use generic names.

On May 6, 2015, the Commission issued several statements and related documents on its Digital Single Market strategy, which cover several aspects of copyright protection, *inter alia*, announcing the future introduction of legislative proposals on portability of legally acquired content, cross-border issues, exceptions and limitations, intermediary liability, and enforcement. Subsequently, on December 9, 2015, the Commission issued a more detailed communication entitled "Towards a Modern, More European Copyright Framework" (COM (2015) 626 final), which specifically addresses its strategy for copyright reform. On the same day, the Commission also released a draft regulation on portability entitled, "Proposal for a Regulation of the European Parliament and of the Council on Ensuring the Cross-Border Portability of Online Content Services in the Internal Market" (COM(2015) 627 final), which includes provisions on copyright. The United States encourages the Commission to provide meaningful opportunities for U.S. stakeholder engagement in these Commission-led processes and urges that any outcomes of this program fully reflect the value of copyright industries to the EU, transatlantic, and global economies and continue to promote strong copyright protection and enforcement internally and internationally.

Regarding trademarks, the EU adopted its revised trademark package, including a Trademark Directive and a Trademark Regulation, on December 15, 2015. The trademark package is extensive and contains numerous revisions to existing EU trademark law. The Trademark Directive entered into force in January 2016, and Member States have three years to transpose the Directive into national law. The Trademark Regulation is expected to enter into force in March 2016. The United States looks forward to continuing to work with the EU and its Member States on trademark issues and will follow implementation of the trademark package closely.

The EU also made significant steps with respect to trade secret protection in 2015. Following the Commission's introduction of draft legislation entitled "Proposal for a Directive of the European Parliament and of the Council on the Protection of Undisclosed Know-How and Business Information (Trade Secrets) Against their Unlawful Acquisition, Use and Disclosure" (COM(2013) 813 final) on November 28, 2013, the European Council issued a revised proposal on May 26, 2014. On June 16, 2015, the Legal Affairs Committee of the European Parliament adopted its revised proposal. On December 15, 2015, as a result of the informal "trialogue" process between the European Council, Parliament and Commission, representatives of the Parliament and Council reached a preliminary agreement on the final text of the Directive, which has to be formally adopted by both the Parliament and Council. This legislation harmonizes civil trade secret law in the EU, including provisions defining trade secrets and what constitutes misappropriation, and establishes remedies for trade secret misappropriation.

With respect to geographical indications (GIs), the United States has concerns with several initiatives undertaken by the EU in 2015 and remains troubled with the EU's system that provides over-broad protection of GIs, including with respect to its negative impact on the protection of trademark and market access for U.S. products that use generic names. Regulation (EU) 1121/2012, for example, contains numerous problematic provisions with respect to the protection and enforcement of protected designations of origin (PDOs) and protected geographical indications (PGIs). These troubling provisions include those governing the scope of protection of PDOs and PGIs, that include expansive rules governing evocation, extension, co-existence and translation, among others, that not only adversely affect trademark rights and the ability to use generic names, they also undermine access to the EU market for U.S. rights holders and producers. As confirmed in the recital to Regulation 1121/2012, this measures also serves as the basis for the EU's international GI agenda, which includes requiring EU trading partners to protect and enforce lists of EU GIs according to EU rules in EU trading partners' markets, with often only very limited due process requirements to safeguard existing producers, rights holders, consumers, importers and other interested parties.

The EU adopted its current GI regulation for food products, Council Regulation (EC) 510/06, in response to findings adopted by the WTO DSB in a case brought by the United States (and a related case brought by Australia) that the EU GI system impermissibly discriminated against non-EU products and persons. The DSB also agreed with the United States that the EU could not create broad exceptions to trademark rights guaranteed by the TRIPS Agreement. The United States continues to have concerns about this regulation and intends to monitor carefully both its implementation and current initiatives to modify it. These concerns also extend to Council Regulation (EC) 479/08, which relates to wines, and to Commission Regulation (EC) 607/09, which relates, *inter alia*, to GIs and traditional terms of wine sector products. The United States is carefully monitoring the implementation of each of these regulations.

The EU also continues to consider expanding the scope of GI protection in the EU territory to include non-agricultural products. At present, the EU law only harmonizes the protection of GIs in the EU for wines, spirits, food stuffs and agricultural products. On July 15, 2014, the Commission issued a green paper entitled "Making the Most out of Europe's Traditional Know-How: A Possible Extension of Geographical Indication Protection of the European Union to Non-Agricultural Products" (COM(2014) 469 final), to evaluate GI protection for non-agricultural products in the EU. This was followed by the Parliament's adoption of a resolution inviting the Commission to propose legislation providing for such extension. The United States is closely monitoring developments in this area, including to evaluate and respond to the negative implications in the EU of extending the coverage of GI protection beyond existing product categories.

Finally, the United States remains extremely concerned by the process and outcome of the World Intellectual Property Organization (WIPO) negotiations to expand the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration to include GIs. Of particular concern to the United States was the manner of engagement in these negotiations by the Commission and several Member States, including the Czech Republic, France, Greece, Italy, and Portugal, which took precedent-setting steps to deny the United States and the vast majority of WIPO countries of full negotiating rights, and to depart from long-standing WIPO practice regarding consensus-based decision making in this international organization. Likewise, the resulting text – the Geneva Act of the Lisbon Agreement – raises numerous and serious legal and commercial concerns, including with respect to the degree of inconsistency with the trademark systems of many WIPO countries as well as the significant negative commercial impact on trademark holders and U.S. exporters that use generic terms.

Member State Measures

Generally, Member States maintain high levels of intellectual property rights (IPR) protection and enforcement. While some Member States in 2015 made improvements, the United States continues to have concerns with respect to the IPR practices of several Member States. The United States actively engages with the relevant authorities in these countries and will continue to monitor the adequacy and effectiveness of IPR protection and enforcement, including through the annual Special 301 review process.

Austria: U.S. companies report some gaps in criminal liability, insufficient specialization of judges dealing with trade secrets, low criminal penalties, and procedural obstacles, which limit efforts to effectively combat infringement.

Bulgaria: Bulgaria continues to be listed on the Watch List after it was added in the 2013 Special 301 Report. U.S. stakeholders report continued concerns about IPR enforcement, including with respect to piracy over the Internet. Stakeholders have also highlighted the need for Bulgaria to enhance the effectiveness of its patent and trademark enforcement system, including with respect to prosecutions, and to address bad faith trademark registration at the Bulgarian Patent Office. Bulgaria has an established process for administrative rulings and appeals in cases of patent and trademark infringement, although concerns still remain regarding the decisions issued in those adjudicatory proceedings.

Czech Republic: While sale of copyright-infringing media in physical form continues at a modest level in outdoor markets, rights-holding organizations did not identify any problematic physical markets during the 2015 Special 301 mid-cycle Notorious Markets review. Due to the advance of technology, digital piracy in the Czech Republic, as elsewhere, has migrated primarily to the online realm, where rights-holders have identified several "cyberlockers" that feature pirated material for download and streaming. Rights-holders have experienced positive results in a number of instances when they have gone to court, although websites often reappear under a new name. Also commendable is the Czech government interagency IPR task force, led by the Ministry of Industry and Trade, which coordinates policy and oversees implementation of laws involving IPR.

Estonia: While the new draft IPR legislation is not in force yet, U.S. software and entertainment industries have raised concerns regarding the adequacy of the protections contained in the draft. Stakeholders also report that the amendments to the penal code, combined with a lack of adequate resources, continue to limit efforts by law enforcement authorities to effectively combat online piracy in Estonia.

France: Copyright stakeholders report that the French government's efforts to reduce piracy over the Internet has led to positive results. Stakeholders note that piracy over the Internet remains a serious concern in France, and that while civil proceedings in French courts continue to provide the most effective channel for enforcement against piracy in France, non-deterrent sentencing in criminal proceedings remains a problem.

Greece: Greece remained on the Watch List in the 2015 Special 301 Report. The United States acknowledges some improvements in IPR protection and enforcement in Greece, including actions taken to address piracy over the Internet. However, inadequate IPR protection continues to pose barriers to U.S. exports and investment. Key issues cited in the 2015 Special 301 Report include widespread copyright piracy and limited and inconsistent IPR enforcement.

Italy: In 2015, Italy continued to refine its regulations that were initiated in 2014 aimed at combating copyright piracy over the Internet. These regulations took effect on March 31, 2014, and industry sources welcomed the results. Italy's financial police, the Guardia di Finanza (GdF), continue to dedicate resources to identify large scale online piracy. In addition, the GdF partnered with the International Anti-Counterfeiting Coalition to provide officers with training on the identification and disruption of counterfeit products being produced in or imported into Italy.

Latvia: Latvia remains committed to improving IPR protection and enforcement, and recent efforts include amending criminal statutes to simplify aspects of IPR infringement cases, enabling more successful prosecutions. In March 2015, the Latvian cabinet approved five-year guidelines governing IPR protection, which aim to enhance the capacity of relevant authorities to penalize and deter such violations as well as enhance public awareness. The ability to secure deterrent penalties under the Copyright Law, and a lack of provisions in the Public Procurement Law requiring use of legitimate software by government authorities, remain concerns. On enforcement, Latvia's police and prosecutors actively pursue IPR cases, but a lack of resources and forensics backlogs hamper efforts.

Malta: Although stakeholders report that Malta's civil regime for copyright is generally adequate, they also report that Malta's criminal law is insufficient, especially with respect to the inadequate deterrence of IPR infringement. While the relevant provisions of the Maltese Criminal Code are generally viewed as satisfactory in the context of trademarks and designs, the criminal code provisions governing other IPRs remain largely unenforced and should be updated to reflect technological advances.

Poland: Stakeholders continue to identify copyright piracy over the Internet as a significant concern in Poland. Poland has largely finished updating copyright and related rights laws to EU standards with a few additional changes that took effect in 2015. On November 20, 2015, President Duda signed amendments to Poland's Copyright and Related Rights law. The changes were related to implementation of EU Directives 2012/28/EU on orphan works and 2006/115/EC on rental rights and lending rights.

Romania: Romania remained on the Watch List in the 2015 Special 301 Report. While some categories of infringement, such as street sales of counterfeit goods and piracy of optical discs, continued to decline in 2015, piracy over the Internet, especially peer-to-peer file sharing, remains a serious concern. Some of the most notorious pirate file-sharing sites have connections to Romania. Criminal IPR enforcement remains generally inadequate, with questions arising regarding Romania's commitments to such enforcement, reflected in reduced cooperation among enforcement authorities, a small number of enforcement actions, and a lack of meaningful sanctions. Additional resources are also needed in order to achieve effective enforcement in Romania, such as increased training of law enforcement and prosecutors. Organized criminal networks have taken advantage of the widening gap between their ability to use technology and the ability of law enforcement and prosecutors to discover, investigate, and prosecute cases, especially when the activities cross national borders. Romania would benefit from reinvigoration of the IP Working Group, formed in 2006 as a public-private partnership for the organization of training programs and intra-governmental cooperation. Romania should also develop a new national strategy for IP enforcement to reaffirm its commitment to protecting IPR.

Spain: Spain has been part of a Special 301 Out-of-Cycle Review since 2013, after Spain was removed from the Watch List in the 2012 Special 301 Report. In 2015, Spain took several legislative steps, including to amend its civil and criminal copyright laws. Spain's Prosecutor General also issued a new circular with respect to copyright piracy over the Internet. Concerns remain, however, with respect to implementation of these amendments as well as with respect to administrative enforcement by Spain's Intellectual Property Commission. The United States will continue to carefully monitor developments in this area and to work closely with Spain to address these issues.

Sweden: Sweden continues to grapple with widespread piracy on the Internet. Government enforcement efforts have shown positive results and police and prosecutors are now working more efficiently to investigate and move cases to prosecution. Recent figures indicate that piracy levels are no longer increasing, in that the number of persons who file share illegally is now as low as it was in 2007. Meanwhile, consistent with international trends, the problems related to illegal streaming are increasing, resulting in losses for the movie, TV, and live sports telecast industries. However, legal sales of music and film have increased dramatically in recent years, in part because of Swedish enforcement efforts against illegal streaming.

SERVICES BARRIERS

Telecommunications

Telecomm Single Market Regulation

In September 2013, the Commission presented its draft for a regulation "[l]aying down measures to complete the European single market for electronic communications and to achieve a Connected Continent." On June 30, 2015, after two years of negotiations, the European Commission, Parliament, and Council reached an agreement on the Telecoms Single Market Regulation (TSM), which was formally ratified by the Council on October 2 and by Parliament on October 27. The regulation will directly apply in all Member States as of April 30, 2016, without requiring further transposition measures and updates the Common Regulatory Framework for Electronic Communications Networks and Services (last updated in 2009).

The TSM includes new rules on net neutrality, network investments, spectrum management, and roaming. The TSM phases out roaming fees in the EU as of June 15, 2017. The changes will only affect consumers in Europe who have contracts with local operators. International carriers, including American operators like AT&T and Verizon Wireless, will still be able to set their own roaming charges for customers traveling in the EU. The regulation also enshrines net neutrality rules that require Internet service providers (ISPs) to treat all traffic equally, subject to public interest exceptions, such as network security or compliance with law enforcement decisions. ISPs will be allowed to use traffic management techniques to minimize temporary or exceptional network congestion, but blocking, throttling, and paid prioritization are banned.

Digital Single Market

As part of the DSM strategy, the Commission will consider a number of mechanisms to reform its telecommunications rules, including adopting a consistent single market approach to spectrum policy and management, promoting infrastructure competition and greater investment in high speed broadband networks, and online platform regulation. An extensive revision of the Common Regulatory Framework for Electronic Communications Networks and Services, expected in 2016, will look at network access regulation, spectrum management, communication services, universal service, and institutional governance. The Commission is also apparently considering regulation of "over the top" (OTT) service providers that traditionally have not been regulated. European telecommunications suppliers have long pursued efforts to extend regulation to Internet content and application providers, pointing to a "convergence" in the types of services offered by traditional telecommunications suppliers and some Internet-based services (e.g., Facebook's WhatsApp, which is allegedly a substitute for traditional SMS) to justify a more comparable regulatory approach. Some U.S. suppliers have responded to these arguments by highlighting that Internet-based communications tools still face low barriers to entry by new competitors, while traditional telecommunications providers enjoy high barriers to new entry and little direct competition.

Termination Rates

One of the main cost components of an international telephone call from the United States to an EU country is the rate a foreign telecommunications operator charges a U.S. operator to terminate the call on the foreign operator's network and deliver the call to a local consumer. The GATS Telecommunications Services Reference Paper includes disciplines designed to ensure that the charge for terminating a call on a network of a major supplier (which in most countries is the largest or only fixed-line telecommunications supplier) is cost-oriented. This ensures that a major supplier is not able to gain an unfair competitive advantage from terminating foreign or competitive carriers' calls, and also helps to ensure that U.S. carriers can offer reasonable and competitive international rates to consumers located in the United States. Termination rates for both fixed and wireless traffic should be set in relationship to the costs of providing termination, as would be reflected in a competitive market. Where competition does not discipline the costs of termination services, governments should ensure that the termination rates charged by its operators are not unreasonably above cost.

Several suppliers in EU Member States, including Portugal, Czech Republic, Croatia, Greece, and France, are charging higher rates for the termination of international traffic originating outside the EU, or in some cases outside the European Economic Area (comprised of the EU plus Iceland, Liechtenstein, and Norway), than for international traffic between sovereign states within the EU or EEA. These discrepancies in rates do not appear to reflect incremental costs for termination of such traffic. The European Commission and EU Member States appear to endorse, explicitly or implicitly, a two-tier approach to the termination of international traffic. These actions adversely affect the ability of U.S. telecommunications operators to provide affordable, quality services to U.S. consumers calling Europe and may raise questions regarding these EU governments' treatment of U.S. suppliers. Such cost increases also disadvantage enterprises in those foreign markets for which foreign communications is a key part of business (e.g., traders, hotels).

Television Broadcasting and Audiovisual Services

Audiovisual Media Services Directive

The 2007 EU Directive on Audiovisual Media Services (AVMS) amended and extended the scope of the Television without Frontiers Directive (which covered traditional broadcasting, whether delivered by terrestrial, cable, or satellite means) to cover audiovisual media services provided on demand, including via the Internet. AVMS establishes minimum content quotas for broadcasting that must be enforced by all Member States. Member State requirements are permitted to exceed this minimum quota for EU content, and several have done so, as discussed below. AVMS does not set any strict content quotas for on-demand services, but it still requires Member States to ensure that on-demand services encourage production of, and access to, "EU works." This could be interpreted to refer to the financial contribution made by such services to the production and rights acquisition of EU works or to the prominence of EU works in the catalogues of video on-demand services.

In 2016, the Commission will review whether AVSM remains an appropriate regulatory framework given developments in the audiovisual and video on-demand markets. This will include analysis of whether differences in regulatory treatment between broadcast and on-demand services allowed by AVSM remain appropriate, and whether the AVSM's scope ought to be expanded to include new services.

Satellite and Cable Directive

The 1993 Satellite and Cable Directive (SCD) governs satellite broadcasting and cable retransmission. It was enacted to promote cross-border satellite broadcasting of programs and their cable retransmission from other Member States and remove obstacles arising from disparities between national provisions on copyright. Under SCD, the satellite broadcasting of copyrighted works requires the authorization of the rights holder and such rights may only be acquired by agreement. Cable retransmission of broadcasts is governed by copyright and related rights in the Member States and by agreements between copyright owners, holders of related rights, and cable operators. The rights to authorize or prohibit the cable retransmission of a broadcast are exercised through a collecting society, except where they are exercised by a broadcasting organization with respect to its own transmissions. The Commission is currently reviewing SCD to assess how it is working to provide cross-border access to broadcasters' services in Europe and to consider whether to broaden the scope of SCD to cover broadcasters' services provided over the Internet.

Member State Measures

Several Member States maintain measures that hinder the free flow of some programming or film exhibitions. A summary of some of the more significant restrictive national practices follows.

France: France continues to apply AVMS in a restrictive manner. France's implementing legislation, which was approved by the Commission in 1992, requires that 60 percent of programming be of EU origin and 40 percent be of French-language content. These requirements exceed AVMS requirements. Moreover, these quotas apply to both the regular and prime time programming slots, and the definition of prime time differs from network to network. The prime time restrictions pose a significant barrier to U.S. programs in the French market. Internet, cable, and satellite networks are permitted to broadcast as little as 50 percent EU content (the AVMS Directive minimum) and 30 to 35 percent French-language content, but channels and services are required to increase their investment in the production of French-language content. In addition, radio broadcast quotas that have been in effect since 1996 specify that 40 percent of songs on almost all French private and public radio stations must be in French.

Beyond broadcasting quotas, cinemas must reserve five weeks per quarter for the exhibition of French feature films. This requirement is reduced to four weeks per quarter for theaters that include a French short subject film during six weeks of the preceding quarter. Operators of multiplexes may not screen any one film in such a way as to account for more than 30 percent of the multiplex's weekly shows. Theatrically released feature films are not allowed to be advertised on TV. France also maintains a four month waiting period between the date a movie exits the cinema and the date when it can be shown on video-on-demand.

Italy: Broadcasting Law DL 44, which implements EU regulations, reserves at least 50 percent of the programming time (excluding sports, news, game shows, and advertisements) for EU-origin content, half of which must have been produced over the last five years. Ten percent of transmissions (and 20 percent for state broadcaster RAI) must be reserved for works by EU independent producers.

Poland: TV and radio broadcasters must adhere to content quotas in Poland. TV broadcasters must devote at least 33 percent of their broadcasting time each quarter for programming originally produced in the Polish language, except information services, advertisements, telesales, sports broadcasts, and TV quiz shows. Radio broadcasters are obliged to dedicate 33 percent of their broadcasting time each month, and 60 percent of broadcasting time between 5:00 a.m. and midnight, to Polish language programming. TV broadcasters must dedicate more than 50 percent of their broadcasting time quarterly to programs of EU origin, except information services, advertisements, telesales, sports broadcasts, and TV quiz shows. On-demand audiovisual media services providers also must promote content of EU origin, especially content originally produced in Polish, and dedicate at least 20 percent of their catalog to EU content.

Portugal: Television broadcasters must dedicate at least 50 percent of air time to programming originally produced in the Portuguese language, with at least half of this produced in Portugal. Music radio broadcasters must dedicate between 25 to 40 percent of time to music produced in the Portuguese language or in traditional Portuguese genres, with at least 60 percent of this produced by citizens of the EU.

Spain: For every three days that a film from a non-EU country is screened, one EU film must be shown. This ratio is reduced to four days to one if the cinema screens a film in an official language of Spain and keeps showing the film in that language throughout the day. In addition, broadcasters and providers of other audiovisual media services annually must invest five percent of their revenues in the production of EU and Spanish films and audiovisual programs.

In 2010, the Autonomous Community of Catalonia passed legislation requiring distributors to include the regional Catalan language in any print of any movie released in Catalonia that had been dubbed or subtitled in Spanish, but not any film in Spanish. The law also requires exhibitors to exhibit such movies in Catalan on 50 percent of the screens on which they are showing. In 2012, the Commission ruled that the law discriminated against European films and must be amended. To date, the law has not been amended to comply with EU law and the issue has not been brought before the CJEU.

In 2010, the Spanish government revised its audiovisual law and imposed restrictions on non-EU ownership (limited to no more than 25 percent share) and leasing of AV licenses, and U.S. investors report that they have been negatively impacted. Following the 2010 amendment, several U.S. investors signed agreements with Spanish AV license holders to provide content for free-to-air TV channels. These investments were disrupted by a November 2012 decision by the Spanish Supreme Court, which annulled the digital terrestrial television (DTT) broadcasting licenses of these Spanish firms on the basis that the government had not followed the proper public tender process in allocating the licenses in 2010. In May 2014, all of the annulled DTT channels ceased broadcasting, and in October 2015 the Spanish government awarded six new licenses through a public tender process. U.S. investors were unable to participate directly in this tender process due to restrictions on foreign ownership. The United States continues to engage on these issues with the Spanish government.

Legal Services

Austria, Belgium, Bulgaria, Cyprus, Greece, Hungary, Lithuania, Malta, and Slovakia require EU or EEA nationality for full admission to the bar, which is necessary for the practice of EU and Member State law. In many cases, non-EU lawyers holding authorization to practice law in one Member State face more burdensome procedures to obtain authorization in another Member State than would a similarly situated lawyer holding EU citizenship.

Member State Measures

Bulgaria: The Bulgarian Bar Act allows law firms registered in the EU to practice in Bulgaria under their original name after they register with the local bar association. However, at least one of the partners has to be registered both in Bulgaria and in another Member State if the local partnership is to use an internationally recognized name.

Czech Republic: In contrast to EU-based law firms, U.S. law firms cannot establish Czech branches to practice law (i.e., operate directly through their home legal entities). However, attorneys from U.S. law firms admitted as foreign lawyers may establish a business entity to engage in the practice of law under the U.S. company name.

Hungary: U.S. lawyers may provide legal services only under a "cooperation agreement" in partnership with a Hungarian law firm and can only provide information to their clients on U.S. or international law.

Accounting and Auditing Services

Member State Measures

Austria: Tax advisors must hold Austrian or EU nationality to represent clients before tax authorities. Foreign tax advisors may not hold more than 25 percent of the equity of Austrian entities.

Czech Republic: The Czech Republic requires that at least a majority of the voting rights in the audit firm must be held by auditors licensed in the EU or by a firm licensed to perform statutory audits in a Member State.

Slovakia: Slovakia requires that companies providing auditing services be registered in a Member State, and maintains an equity cap requiring that a majority of the voting rights of these companies be held by EU nationals.

Retailing

Member State Measures

EU nationality is required for operation of a pharmacy in Austria, France, Germany, Greece, and Hungary.

Hungary: In May 2015, Hungary banned large retail shops from opening on Sunday. Small, family-run shops, and ones where local farmers sell their products, can still open. While the EU forced Hungary to repeal a sanitation tax levied only on large, multinational supermarkets, government officials stated they would find new ways to make foreign retailers pay more. A new draft bill, for example, would require supermarkets with over 400 square meters of retail space to make at least one employee available to shoppers for every 70 square meters, a requirement that would fall disproportionately on multinational firms.

EU Enlargement

After each of the three most recent rounds of EU enlargement, the EU has submitted notifications to WTO Members concerning the modification of existing commitments under the GATS by the newly acceded EU Member States. In accordance with GATS Article XXI, the EU was required to enter into negotiations with any other WTO Member that indicated that it was affected by the modification of existing commitments. In connection with the largest of these rounds of enlargement (the expansion to 25 members in 2004), the United States and the EU successfully negotiated a compensation package, which was agreed to on August 7, 2006. To date, however, the Commission has failed to secure the approval of all Member States, which is necessary to implement the agreement. The United States will continue to monitor this process to ensure the agreement is implemented as soon as possible.

INVESTMENT BARRIERS

Foreign investors in the EU are accorded national treatment in most sectors and, with few exceptions, EU law requires that any company established under the laws of one Member State must receive national treatment in all other Member States, regardless of the company's ultimate ownership. As discussed below, however, EU law does impose some restrictions on U.S. and other foreign investments and, in many instances, individual Member State policies and practices have had a more significant impact on U.S. investment than EU-level policies.

Member State Measures

Bulgaria: Weak corporate governance remains a problem in Bulgaria. Legislative protection for minority shareholders has improved through insolvency rules in Bulgaria's Commercial Code and changes to its Law on Public Offering of Securities. Yet enforcement of these statutory provisions remains inadequate.

A history of non-payment of contractual obligations, particularly in the energy sector, remains a significant deterrent to investment. The government owes hundreds of millions of euros to thermal power plants and generators of renewable energy, including two U.S. power companies. The government has imposed a five percent mandatory fee in an attempt to reduce its energy sector debt, but this fee reduces the short-term profit margin of all power producers. State-owned Bulgarian Energy Holding is negotiating with a bank consortium for a bridge-to-bond loan to pay the two U.S. power companies for the electricity generated under two long-term purchase contracts. The government declined to offer a sovereign guarantee for the loan.

Regulations in Bulgaria are not always enforced, even when compliance is directed by the EU, and particularly when politically connected domestic companies are involved. A U.S. bottled water company, for example, has had an ongoing dispute with a domestic competitor over sourcing of water. In connection with this dispute, the U.S. company has challenged the government's compliance with EU directives, but the government has not yet resolved the issue. Elsewhere, excise taxes, which according to the government's schedule, were to be raised on all cigarettes, were raised on international cigarette brands ahead of schedule while domestic cigarettes remained at the lower rate, causing a significant price gap.

Croatia: U.S. companies doing business in Croatia complain that their operations are negatively affected by frequent, unexpected legislative changes. Investors find it difficult to make sound, long-term business plans due to the unpredictable legislative environment.

Croatia has a law that calls for mandatory regulatory impact assessments of proposed legislation. This law is not strictly observed. Only 7.2 percent of the laws enacted in 2014 were subject to proper regulatory impact assessments, and the government has presented no clear commitment or timeline to meaningfully increase this percentage.

Cyprus: Cypriot law imposes significant restrictions on the foreign ownership of real property and construction-related businesses. Non-EU residents may purchase no more than two independent housing units (apartments or houses), or one housing unit and a small shop or office. Exceptions can be made for projects requiring larger plots of land, but are difficult to obtain and rarely granted. Separately, only EU citizens have the right to register as construction contractors in Cyprus, and non-EU investors are not allowed to own a majority stake in a local construction company. Non-EU residents or legal entities may bid on specific construction projects, but only after obtaining a special license from the Cypriot Council of Ministers.

France: Pursuant to a November 2004 law that streamlined the French Monetary and Financial Code, the State Council has designated a number of "sensitive" sectors in which prior approval is required before foreign acquisition of a controlling equity stake is permitted. A December 2005 government decree (Decree 2005-1739) lists the 11 business sectors in which the French government monitors, and can potentially restrict, foreign ownership through a system of "prior authorization." In May 2014, the government issued decree 2014-479, which expanded the list of strategic sectors to include energy, water, health, transportation, and telecommunications, as well as any installation, facility, or structure deemed to be "vital" within the meaning of the Defense Code.

The French government has expressed concern over foreign acquisition of "strategic" companies whose stock prices fell steeply in the wake of the financial crisis. In late 2008, France established a strategic investment fund, the Fonds Strategique d'Investissement, to assume a stake in companies with "key technologies." The fund is majority-owned and run as a "strategic priority" by the Caisse des Dépôts et Consignations (CDC), a state-sponsored financial institution and France's largest institutional investor. The government has asked the CDC to work as a domestic buffer against foreign takeovers by increasing its stake in French companies. The government is also able to become directly involved in mergers and acquisitions by using its "golden share" in state-owned firms to protect perceived national interests.

Greece: All purchases of land in border areas and on certain islands require approval from the Ministry of Defense. The definition of "border area" is broader for non-EU purchasers of land and obtaining approval for such purchases is more burdensome. Greek authorities consider local content and export performance criteria when evaluating applications for tax and investment incentives, although such criteria are not prerequisites for approving investments.

Hungary: Since 2010, the Hungarian government has passed several hundred laws, including many "cardinal" laws that require a two-thirds majority to repeal. U.S. investors have expressed concern with the volume and pace of these legislative changes on the predictability of Hungary's investment climate, in particular since they are frequently enacted with little time for debate and no consultation with potentially affected businesses and stakeholders. Recent "crisis taxes" have targeted foreign-owned firms in a disparate way – either by hitting sectors dominated by foreign-owned firms, or by taxing larger foreign-owned firms at a far higher rate than smaller Hungarian firms. The business community voiced concerns that strategic agreements the government signed with over 70 major companies operating in Hungary could be a hidden forum for lobbying, allowing the government to give preferential treatment to favored companies.

Italy: Some U.S. companies claim to have been adversely targeted by the Revenue Authority by virtue of the fact that they engage in international operations. Tax rules change frequently and are interpreted inconsistently. Companies report long delays in receiving VAT refunds to which they are legally entitled. Tax disputes are resolved slowly and initial findings are frequently reversed, which reduces certainty and increases compliance costs.

Poland: Financial service institutions and retailers have expressed concerns over new tax proposals, such as a new bank tax on assets, increased contributions to the Bank Guarantee Fund, and the potential costs of converting Swiss Franc-denominated loans, which is still under consideration. The bank tax on assets, which entered into force in early 2016, could cost the industry 1 billion euro this year – more than a third of their aggregate net profits in 2015.

Romania: Uncertainty and a lack of predictability in legal and regulatory systems pose a continuing impediment to foreign investment in Romania. Tax laws change frequently, and many companies experience long delays in receiving VAT refunds to which they are legally entitled. Deadlines stipulated by law for the processing and payment of refunds are often not respected. Companies have reported frequent instances in which the government has issued legal decrees or regulations affecting the business climate without following required transparency and public consultation procedures.

Slovenia: Weak corporate governance and a lack of transparency, particularly with respect to state-owned enterprises, continue to be a significant challenge in Slovenia. Potential U.S. investors have reported that opaque decision-making processes in the government's privatization program have discouraged investment.

GOVERNMENT PROCUREMENT

The EU is a signatory to the WTO Government Procurement Agreement (GPA). U.S. suppliers participate in Member State government procurement tenders, but the lack of quality EU statistics that take into account the country of origin of winning bids makes it difficult to assess the level of U.S. and non-EU participation. However, a 2011 report commissioned by the EU noted that only 1.6 percent of total Member-State procurement contracts were awarded to firms operating and bidding from another Member State or a non-EU country, demonstrating that in practice the value of direct cross-border procurement awards even among Member States was very small. In this study, U.S. firms not established in the EU received only 0.016 percent of total EU procurement contracts awarded.

The EU Utilities Directive covers purchases in the water, transportation, energy, and postal services sectors. This directive requires open, competitive bidding procedures, but discriminates against bids with less than 50 percent EU content for tenders that are not covered by an international or reciprocal bilateral agreement. The EU content requirement applies to foreign suppliers of goods and services in the following sectors: water (production, transport, and distribution of drinking water); energy (gas and heat); urban transport (urban railway, automated systems, tramway, bus, trolley bus, and cable); and postal services.

In 2014, the European Parliament approved three legislative proposals on public procurement including: (1) a revised Public Procurement Directive for general sectors; (2) a revised Public Procurement Directive for the utilities sectors; and (3) a new Public Procurement Directive on concessions contracts. All Member States must transpose these procurement directives into national legislation. A fourth proposal, aimed at regulating access of third-country goods and services to the EU public procurement market (relative to the access provided to EU goods and services in third-country public procurement markets), is still being debated in the Parliament and in the Council. The Luxembourg Presidency had hoped to move the file forward but failed because Member States could not find a common position. U.S. access to the EU's non-GPA covered procurement could be affected under this new regulation.

Member State Measures

Bulgaria: Stakeholders report that the public procurement process in Bulgaria is not always transparent and is frequently discriminatory and unfair. There are persistent complaints that tenders are narrowly defined and that they appear tailored to a specific company. In certain cases the Bulgarian government has included mandatory specifications, which in practice could be met by only one of the bidders, thus putting others at a disadvantage in winning the tender. In other cases companies are asked to provide superfluous certification documents in order to qualify as bidders on public procurement projects and to do so under unreasonably tight deadlines. In February 2016, the government cancelled several large tenders, citing the need for greater transparency.

Czech Republic: In 2012, the Czech government adopted a major public procurement reform bill that addressed some transparency and corruption concerns. However, in October 2014, an analysis of financing of all political parties represented in the Chamber of Deputies between 2006 and 2013 (published by NGO Index) showed that sponsors of political parties received public contracts for 390 billion CZK ($20 billion). The Chamber of Deputies is currently discussing a new public procurement law to increase transparency, but critics allege it would put a premium on the government disbursing funds more rapidly and contractors spending down funds faster at the expense of proper oversight. Business leaders are also concerned that the draft bill does not envision any accountability for procurements carried out below the threshold.

France: The February 2014, the EU Anti-Corruption Report emphasized that France should root out corruption of public procurement contracts at the local level, calling on France to take action "to identify risks at local levels" and "set priorities for anti-corruption measures." France has taken some anti-corruption steps, such as requiring electronic bid applications for any calls for tender over €90,000 to lower corruption risks, and has improved quality control. However, French laws that make it a crime to breach public procurement rules rarely result in criminal charges, and when they do, the punishment is not severe. In July 2015, the Ministry of Finance proposed creating a new anti-corruption authority and other measures for improving transparency and fighting corruption in France. The draft law, known as "Loi Sapin II," will likely be enacted in 2016.

The French government continues to maintain ownership shares in several major defense contractors (EADS, now Airbus – 10.97 percent of shares; Safran – 22.4 percent of shares and 25.7 percent of voting rights; and Thalès – 36.65 percent of indirect share ownership). It is generally difficult for non-EU firms to participate in French defense procurement, and even when the competition is among EU suppliers, French companies are often selected as prime contractors.

Greece: Greece imposes significant qualification requirements on companies seeking to bid on public procurement tenders. Companies must submit documentation from competent authorities indicating that they have paid taxes, have not been in bankruptcy, and have paid in full their social security obligations for their employees. All managing directors and board members of companies that want to participate in procurements must submit certifications from competent authorities that they have not engaged in fraud, money laundering, criminal activity, or similar activities. These requirements are onerous on U.S. firms because competent authorities in the United States do not issue these types of certifications.

Additionally, U.S. stakeholders have complained that procurements in Greece are not always transparent and that some tenders, such as for medical equipment to be installed in hospitals, contain technical specifications that favor specific Greek suppliers. The United States is continuing to engage with the Greek government on this issue. Greece often requires suppliers to source services and production locally or partner with Greek manufacturers as a condition for the awarding of some defense contracts.

Hungary: Inadequate transparency in public procurement continues to be a significant problem in Hungary. Hungarian companies, state-owned enterprises, and companies close to the government appear to have an advantage over other players in public tenders. A recent Transparency International study on EU-financed public procurements concluded that corruption is a significant problem for the Hungarian public procurement system. Transparency watchdogs have criticized the new public procurement law, enacted in November 2015, because it permits state enterprises to manage smaller procurements (below HUF 25 million ($86,000) for goods and services and HUF 150 million ($516,000) for construction services) without a public tender and allows the use of subjective, non-price criteria to adjudicate tenders.

Italy: Italy's public procurement practice often lacks transparency, which has created obstacles for some U.S. bidders. Laws implemented following a major 1992 scandal somewhat reduced corruption, but stakeholders assert that corruption is still widespread, especially at the local level. In 2012, the Italian parliament approved an anti-corruption bill that introduced greater transparency and more stringent procedures to the public procurement process. In 2013, additional implementing regulations were introduced to increase transparency, including measures regulating the conduct of civil servants. To increase transparency, the Italian government has also started publishing information online about the use of public funds, including data on procurement. Nonetheless, corruption in public administration remains a challenge, as evidenced by a series of wide-scale corruption investigations in 2014 in Rome, Milan, and elsewhere. In 2015, the government has increased the funding and authority of the National Anti-Corruption Authority (ANAC), whose Commissioner has a broad and powerful mandate to reduce fraud and corruption in public administration. In May 2015, the Italian Parliament approved a revised anti-corruption law, which increased corruption sentences and criminalized accounting fraud.

Lithuania: The public procurement process in Lithuania is not always transparent. There are persistent complaints that some tenders are so narrowly defined that they appear tailored to a specific company. The government has made procurement reform a top priority and is starting to improve transparency by implementing online public procurement for its central purchasing body, the central project management agency. In 2013, the government adopted legislation requiring all public procurement to occur through a centralized online portal and all contracts to be published. In general, procurement documents are only available in Lithuanian.

Poland: U.S. firms report disappointment with the speed of changes in public procurement regulations in Poland. Company representatives note “lowest cost” is the main criterion Polish officials use to award contracts, often overlooking other important factors in bid evaluation, like quality, company reputation, and prior experience in product and service delivery. U.S. firms also state the high cost of tender document preparation discourages participation in public tenders.

Romania: Romania revised its public procurement law in 2013, exempting certain state-owned enterprises from the public procurement law and allowing them to use nontransparent procedures for their procurements. In an effort to enhance absorption of EU funds, the government has simplified the procurement procedures for private sector beneficiaries. Romania requires offsets as a condition for the awarding of defense contracts.

Slovenia: As in previous years, U.S. firms continue to express concerns that Slovenia’s public procurement process is nontransparent. They also allege short timeframes for bid preparation, tendering documentation that is difficult to understand, and opacity in the bid evaluation process. Slovenia’s quasi-judicial National Revision Commission (NRC), which reviews all disputed public procurement cases, received multiple complaints. The NRC has the authority to review, amend, and cancel tenders, and its decisions are not subject to judicial appeal. In the instances where U.S. companies alleged improprieties in the procurement process, Slovenian authorities pointed them to the NRC, which is not required to justify its decisions.

SUBSIDIES

Government Support for Airbus

Over many years, the governments of Belgium, France, Germany, Spain, and the United Kingdom have provided subsidies to their Airbus-affiliated companies to aid in the development, production, and marketing of Airbus’s large civil aircraft. These governments have financed between 33 and 100 percent of the development costs of all Airbus aircraft models (launch aid) and have provided other forms of support, including equity infusions, debt forgiveness, debt rollovers, research and development funding, and marketing assistance, in addition to political and economic pressure on purchasing governments. The EU’s aeronautics research programs are driven significantly by a policy intended to enhance the international competitiveness of the EU civil aeronautics industry. Member State governments have spent hundreds of millions of euros to create infrastructure for Airbus programs, including €751 million spent by the city of Hamburg to drain the wetlands that Airbus is currently using as an assembly site for the A380 "superjumbo" aircraft. French authorities also spent €182 million to create the AeroConstellation site, which contains additional facilities for the A380. The Airbus A380, the beneficiary of more than $5 billion in subsidies, is the most heavily subsidized aircraft in history. The relevant Member State governments have also provided launch aid for the new Airbus A350 XWB aircraft, even though Airbus has barely begun to repay the financing it has received for the A380.

Airbus SAS, the successor to the original Airbus consortium, is owned by the Airbus Group, which is now the second largest aerospace company in the world. This entity was previously known as the European Aeronautic, Defense, and Space Company (EADS). The name change accompanies a reorganization of the company's ownership structure, resulting in the governments of Germany and France each owning up to 11 percent of the shares, Spain approximately 4 percent, and the remaining approximately 72 percent of shares trading on open markets. The reorganization also ended these governments' rights to veto strategic decisions and to appoint directors to the Airbus board. Instead, the governments only have the right to veto board members appointed by the company. The Airbus Group accounted for more than half of worldwide deliveries of new large civil aircraft over the last few years and is a mature company that should face the same commercial risks as its global competitors.

On May 31, 2005, the United States requested establishment of a WTO panel to address its concern that Member State subsidies were inconsistent with the WTO Agreement on Subsidies and Countervailing Measures. The WTO established the panel on July 20, 2005. In 2010, the dispute settlement panel found in favor of the United States on the central claims, and the Appellate Body upheld the finding of WTO inconsistency in 2011. On December 1, 2011, the EU submitted a notification to the WTO asserting that it had taken appropriate steps to bring its measures into conformity with its WTO obligations. On December 9, 2011, the United States requested consultations with the EU to address its concern that the EU had failed to bring its Airbus subsidies into conformity with WTO rules. That dispute is currently before a WTO panel, which has indicated that it expects to complete its work by mid-2016.

Government Support for Airbus Suppliers

Member State Measures

Belgium: The Belgian federal government coordinates with Belgium's three regional governments on the subsidies for Belgian manufacturers that supply parts to Airbus. Recently, Belgium had a €195 million support program for the A380 superjumbo and a €175 million support program for the A350. Belgium has always claimed that these were refundable advances, structured in accordance with the 1992 bilateral agreement, and that they covered nonrecurring costs. Both in 2006 and in 2009, the Commission initially disputed that view, but later acquiesced. Industrial research or experimental development projects linked to the A350 and A380 were cited as examples of projects that could benefit from the program. However, Eurostat, the Commission's statistical unit, notified the Belgian government in 2014 that these amounts should not be considered advances but subsidies, because they were never reimbursed. Beginning in 2016, Belgian federal and regional governments will have to include the Airbus subsidies as such in their budgets, something which they have never done before. For the A350 and A380 programs, the price distortion coming from Belgian subcontractors is estimated to be a minimum of €370 million.

France: In addition to the seed investment that the French government provided for the development of the A380 and A350 aircraft, France provides assistance in the form of reimbursable advances for the development by French manufacturers of products such as airplanes, aircraft engines, helicopters, and onboard equipment. In February 2013, the government confirmed €1.4 billion in reimbursable advances for the A350 over the 2009-2017 time period and a similar scheme for the helicopter X6 to be built by Eurocopter. At the same time, the government announced the implementation of tax and financial assistance for airline companies to restore their competitiveness. The government's 2015 budget included €136 million in reimbursable advances, which is expected to grow to €152 million in the 2016 budget. French appropriations for new programs included €80.24 million in support of research and development in the civil aviation sector in 2015. In 2016, this support is expected to decrease by 7.3 percent to €74.3883 million.

In July 2008, Airbus, the parastatal Caisse des Dépôts et Consignations, and the Safran Group announced the launch of the Aerofund II equity fund, capitalized with €75 million destined for the French aeronautical sector. The equity fund's objective is to support the development of small and medium sized subcontractors that supply the aeronautical sector. In March 2009, France's Strategic Investment Fund and Aerofunds I and II purchased a nearly 20 percent stake in Daher, a French company, for €80 million, to help that private aerospace group accelerate its development and seize strategic opportunities. Since its creation in 2008, Aerofund II has made investments in about ten companies, including helping to finance Mecachrome's purchase of Mecahers, a precision engineering firm, and Prosonic's acquisition of Industron, a designer of specialized machines.

The Strategic Investment Fund also helped finance the sale of Esterel Technologies to the U.S. group Ansys in 2012. In 2013, Airbus, the Caisse des Dépôts et Consignations Entreprises, Safran group, and Eurocopter set up Aerofund III, an investment fund designed to raise €150 million for the French aeronautical sector. The goal of the investment fund, run by ACE Management, is to prolong Aerofund II with a target of raising a total of €300 million. In 2014, Aerofund III acquired stakes in AEDS, a firm producing joints and wire pullings; in Test & Services, a firm specializing in the development, production and maintenance of test equipment; and in Finaero, a company specializing in the finishing of planes and helicopters. In 2015, Aerofund III became a shareholder of Groupe RAFAUT, a French weapons-to-aircraft interface systems manufacturer, through an "owner buy-out" contract clause.

Germany: In March 2015, the German Ministry of Economic Affairs and Energy announced the issuance of €623 million in loans to Airbus for the new A350 widebody jet. The loan runs until 2031 and covers deliveries of 1,500 airplanes. Negotiations between Airbus and the German government on this second tranche of a €1.1 billion loan package to Airbus had broken down in 2013 amid differences between the company and the government over guaranteed work and jobs. The German government had paid the first tranche of the loan package of €500 million at the end of 2010. In addition to the A350 loan package, Airbus continues to receive funds from the 2012 to 2015 aeronautics research program for a number of projects. In their 2013 coalition agreement, the German government pledged further support for the aeronautics program.

Spain: In July 2014, the Commission approved a rescue plan for ALESTIS Aerospace, a first level provider of airframes for Airbus' commercial and military production. The rescue plan was the result of an agreement between the Spanish state-owned industrial holding company Sociedad Estatal de Participaciones Industriales (SEPI) and Airbus. The Commission's approval of the plan ensures the future sustainability of ALESTIS. According to SEPI and Airbus, in order to develop the agreement, Spain's Ministry of Finance and Public Administrations authorized a settlement submitted by ALESTIS which includes a seven-year, interest-free extension of the payment of ALESTIS' €176 million debt, both in its capacity as a common creditor and in regard to its patent terms. After a shareholder restructuring that concluded at the beginning of February 2015, SEPI subscribed and disbursed a capital increase through a cash contribution amounting to €13.5 million in exchange for receiving 24.05 percent of ALESTIS's capital. The final shareholder structure is as follows: Airbus (61.91 percent), SEPI (24.05 percent), and Unicaja (14.04 percent). Additionally, on October 23, 2015, Spain's government authorized the Ministry of Industry, Energy and Tourism to grant ALESTIS Aerospace aid amounting to €19 million for its participation in the development program of the Airbus A350 XWB. Aid corresponds to the schedule for 2013, which was not paid initially because the company was bankrupt at that time. Measures taken in connection with ALESTIS ensure the successful outcome of its participation in the A350 XWB program, which is considered strategic for the aviation industry in Spain. In 2014, the industry had a turnover of €7.6 billion euros and directly employed approximately 40,300 people.

In the case of Airbus commercial programs, ALESTIS supplies parts and components for the A380, A330, A320, and A350 aircrafts, among others. Regarding Airbus military programs, ALESTIS supplies parts and components for the CN235/C295 and A400M. It is also a supplier for Embraer and Boeing. Headquartered in Seville, ALESTIS has seven production facilities, six in Spain and one in Brazil, and employs approximately 1,600 people.

Government Support for Aircraft Engines

United Kingdom: Propulsion is an area considered important to the future of the United Kingdom aerospace industry, so the Department for Business, Innovation, and Skills (BIS) has extended support to Rolls-Royce for the development of environmentally friendly engine technologies. This funding is directed through established research funding channels, though the government has provided occasional direct support to Rolls-Royce over the past five years. The United Kingdom also provides repayable funds, known as Repayable Launch Investment (RLI), towards the design and development of civil aerospace projects in the United Kingdom. In 2011 and 2012, the United Kingdom RLI expenditure totaled £75 million ($120 million). BIS forecasts current commitments from 2012-2013 to 2014-2015 to be £160 million ($256 million) with a further £200 million ($320 million) forecasted beyond this period. Since 1997, the United Kingdom has invested nearly £1 billion ($1.6 billion) in RLI projects.

CUSTOMS ADMINISTRATION

Notwithstanding the existence of customs laws that govern all Member States, the EU does not administer its laws through a single customs administration. Rather, there is a separate agency responsible for the administration of EU customs law in each of the 28 Member States. No EU institutions or procedures successfully ensure that EU rules on classification, valuation, origin, and customs procedures are applied uniformly throughout the Member States, other than the Binding Tariff Information program offered at the EU level that provides advance rulings on tariff classification and country of origin only. No EU rules require the customs agency in one Member State to follow the decisions of the customs agency in another Member State with respect to materially identical issues.

In some cases, where the customs agencies in different Member States administer EU law differently, the matter may be referred to the Customs Code Committee (CCC). The CCC is an entity established by the Community Customs Code to assist the Commission. The CCC consists of representatives of the Member States and is chaired by a representative of the Commission. While a stated goal for the CCC is to help reconcile differences among Member State practices and thereby help to achieve uniformity of administration, in practice its success in this regard has been limited.

Not only are the CCC and other EU-level institutions ineffective tools for achieving the uniform administration and application of EU customs law, but the EU also lacks tribunals or procedures for the prompt review and EU-wide correction of administrative actions relating to customs matters. Instead, review is provided separately by each Member State’s tribunals and rules regarding these reviews vary from Member State to Member State. Thus a trader encountering differing treatment in multiple Member States must bring a separate appeal in each Member State whose agency rendered an adverse decision.

Ultimately, a question of interpretation of EU law may be referred to the CJEU. The judgments of the CJEU have effect throughout the EU. However, referral of a question to the CJEU generally is discretionary, and CJEU proceedings can take years. Thus obtaining corrections with EU-wide effect for administrative actions relating to customs matters is a cumbersome and frequently time-consuming process.

The United States has raised each of the preceding concerns with the EU in various fora, including the WTO DSB. The concerns have taken on new prominence in light of the expansion of the EU and the T-TIP negotiations.

The Commission has expressed its intent to modernize and simplify customs rules and processes. The Commission adopted the Union Customs Code (UCC) in October 2013 and sent it to the Council and the Parliament for co-decision under the ordinary legislative procedure. The UCC is expected to enter into effect in 2016, once the Commission acts (delegated and implementing acts) related to the Union Modernized Community Customs Code are adopted and in force. In July 2015, the Commission adopted a delegated act with regard to some of the provisions of the UCC, including simplification of certain customs procedures and clarifications to help ensure the equal treatment of economic operators. The United States will monitor the implementation process closely, focusing on its impact on the consistency of treatment under EU customs law.

ELECTRONIC COMMERCE

In May 2015, the Commission issued its communication on the creation of an EU Digital Single Market (DSM), intended to eliminate internal market barriers within the EU's digital services economy. The Commission launched a number of initiatives in 2015 to advance its DSM agenda, including conducting a review of the Satellite and Cable Directive; drafting a new e-Government Action Plan; developing an ICT standards plan; developing plans for a "cybersecurity contractual public-private partnership;" conducting an analysis of Internet platforms; analyzing data flow issues; and reviewing legislative proposals on geo-blocking. The Commission also launched a competition inquiry into the e-commerce sector and adopted telecommunications regulations for roaming services and net neutrality policy.

Cross-Border Contract Consultation

In June 2015, the Commission opened a consultation on harmonization of contract rules for online purchases of digital content and physical goods. The Commission also expressed concern over a perceived relative lack of legal remedies in certain cases, such as for "defective" digital content purchased online. Specific proposals included expanding the cases in which vendors may rely on their own national laws when selling to other European markets and improving coordination and monitoring for infringements of consumer protection rules.

It is not yet known whether, and to what extent, greater regulatory harmonization would be beneficial for U.S. online vendors selling in Europe. On the one hand, the Commission's proposal to create "harmonized EU rules for online purchases of digital content" should reduce burdens for all sellers, including U.S. vendors. In particular, this should help smaller players to scale up in Europe, demanding fewer resources to manage legal differences between markets. On the other hand, we do not know what shape regulatory harmonization will take on other aspects of cross-border e-ecommerce that could cause concern for providers of digital content. These include possible new rules affecting contracts between such providers and users, remuneration for damage done by "defective" digital content, and data portability requirements. Also, while it seems reasonable to assume that U.S.-based vendors would be able to rely on the laws of the country of their European headquarters, this has not been made explicit.

The DSM also includes a review of the Regulation on Consumer Protection Cooperation, which lays out basic EU requirements for national governments to coordinate consumer protection enforcement activities among the Member States. The United States is supportive of greater harmonization of consumer protection rules across Member States, improved cooperation among enforcement authorities, and decreased administrative burdens for online businesses. At the same time the EU's actions should not erect barriers to trade outside of the EU. The Commission will establish an EU-wide online dispute resolution platform, but it will be important to know whether non-EU providers will be forced to use it or whether they will have a choice to use it, which could influence consumer choice in the marketplace.

Electronic Commerce Inquiry

On May 6, 2015, the Commission launched an inquiry into the "e-commerce sector" to identify potential competition concerns. The inquiry is focused on potential barriers to cross-border trade in goods and services, including such products as electronics, clothing, and digital content. DG Competition is examining whether companies are creating barriers to cross-border online trade through measures like restrictive contract terms and other business practices. The investigation has been inserted into the broader discussion on geo-blocking, which is sure to be one of the practices competition officials probe for potential impacts on the cross-border provision of physical goods (*i.e.*, through retailing sites like Amazon) and content (*i.e.*, through video on-demand services like Netflix). The Commission expects to release a preliminary report on its findings by mid-2016. The Commission has announced that this will be followed by another public consultation and then a final report in the first quarter of 2017. Given the negative impact new rules in this area could have on U.S. suppliers and the questionable consumer benefits that might ensue, the United State will monitor such proceedings carefully.

Internet Platforms

The DSM strategy announced a "[c]omprehensive assessment of the role of platforms in the market including illegal content on the Internet." The term "platform" applies to a wide array of leading online services mostly based in the United States (e.g., search engines, social media, and online marketplaces). The Commission fears that such players can quickly become Internet "gatekeepers," with a potentially harmful ability to shape how third-party companies gain access to consumers and how online information is presented. It also has several more specific concerns, including transparency of their business practices, gathering and uses of data, and bargaining power relative to the online businesses reliant on platforms.

The Commission is simultaneously exploring whether to increase online intermediaries' network and system management responsibilities as they pertain to illegal content and to require some platforms to more proactively monitor and filter such content *(i.e.,* a "duty of care"), despite logistical difficulties and implications for free expression. Consequently, the Commission may eventually introduce a new regulatory regime to more tightly control platforms' behaviors. The e-Commerce Directive 2000/31/EC currently grants limitations of liability to intermediary service providers.

Both these initiatives appear motivated, at least in part, by legacy businesses struggling to compete against the efficiencies provided by Internet-based commerce. This underscores the risk that even well-intentioned goals can, if implemented through heavy-handed regulation, or even just threat thereof, seriously undermine innovative business development and hurt the EU's own efforts to inject more dynamism into its markets.

Mandatory Fees for Linking to Content Published Online ("Link Tax")

Over the past several years, publishers in Europe have been advocating for the right to impose fees for the right to link to content published online. This effort appears to target in particular news aggregators that index stories and allow users to more conveniently find and access such content by the inclusion in search results of headlines or other extracts of the stories that the underlying publisher typically offers, without charge (e.g., supported by advertising) on its own website. Aggregators, including but not limited to U.S. service suppliers, have pushed back against such requirements, arguing that that they help drive traffic to publishing sites, and therefore help increase viewership and revenue, and should not be required to pay for a valuable service they provide. After Belgium and Germany attempted to impose such requirements, some aggregators simply dropped links to sites seeking additional compensation, causing publishers in those countries to opt out of requiring such payments after they evaluated the economic impact. In late 2014, however, Spain passed a similar measure called "Canon AEDE," which, unlike in Germany and Belgium, made such payments mandatory (*i.e.*, publishers could not opt out of requiring payments for links). As a result of this new law, many aggregators, including from the United States, simply pulled out of the Spanish market. A 2015 study by the Spanish Association of Publishers of Periodical Publications (AEEP) revealed that publishers' revenue decreased and that many smaller publishers, which had depended on aggregators, were disproportionately affected. Since parts of the EU publishing industry are advocating adopting similar measures EU-wide, which will likely have a negative effect on many U.S. stakeholders, this issue bears careful monitoring, as well as stepped-up engagement with the EU to ensure that innovative business models are beneficial to EU content suppliers themselves.

Data Flows and the Privacy Shield

The U.S.-EU Safe Harbor Framework, or "Safe Harbor," was negotiated between the U.S. Department of Commerce and the Commission in 2000 to enable U.S.-based companies across many sectors of the economy to receive personal data of EU citizens in compliance with the EU's 1995 Data Protection Directive (1995/46). The framework, administered by the Department of Commerce and enforced by the Federal Trade Commission, allowed U.S. companies that self-certified to the program to move personal data from the EU to the United States. On October 6, 2015, the CJEU struck down the Commission decision that had found the U.S.-EU Safe Harbor Framework adequate under EU Directive 95/46. The CJEU ruling has created tremendous legal uncertainty for both U.S. and European businesses dependent on the framework (*i.e.*, certified companies and at times their subsidiaries, clients, and suppliers).

Following the CJEU ruling, the United States and the EU continued to discuss enhancements to the framework that would be the basis for a new adequacy finding by the Commission. On February 2, 2016, the United States and the EU reached agreement on renamed new framework to be known as the Privacy Shield, which contains a new set of enhanced commitments and an explanations of U.S. laws. The Commission is now in the process of consulting with the European Parliament and the Article 29 Working Party. The Commission is expected, by mid-2016, to formally adopt a decision finding the Privacy Shield Framework essentially equivalent to EU privacy requirements, which would allow U.S. and EU companies to continue to transfer data across the Atlantic.

GHANA

TRADE SUMMARY

The U.S. goods trade surplus with Ghana was $578 million in 2015, a 36.8 percent decrease ($337 million) over 2014. U.S. goods exports to Ghana were $887 million, down 25.2 percent ($299 million) from the previous year. Corresponding U.S. imports from Ghana were $309 million, up 13.9 percent. Ghana was the United States' 82nd largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Ghana (stock) was $3.1 billion in 2013 (latest data available).

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Ghana issues its own standards for most products under the auspices of the Ghana Standards Authority (GSA). The GSA has promulgated more than 500 Ghanaian standards and adopted more than 2000 international standards for certification purposes. The Food and Drugs Authority is responsible for enforcing standards for food, drugs, cosmetics, and health items.

Some imports are classified as “high risk goods” (HRG) that must be inspected by GSA officials at the port to ensure they meet Ghanaian standards. The GSA classifies these high risk goods into 20 broad groups, including food products, electrical appliances, and used goods. U.S. stakeholders have found this classification system vague and confusing. For example, the category of “alcoholic and nonalcoholic products” could include anything from beverages to pharmaceuticals to industrial products. According to GSA officials, these imports are classified as high risk because they pose “potential hazards,” although that phrase remains undefined.

Importers of high risk goods must register and obtain approval from GSA prior to importing any of these goods. In particular, the importer must submit to GSA a sample of the good, accompanied by a certificate of analysis (COA) or a certificate of conformance (COC) from an accredited laboratory in the country of export. Frequently, GSA officials will conduct a physical examination of the goods and check labeling and marking requirements to ensure that they are released within 48 hours. Currently, the fee for registering the first three high risk goods is GHS 100 (about $26) and GHS 50 (about $13) for each additional product. Any such good entering Ghana without a COC or COA from an accredited laboratory is detained and subjected to testing by the GSA. The importer is required to pay the testing fee based on the number of products and the parameters tested.

Expiration Date and Fat Content Requirements

The GSA requires that all food products carry expiration and shelf life dates. Expiration dates must extend at least to half the projected shelf life at the time the product reaches Ghana. Goods that do not have half of their shelf life remaining are seized at the port of entry and destroyed. The United States has raised this issue with Ghana in recent years and questioned its consistency with the Codex Alimentarius (Codex) Commission General Standard for Labeling of Pre-packaged Foods.

To address human health risks, Ghana prohibits the importation of meat with a fat content by weight greater than 25 percent for beef, 25 percent for pork, 15 percent for poultry, and 30 percent for mutton. Imported turkeys must have their oil glands removed. Ghana also restricts the importation of condensed or evaporated milk with less than 8 percent milk fat by weight, and dried milk or milk powder containing less than 26 percent by weight of milk fat, with the exception of imported skim milk in containers.

IMPORT POLICIES

Tariffs

According to the WTO, Ghana's average unweighted most favored nation (MFN) applied tariff rate in 2013 (most recent available) was 12.9 percent. For agricultural goods, the average applied tariff was 17 percent, and for non-agricultural products, it was 12 percent. The Economic Community of West African States (ECOWAS), of which Ghana is a member, has proposed that all members adopt a five-band common external tariff (CET). CET rates went in effect in Ghana on February 1, 2016. Once in force, the CET will consist of the following five tariff bands: zero duty on essential social goods (*e.g.*, medicine, publications); five percent duty on imported foods of primary necessity, raw materials and specific inputs; 10 percent duty on intermediate goods; 20 percent duty on final consumption goods; and 35 percent duty on goods in certain sectors that the government seeks to protect, such as poultry and rice. Ghana currently maintains tariffs on 190 products that do not align with the CET.

Ghana has bound all agricultural tariffs in the WTO at an average of 96.5 percent, more than five times the average level of its MFN applied rates on agricultural goods. On industrial goods, almost all of Ghana's tariffs are unbound at the WTO, such that Ghana could raise tariffs to any rate at any time without violating its WTO commitments, which contributes to uncertainty for importers and exporters.

Nontariff Measures

Importers are confronted by a variety of fees and charges in addition to tariffs. Ghana levies a 15 percent value-added tax (VAT) plus a 2.5 percent National Health Insurance levy on the duty-inclusive value of all imports and locally-produced goods, with a few selected exemptions. Since 2014, Ghana levies a 17.5 percent VAT-like tax to all refined petroleum products. In addition, Ghana imposes a 0.5 percent ECOWAS surcharge on all goods originating from non-ECOWAS countries and charges 0.4 percent of the free onboard value of goods (including VAT) for the use of the Ghana Community Network (GCNet), an automated clearing system.

Under the Export Development and Agricultural Investment Fund (EDAIF) Act, Ghana imposes a 0.5 percent duty on all non-petroleum products imported in commercial quantities. Ghana also applies a one percent processing fee on all duty-free imports. Ghana imposes a Special Import Levy of one percent on the cost, insurance, and freight (CIF) value of goods under chapters 84 and 85 of the Harmonized System schedule which covers, *inter alia*, boilers and certain types of machinery, electrical machinery, mechanical appliances and recording devices, while the import levy applied to all other imports, except for some petroleum products and fertilizers, is equal to two percent of the CIF value. Importers have complained that the *ad valorem* fees are not based on the cost of the services rendered. The EDAIF Act was amended in 2013 to expand the scope of exemptions.

A separate examination fee of one percent is applied to imported vehicles. Imported used vehicles that are more than 10 years old incur an additional tax ranging from 2.5 percent to 50 percent of the CIF value. The Customs Division of the Ghana Revenue Authority maintains a price list that is used to determine the value of imported used vehicles for tax purposes. This system is not transparent because the price list used for valuation is not publicly available.

At present, Ghana bans the importation of tilapia in order to protect local fishermen. The government requires certificates for imports of food, cosmetics, and agricultural and pharmaceutical goods. The government also requires permits for imports of poultry and poultry products. At present, poultry import permits are used to limit the quantity of imports and to impose a domestic poultry purchase requirement.

All communications equipment imports require a clearance letter from the National Communications Authority. Securing a clearance letter prior to importation can help avoid delays at the port of entry.

Customs Procedures

Ghanaian port practices continue to present major obstacles to trade. Port officials inspect all imports on arrival, causing delays and increased costs. Importers report erratic application of customs regulations, lengthy clearance procedures, and corruption. The resulting delays contribute to product deterioration and result in significant losses for importers of perishable goods. Ghana Ports and Harbor Authority (GPHA) is working to modernize both the Ports of Tema and Takoradi.

Additionally, Ghana's ports suffer from congested roads and lack a functioning rail system to transport freight, creating long queues for ships to berth at cargo terminals and containers waiting to be transported out of the ports. Recognizing that port delays significantly increase the cost of doing business, in September 2015, the Government initiated the Single Window System. Through the Single Window, Ghana is integrating import and export logistics and automating payments. The new system should increase transparency and reduce the processing time. With its implementation, the Customs Division of the Ghana Revenue Authority has taken the role once occupied by five licensed destination inspection companies (DICs), who many believe were the source of the long clearance delays. The Single Window System allows importers and exporters to electronically file documents (including customs declarations and certificates of origin), track transaction status online, submit electronic payments, and access links to other regulatory agencies.

GOVERNMENT PROCUREMENT

Some large public procurements are conducted with open tendering and allow the participation of non-domestic firms; however, single source procurements are common on many government contracts. A guideline that applies to current tenders gives a margin of preference of 7.5 percent to 20 percent to domestic suppliers of goods and services in international competitive bidding. Notwithstanding the public procurement law, companies report that locally funded contracts lack full transparency. Supplier- or foreign government-subsidized financing arrangements appear in some cases to be a crucial factor in the award of government procurements. Allegations of corruption in the tender process are fairly common.

Ghana is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Ghana maintains laws that pertain to copyrights, trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications, and industrial designs. However, owners of intellectual property rights file very few trademark, patent, or copyright infringement cases in local courts. Companies that initiate cases continue to report prolonged waits for resolution, a possible factor in discouraging other companies from filing cases. In addition, there continues to be virtually no government initiated enforcement of intellectual property rights. However, the Copyright Office, which is under the Attorney General's Office, periodically initiates raids on physical markets for pirated works. The Customs Service has also collaborated in the past with concerned companies to inspect import shipments. Ghana customs officials participated in U.S. sponsored IPR training sessions in 2014.

SERVICES BARRIERS

Telecommunications

The National Communications Authority (NCA), under the Electronic Communications Act of 2008, regulates and manages the nation's telecommunications and broadcast sectors. The NCA restricts licenses in the 800 MHz band of spectrum to entities registered to operate in Ghana. Foreign investors seeking to operate in Ghana must create a joint venture or consortium that includes a minimum of 35 percent indigenous Ghanaian ownership in order to obtain a license. Applicants without the minimum 35 percent Ghanaian ownership in place within 13 months from the effective date of the license risk severe penalties. In 2013, a portion of Ghana's 4G LTE bandwidth was auctioned under restrictions that prevented foreign-invested enterprises (FIEs) from being directly involved; three successful bidders are now in varying stages of building out 4G networks in Ghana's larger cities.

Following legislation enacted in 2009, Ghana requires a minimum rate of $0.19 per minute for terminating international calls into Ghana, significantly higher than the average rate prior to 2009. This rate increase has correlated with a decrease in call volume from the U.S. to Ghana.

INVESTMENT BARRIERS

Ghana's investment code excludes foreign investors from participating in eight economic sectors: petty trading; the operation of taxi and car rental services with fleets of fewer than 25 vehicles; lotteries (excluding soccer pools); the operation of beauty salons and barber shops; printing of recharge scratch cards for subscribers to telecommunications services; production of exercise books and stationery; retail of finished pharmaceutical products; and the production, supply, and retail of sachet water.

Mining

Ghana restricts the issuance of mining licenses based on the size of the mining operation. Foreign investors are restricted from obtaining a Small Scale Mining License, that is, for mining operations that equal an area less than 25 acres (10 Hectares). Non-Ghanaians may only apply for a mineral right in respect of industrial minerals provided the proposed investment in the mineral operations is $10 million or above.

Oil and Gas

The oil and gas sector is subject to a variety of state ownership and local content requirements. All entities seeking petroleum licenses in Ghana must create a consortium in which the state-owned Ghana National Petroleum Company (GNPC) holds a 10 percent to 25 percent stake. GNPC and Parliament must issue and approve all licenses. Further, local content regulations spell out targets for in-country procurement of supplies, equipment, and services, as well as for local employment. The regulations also spell out mandatory local equity participation for all suppliers and contractors. The Minister of Petroleum must approve all contracts, sub-contracts, and purchase orders above $100,000. Non-compliance with these regulations may result in a criminal penalty, including imprisonment for up to five years.

The Petroleum Commission applies registration fees and annual renewal fees on foreign oil and gas service providers, which, depending on a company's annual revenues, range from $70,000 to $150,000, compared to fees of between $5,000 and $30,000 for local companies.

Insurance

The National Insurance Commission (NIC) imposes nationality requirements with respect to the board and senior management of locally-incorporated insurance and reinsurance companies. At least two board members must be Ghanaians, and either the Chairman of the board or Chief Executive Officer (CEO) must be Ghanaian. In situations where the CEO is not a Ghanaian, the NIC requires that the Chief Financial Officer be Ghanaian. Minimum initial capital investment in the insurance sector is GHS15 million ($4 million).

Foreign Investment Projects

All foreign investment projects must register with the Ghana Investment Promotion Center. While the registration process is designed to be completed within five business days, the process often takes significantly longer. Foreign investments are also subject to the following minimum capital requirements: $200,000 for joint ventures with a Ghanaian partner; $500,000 for enterprises wholly-owned by a non-Ghanaian; and $1 million for trading companies (firms that buy or sell imported goods or services) wholly owned by non-Ghanaian entities. Trading companies are also required to employ at least 20 skilled Ghanaian nationals.

OTHER BARRIERS

Foreign investors experience difficulties and delays in securing required work visas for their non-Ghanaian employees. The process for obtaining required work permits can be unpredictable and take several months from application to delivery. Obtaining access to land may also be challenging for foreign investors. Non-Ghanaians are only permitted to acquire interests in land on a long-term leasehold basis, and Ghana’s complex land tenure system makes establishing clear title on real estate difficult.

Foreign investors in Ghana must also contend with a politicized business community and a lack of transparency in certain government operations. Entrenched local interests can derail or delay new entrants. The political leanings of the Ghanaian partners of foreign investors are often subject to government scrutiny. Corruption among government and business figures also remains a concern. Ghanaian law enforcement and judicial bodies have robust legal powers to fight corruption in the country, but the government does not implement anticorruption laws effectively.

GUATEMALA

TRADE SUMMARY

U.S. goods exports in 2015 were valued at $5.9 billion, down 1.7 percent from the previous year. Guatemala is currently the 40th largest export market for U.S. goods. Corresponding U.S. imports from Guatemala were $4.1 billion, down 2.3 percent. The U.S. goods trade surplus with Guatemala was $1.7 billion in 2015, a decrease of $3 million from 2014.

U.S. foreign direct investment (FDI) in Guatemala (stock) was $1.2 billion in 2014 (latest data available), a 5.0 percent increase from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Guatemalan sanitary and phytosanitary import requirements change frequently, often without prior World Trade Organization (WTO) notification. As a result, U.S. agricultural exports are sometimes detained at port until a final permit or waiver is issued. Guatemala lacks a science-based risk analysis approach for non-processed products, and imposes state-by-state certification requirements. Thus, U.S. exporters face different phytosanitary attestation requirements on the Plant Health Certificate required by Guatemala. For example, U.S. seed potato exports are denied market access if produced in 10 select U.S. states out of the 15 producing states, in spite of U.S. Government efforts to demonstrate to the Guatemalan Ministry of Agriculture (MAGA) there is a national certification program in place.

Guatemala fumigates more than 90 percent of U.S. agricultural products entering Guatemala. In fact, even though U.S. grain exports are fumigated while en route, almost all U.S. grain that entered Guatemala in 2013 and 2014 was re-fumigated in Guatemala. Guatemala's extensive fumigation of U.S. agricultural products results from the failure of the MAGA to implement adequately a science-based official quarantine pest list. Guatemala published an official quarantine pest list for the first time in November 2015, but its implementation is still pending. Fees generated by the fumigations are provided to the Organization for Inter-Regional Agricultural Health (OIRSA), Guatemala's inspection regulatory authority. USDA will continue to engage with Guatemala regarding pest detection and fumigation issues.

In July 2014, MAGA implemented Regulation 382-2014 that requires exporters/importers to pay for MAGA officials to inspect processing plants and storage facilities in the country of origin and country of export. MAGA did not notify the regulation to the WTO and has not responded to inquiries by USDA regarding its implementation. The regulation applies to U.S. seafood, lamb, and other products. MAGA requires that the competent authority in the United States request the inspection. Neither federal nor state agencies have a mechanism in place to comply with MAGA's request. USDA will continue to address this issue with Guatemala.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Guatemala applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions. Under the CAFTA-DR, however, 100 percent of originating U.S. consumer and industrial goods enter Guatemala duty free as of January 1, 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Guatemala duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

In addition, more than half of U.S. agricultural exports enter Guatemala duty free under the CAFTA-DR. Guatemala will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain products, tariff-rate quotas (TRQs) permit duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period. Guatemala will liberalize trade in white corn through continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Nontariff Measures

All CAFTA-DR countries, including Guatemala, committed to improve transparency and efficiency in administering customs procedures. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods. Customs information for Guatemala is available at: http://portal.sat.gob.gt/sitio/.

Guatemala's denial of claims for preferential treatment for U.S. products under the CAFTA-DR continues to be an occasional source of difficulty in exporting to Guatemala. U.S. companies have raised concerns that the Guatemalan Customs Administration (part of the Superintendence of Tax Administration) is using reference prices, such as prices from imports in previous months, to adjust invoice price declarations.

In addition, stakeholders report that Guatemalan customs authorities occasionally challenge declared tariff classifications, including for products for which the tariff classifications should be straightforward, and attempt to reclassify the products so that they are subject to a higher tariff. These practices raise concerns that the customs administration might be denying U.S. products preferential treatment under the CAFTA-DR and instead imposing tariffs and other retroactive charges as a means of increasing revenue. The United States will continue to raise these concerns with Guatemala.

Guatemala eliminated its previous "consularization" requirement for the Certificate of Free Sale for processed food products as of July 2015.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases as well as timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Guatemalan government entities, including government ministries and sub-central and state-owned entities, on the same basis as Guatemalan suppliers. The anticorruption provisions in the CAFTA-DR apply *inter alia* to government procurement.

Reforms of Guatemala's Government Procurement Law in 2009 simplified bidding procedures, eliminated the fee previously charged to suppliers for bidding documents, and provided an additional opportunity for suppliers to raise objections to the bidding process. Furthermore the Guatemalan Congress approved reforms to the Government Procurement Law in November 2015 that will improve procurement transparency and efficiency by barring government contracts for financers of political campaigns/parties, members of Congress, other elected officials, government workers, and their family members. Recent reforms will expand the scope of procurement oversight to include public trust funds and all institutions (including NGOs) executing public funds and will also eliminate some of the special-purpose mechanisms used to avoid competitive bidding processes. However, foreign suppliers must submit their bids through locally-registered representatives, a process that can place foreign bidders at a competitive disadvantage.

Some U.S. companies have complained that the procurement process is not transparent, highlighting instances in which a Guatemalan government entity subject to CAFTA-DR obligations makes a direct purchase without issuing a tender or when a CAFTA-DR covered entity does not provide the required minimum 40 days from the notice of procurement for interested parties to prepare and submit bids. For example, U.S. stakeholders have raised concerns with an increasing tendency by some government entities to undertake major procurements through unusual special-purpose mechanisms, such as on an emergency basis. The United States has engaged with Guatemala to raise these concerns, seek fair and transparent treatment for U.S. companies, and continue to monitor Guatemala's government procurement practices to ensure they are applied in a manner consistent with Guatemala's CAFTA-DR obligations.

Guatemala is not a signatory to the WTO Agreements on Government Procurement**.**

EXPORT SUBSIDIES

Guatemala currently employs an export incentive program in the "Law for the Promotion and Development of Export Activities and Drawback." Guatemala provides tax exemptions and duty benefits to companies that import over half of their production inputs or components and export their completed products. Investors are granted a 10-year exemption from both income taxes and the Solidarity Tax, which is Guatemala's temporary alternative minimum tax. Additionally, companies are granted an exemption from the payment of tariffs and value-added taxes on imported machinery and a one-year suspension (extendable to a second year) of the same tariffs and taxes on imports of production inputs and packing material. Taxes are waived when the goods are re-exported.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Guatemala remained on the Watch List in the 2015 Special 301 Report as some problems continue. Guatemala has a sound intellectual property rights (IPR) legal framework, but enforcement efforts are hampered by limited resources and the need for better coordination among law enforcement agencies. Pirated and counterfeit goods continue to be widely available, and Guatemala has reportedly become a source of counterfeit pharmaceutical products. Trademark squatting and the government use of unlicensed software were also noted as significant areas of concern. Guatemalan administrative authorities issued rulings on applications to register geographical indications that appear sound and well-reasoned for compound Geographical Indications (GI) names, but certain rulings on requests to register single-word GI for certain cheeses have raised concern that U.S. exporters may not be able to export certain types of cheeses to Guatemala.

In late 2014, the Guatemalan Congress reversed positive steps taken toward fulfilling Guatemala's CAFTA-DR obligation to join the International Convention for the Protection of New Varieties of Plants (UPOV

Convention). It is unclear if the Guatemalan Congress will work on the creation of a new UPOV implementing bill to comply with this obligation. The United States will continue to engage Guatemala on these and other concerns, including through the Special 301 process and will continue to monitor Guatemala's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Professional Services

Public notaries must be Guatemalan nationals. Foreign enterprises may provide licensed professional services in Guatemala only through a contract or other relationship with an enterprise established in Guatemala.

Telecommunications

In April 2014, the Guatemalan Congress approved a new telecommunications law to strengthen the country's data transmission infrastructure. Some stakeholders have raised concerns that the conditions imposed appear to discriminate against small and new suppliers. The Constitutional Court provisionally suspended some provisions of the law in June 2014, but has not issued a final ruling as of November 2015. The Guatemalan Telecommunications regulatory authority is currently implementing the provisions in the law that have not been suspended.

INVESTMENT BARRIERS

Some U.S. companies operating in Guatemala have raised concerns that complex and unclear laws and regulations constitute barriers to investment. Resolution of business and investment disputes through Guatemala's judicial system is extremely time-consuming, and civil cases can take many years to resolve. Administrative and judicial decision-making can, at times, be inconsistent, nontransparent, and very time-consuming. In addition, government institutions in Guatemala can be prone to third-party influence. U.S. firms and citizens have found corruption in the government, including in the judiciary, to be a significant concern and a constraint to investment.

Delays and uncertainty in obtaining licenses from relevant Guatemalan authorities for exploration and operation in extractive industries have the effect of inhibiting current and potential investments from U.S. firms.

HONDURAS

TRADE SUMMARY

The U.S. goods trade surplus with Honduras was $480 million in 2015, a 63.6 percent decrease ($838 million) over 2014. U.S. goods exports to Honduras were $5.2 billion, down 12.1 percent ($722 million) from the previous year. Corresponding U.S. imports from Honduras were $4.8 billion, up 2.5 percent. Honduras was the United States' 42nd largest goods export market in 2015.

Sales of services in Honduras by majority U.S.-owned affiliates were $512 million in 2013 (latest data available).

U.S. foreign direct investment (FDI) in Honduras (stock) was $754 million in 2014 (latest data available), a 2.3 percent decrease from 2013. U.S. direct investment in Honduras is led by manufacturing, finance/insurance, and wholesale trade.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. CAFTA-DR includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, labor, and environment.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Honduras applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions.

Under the CAFTA-DR, 100 percent of originating U.S. consumer and industrial goods enter Honduras duty free. Nearly all textile and apparel goods that meet the Agreement’s rules of origin also enter Honduras duty free and quota free, creating opportunities for U.S. fiber, yarn, fabric, and apparel manufacturers.

In addition, more than half of U.S. agricultural exports currently enter Honduras duty free. Honduras will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2023 for rice and chicken leg quarters, and 2025 for dairy products). For certain products, tariff-rate quotas (TRQs) permit duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period. Honduras will liberalize trade in white corn through continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Honduras delayed issuing TRQ permits for imports of white corn and milled rice from the United States in 2015, reportedly to complete an audit of permit requests. Instead of making the permits available on January 1 of each year, such that the TRQ would be available for the entire calendar year, Honduras issued the white corn permits in its permitting system in July 2015 and the milled rice permits in its permitting system in September 2015. The United States raised concerns with Honduras regarding this delay and pressed Honduras to issue the 2016 white corn and milled rice permits on schedule in January. The import permits for white corn were issued at the beginning of March 2016. As of mid-March import permits for milled rice have not been issued. The United States will continue to carefully monitor Honduran issuance of these permits.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including Honduras, committed to improve transparency and efficiency in administering customs procedures. All CAFTA-DR countries, including Honduras, also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and all CAFTA-DR countries agreed to share with each other information to combat illegal trans-shipment.

The Executive Tax Authority (DEI), the Honduran customs and tax agency, has responsibility for verification of origin of imported goods. The DEI verifies that claims of origin comply with the requirements of the CAFTA-DR and other international agreements. DEI has implemented a much stricter and more rigorous approach to customs compliance since January 2014. Honduran importers are charged a duty and fines whenever DEI does not accept the claim of origin. U.S. exporters and Honduran importers report that DEI has also begun to charge fines for minor errors, and that DEI does not always make clear which information in a claim of origin is in error.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurements covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on the procurements of most Honduran government entities, including those of key ministries and state-owned enterprises, on the same basis as Honduran suppliers. There is no requirement that U.S. firms act through a local agent to participate in public tenders. The anticorruption provisions in the CAFTA-DR apply *inter alia* to government procurement.

Information on public tenders frequently is not available in a timely fashion and official bidding processes are not always followed. The U.S. Embassy continues to work with the Honduran government to increase the transparency of government procurement and to ensure fair treatment for U.S. companies.

The U.S. Commercial Service/Global Markets (Department of Commerce) organized a workshop on government procurement in Tegucigalpa in July 2015 for over 80 Honduran government purchasing officials. The workshop highlighted the importance of transparency, openness, and efficiency in government procurement. The Department of Commerce funded the event, which included the participation of the Inter-American Development Bank, World Bank, Transparency International, the Millennium Challenge Corporation, local government entities, and private sector associations.

Honduras is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

Honduras currently employs the following export incentive programs: Free Trade Zone of Puerto Cortes (ZOLI), Export Processing Zones (ZIP), and Temporary Import Regime (RIT).

Honduras provides tax exemptions to firms in free trade zones. Under the CAFTA-DR, Honduras may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). However, Honduras may maintain such duty waiver measures for such time as it is an Annex VII country for the purposes of the WTO Agreement on Subsidies and Countervailing Measures.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2015, the United States engaged Honduras on the pressing need to address ineffective IPR enforcement, including the need for trained criminal IPR enforcement personnel and a dedicated investigative unit. Primary concerns include cable signal theft and trade in counterfeit goods, especially in pharmaceuticals.

INVESTMENT BARRIERS

Honduran law places certain restrictions on foreign ownership of land within 40 kilometers of the coastlines and national boundaries. However, foreigners are allowed to purchase properties (with some acreage restrictions) in designated tourism zones established by the Ministry of Tourism in order to construct permanent or vacation homes.

Inadequate land title procedures have led to numerous investment disputes involving U.S. nationals owning land in Honduras. Resolving disputes in court can be very time consuming. There have been claims of widespread corruption in land sales and property registration and in the dispute resolution process, including claims against attorneys, real estate companies, judges, and local officials. The property registration system is highly unreliable, creating a major impediment to investment. In addition, the lack of implementing regulations can lead to long delays in the awarding of titles in certain regions. An especially problematic area has been the north coast, in particular the Bajo Aguan Valley.

OTHER BARRIERS

Some U.S. firms and citizens have reported that corruption in government, including in the judiciary, is a significant concern and a constraint to successful investment in Honduras despite efforts by the Hernandez administration to attempt to address the issue. These reports suggest that corruption is pervasive in government procurement, issuance of government permits, real estate transactions (particularly land title transfers), and the regulatory system. The telecommunications, health, and energy sectors appear to be particularly problematic.

The Honduran government relies on its principal public-private partnership mechanism, the Commission for the Promotion of Public Private Partnerships (COALIANZA), to enlist private financing in the development of public infrastructure. A lack of transparency in COALIANZA's processes, its omission from the national budget, and alleged wrongdoing by its employees has tarnished the agency's public standing, raised concerns about its effectiveness and made it difficult for businesses to participate in its projects. In response to these concerns, the Honduran National Congress passed reforms to COALIANZA's legal authorities that require greater oversight from the Ministry of Finance and clarify its authority to generate its own revenue. Additionally, COALIANZA published a manual of processes and publishes its monthly expenditures in the Honduran government's Portal of Transparency website. However, it is still difficult to determine which funds are appropriated for public-private partnership projects within the national budget.

HONG KONG

TRADE SUMMARY

The U.S. goods trade surplus with Hong Kong was $30.5 billion in 2015, a 12.9 percent decrease ($4.5 billion) over 2014. U.S. goods exports to Hong Kong were $37.2 billion, down 9.0 percent ($3.7 billion) from the previous year. Corresponding U.S. imports from Hong Kong were $6.7 billion, up 14.2 percent. Hong Kong was the United States' 9th largest goods export market in 2015.

U.S. exports of services to Hong Kong were an estimated $10.0 billion in 2014 (latest data available), and U.S. imports were $7.6 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were $33.8 billion in 2013 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were $4.2 billion.

U.S. foreign direct investment (FDI) in Hong Kong (stock) was $66.2 billion in 2014 (latest data available), a 10.4 percent increase from 2013. U.S. direct investment in Hong Kong is led by wholesale trade, nonbank holding companies, and finance/insurance.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Hong Kong government published a draft Code of Marketing and Quality of Formula Milk and Related Products and Food Products for Infants & Young Children (Code) in October 2012. If implemented as currently drafted, stakeholders are concerned that the Code, together with related legislative proposals, would pose significant trade barriers to manufacturers and distributors of imported infant and follow-up formula. The United States is continuing to engage with the Hong Kong government on this measure, including with respect to whether it is more restrictive than relevant international standards.

Sanitary and Phytosanitary Barriers

Hong Kong implemented a positive pesticide maximum residue limit list regulation in August 2014. Food containing a pesticide not on the list will be prohibited from import or sale unless it is shown that consumption of the food would not be dangerous or prejudicial to health. The United States continues to work with the Hong Kong food safety authority to include additional U.S.-approved pesticides on the list.

IMPORT POLICIES

Hong Kong is a special administrative region (SAR) of the People's Republic of China, and the Hong Kong Basic Law provides for a high degree of autonomy in all matters but defense and foreign affairs. For trade, customs, and immigration purposes, Hong Kong is an independent administrative entity with its own tariffs, trade laws, and regulations, and is a separate Member of both the WTO and APEC. The Hong Kong government pursues a market-oriented approach to commerce. Hong Kong is a duty-free port, with few barriers to trade in goods and services and few restrictions on foreign capital flows and investment.

COMPETITION POLICY

Hong Kong's first comprehensive competition law – the Competition Ordinance (Ordinance) – was passed by the Legislative Council in June 2012 and entered into effect on December 14, 2015. The Ordinance contains rules to prohibit anticompetitive agreements, abuse of market power, and anticompetitive mergers and acquisitions. The merger and acquisition rule applies only with respect to carrier license holders in the telecommunications sector. The maximum penalties under the Ordinance are 10 percent of the company's turnover obtained in Hong Kong for each year of violation, up to a maximum of three years, and disqualification from direct or indirect involvement in the management of a company for up to five years. The law exempts 575 of Hong Kong's 581 statutory bodies from its coverage.

The government established a Competition Commission (Commission) and a Competition Tribunal (Tribunal) in 2013. The Commission is empowered to investigate anticompetitive conduct and promote public understanding of the value of competition. The Tribunal is charged with adjudicating cases brought before it following an investigation by the Commission. In October 2014, the Commission launched a two-month public consultation on six draft regulatory guidelines under the Competition Ordinance. In November 2014, Legislative Council (LegCo) passed amendments to the Ordinance, empowering the tribunal to prohibit persons from leaving Hong Kong and to award interest on debts and damages for which judgment is given. The Commission submitted the guidelines to the LegCo for discussions in early 2015 and published the final version of the guidelines in July 2015. In September 2015, the Commission published, for public comment, a draft leniency policy under the Ordinance. The Commission considered that it was in the public interest to induce cartel participants to cease participating in cartel conduct and to report that conduct by granting them lenient treatment in exchange for providing evidence of the infringement. The public consultation ended in October 2015, allowing the Commission to adopt a final policy prior to full implementation of the Ordinance.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Hong Kong generally provides robust IPR protection and enforcement and has strong laws in place. Hong Kong also maintains a dedicated and effective enforcement capacity, a judicial system that supports enforcement efforts with deterrent fines and prison sentences, and youth education programs that discourage IPR infringing activities. On the other hand, Hong Kong's failure to update its 1997 Copyright Ordinance has made it vulnerable to some forms of IPR infringement, such as online copyright piracy facilitated by the rapid growth of unauthorized file sharing over peer-to-peer networks and end-user business software piracy. An additional concern is that, although the Hong Kong Customs and Excise Department (HKCED) routinely seizes IPR infringing products arriving from mainland China and elsewhere, stakeholders report that counterfeit pharmaceuticals, luxury goods, and other infringing products continue to transit Hong Kong in significant quantities, destined for both the local market and places outside of Hong Kong.

INDIA

TRADE SUMMARY

In 2015, total (two-way) goods and services trade between the United States and India was $107.3 billion. U.S. exports of goods and services to India were $38.9 billion, up 3.2 percent from 2014, and imports from India were $68.7 billion, up 3.7 percent from 2014. As a result, the overall U.S. trade deficit with India increased to $29.7 billion in 2015.

The U.S. goods trade deficit with India was $23.2 billion in 2015, a 1.8 percent decrease over 2014. U.S. goods exports to India were $21.5 billion, down 0.4 percent from the previous year. Corresponding U.S. imports from India were $44.7 billion, down 1.1 percent. India was the United States' 18th largest goods export market in 2015.

U.S. exports of services to India were an estimated $17.2 billion in 2015, an increase of 13.3 percent from 2014. U.S. services imports from India were an estimated $23.7 billion, up 14 percent from 2014.

U.S. foreign direct investment (FDI) in India (stock) was $28.0 billion in 2014 (latest data available), a 11.7 percent increase from 2013. U.S. direct investment in India is led by prof., scientific, and tech. services, manufacturing, and wholesale trade.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The United States discusses TBT matters with India during TBT Committee meetings at the World Trade Organization (WTO), as well as on the margins of these meetings. U.S. Government officials also discuss such matters with Indian officials under the United States-India Trade Policy Forum (TPF), which met at the Ministerial level in October 2015.

Cosmetics - Registration Requirements

On December 31, 2014, India’s Ministry of Health (MoH) invited comments on a new draft of the Drugs and Cosmetics (Amendment) Bill 2015. U.S. stakeholders provided comments to India expressing concern with a new and vague category of “new cosmetics,” the proposed application of clinical trials requirements to cosmetics, and what stakeholders deemed to be excessive damages provisions in the event of spurious products. India has not yet published a revised draft of the bill.

India banned imports of animal-tested cosmetics on February 15, 2015, as a result of Rule 135-B of the Drug and Cosmetics (Fifth Amendment) Rules, 2014, announced through the Central Drugs Standard Control Organization (Office of Drugs Controller General India) Circular. India had previously banned domestic cosmetic testing on animals in May 2014 (Gazette of India, Ministry of Health and Family Welfare, “Notification” dated May 21, 2014). U.S. exporters have reportedly encountered difficulties proving that cosmetics comply with the animal testing ban and have yet to receive guidelines from the Indian government on how to do so.

Food - Package Size and Labeling Requirements

The government of India mandated standard retail package sizes for 19 categories of foods and beverages effective November 1, 2012, via amendment to the Legal Metrology (Packaged Commodities) Rules, 2011. This rule has not been notified to the WTO, nor is there any reference to a specific comment period for domestic stakeholders. As the United States does not impose specific standards for packaging size, and U.S. package sizes tend to be in English rather than metric units, the list of package sizes effectively prevents many U.S.-origin products from entering India. Attempts to import such U.S.-origin products have resulted in rejection at the port of entry. These standards are having a negative effect on trade, with numerous U.S. brands effectively excluded from the Indian market. The United States has repeatedly raised concerns about these standards in various bilateral and multilateral fora and continues to work with India to ensure that U.S. brands have access to the Indian market. During the October 2015 TPF, India and the United States agreed that "[d]iscussion of mandatory package size requirements for pre-packaged foods will continue in 2016."

Other issues related to packaging and labelling requirements were advanced during the October 2015 TPF. In the TPF joint statement, India noted its "change to allow stickering of maximum retail price at the port." In line with India's 2014 commitment under the TPF, India's Legal Metrology eliminated conflicting labeling requirements on May 14, 2015 and noted in the 2015 TPF joint statement "that determination of wholesale and retail labeling requirements are not dependent on the weight of imported food consignments."

Foods Derived from Biotechnology Crops

Soybean oil, derived from genetically engineered (GE) soybeans, remains the only biotech food or agricultural product currently approved for import into the Indian market. Domestic importers or the foreign exporter must have each biotechnology product approved by the Indian government before imports may begin. Bt cotton is the only biotechnology crop approved for commercial cultivation in India. Despite the resumption of the regulatory approval processes for biotech products during the first half of 2014, India's biotechnology approval processes remain slow, opaque, and subject to political influences. India's apex biotechnology regulatory body, the Genetic Engineering Appraisal Committee (GEAC), was generally inactive in 2015. It met in September and December 2015 and reauthorized ongoing GE field trials and granted permission for new GE field trials to be conducted in 2016/17. However, no new GEAC approvals were granted for GE field crop trails during the January, February or March 2016 meetings. This slow and uncertain process, mainly due to issues related to domestic cultivation, continues to negatively impact product registrations needed to facilitate trade in biotechnology products. India has yet to submit any notifications to WTO regarding biotechnology issues.

In the event that additional biotechnology products are approved for import in the future, the labeling requirements for packages containing "genetically modified" foods remain unclear. Lack of clarity regarding jurisdictional authority between the Food Safety and Standards Authority of India (FSSAI) and the Ministry of Consumer Affairs could also have negative effects on U.S. biotechnology products entering the Indian market.

Livestock Genetics

The Department of Animal Husbandry, Dairying, and Fisheries (DAHDF) of the Ministry of Agriculture imposes restrictions on imports of livestock genetics, requires progeny testing, and establishes quality standards. Importation of animal genetics also requires a "no objection certificates" (NOCs) from the state government, import permission from the Directorate General of Foreign Trade, and import permit from the DAHDF. The entire procedure for obtaining import permission takes four months or longer. Neither the burdensome progeny testing nor the NOC are required of domestic producers of animal genetics. The United States discussed these requirements in technical animal health meetings held in September 2015 with the DAHDF, but has not received a substantive response.

Telecommunications Equipment - Security Regulations

In 2009 and 2010, India promulgated a number of regulations negatively impacting trade in telecommunications equipment, including mandatory transfer of technology and source code, as well as burdensome testing and certification requirements for telecommunications equipment. While India removed most of these measures in response to international stakeholders' concerns, India retains the objective of testing all "security-sensitive" telecommunications equipment in India starting April 1, 2016. However, the testing criteria have yet to be published or notified to the WTO, and India's domestic security testing capacity is currently very limited. It is unclear whether that capacity will increase sufficiently by the deadline. U.S. stakeholders have urged the government of India to postpone the initiative until clarity is provided through guidelines, and India issues appropriate timelines for implementation. U.S. Government officials and U.S. stakeholders have continued to urge India to reconsider the domestic testing policy and to adopt the use of the Common Criteria Recognition Arrangement. In 2015, the United States raised issues related to telecommunications security testing requirements bilaterally under the TPF and in the WTO TBT Committee.

Electronics and Information Technology Equipment - Safety Testing Requirements

Since 2012, the United States has been actively raising the concerns of the U.S. electronics and information and communications technology (ICT) manufacturers regarding the Indian Department of Electronics and Information Technology's (DEITY) Compulsory Registration Order (CRO). The CRO prescribes safety standards and in-country testing requirements for electronic and ICT goods. The policy, which entered into force in January 2014, mandates that manufacturers register their products with laboratories affiliated or certified by the Bureau of Indian Standards (BIS), even if the products have already been certified by accredited laboratories. The government of India has never articulated how such a domestic certification requirement advances India's legitimate public safety objectives. In 2015, the coverage of the CRO increased from 15 to 30 product categories. U.S. stakeholders have raised concerns with the government of India that include delays in product registration due to the lack of government testing capacity, a cumbersome registration process, and tens of millions of dollars in additional compliance costs, which include factory-level and component–level testing.

The domestic testing requirement is particularly burdensome for Highly Specialized Equipment (HSE), including servers, storage, printing machines, and ICT products that are installed, operated, and maintained by professionals who are trained to manage the product's inherent safety risks. These products pose little risk to the general public consumer. U.S. companies have incurred significant expenses providing testing samples, which were destroyed during the safety testing process in Indian laboratories. Indian laboratories have also indicated that they do not have the capacity to test some products that require industrial power supply, exceed household or office voltage, or are very large in size and weight. Moreover, U.S. exporters are forced to leave their products in these laboratories for extended and undefined periods of time. To avoid unnecessary and overly burdensome requirements, the United States has expressed that the government of India should exclude the HSE from the scope; harmonize labeling requirements with global practices; harmonize the validity period of test reports and certification; and eliminate re-testing requirements. The

United States raised this issue bilaterally, including during technical exchanges under the TPF, and multilaterally in the WTO TBT Committee in 2015.

Dairy Products

Since 2003, India has imposed unwarranted SPS requirements on dairy imports. Beginning in 2010, U.S. and Indian technical experts engaged on the subject, eventually reaching agreement on most issues, excluding cattle feed. It was hoped that President Obama's visit to India in November 2010 would generate the political will in India to open up trade. However, India declined the U.S. offer to certify that dairy cattle were fed 100 percent vegetarian diets for up to 90 days prior to production, effectively impeding progress. India continues to insist on religious and cultural grounds that dairy products be derived from animals who have never received any non-vegetarian feeds. This stringent requirement continues to prevent market access for U.S. milk and dairy product exports to India, one of the largest dairy markets in the world. The United States and India restarted technical discussions on animal health issues, including dairy, in 2015 and plan to continue these discussions in 2016. The United States will continue to seek market access for U.S. dairy products in India during these discussions.

Alcoholic Beverage Standards

On December 1, 2015 India notified a draft standard on alcoholic beverages to the WTO. The United States has a range of concerns, including on prohibitions on a number of additives that are standard industry practice for alcohol and wine production. These prohibitions fall outside of the standards set in the Codex Committee on Food Additives. In addition, several ingredient limits and production method specifications place unnecessary restrictions on the formulations of alcoholic beverages. This new standard builds on already onerous labeling and testing requirements. The United States views India as an important export market for alcoholic beverages and continues to take every opportunity to express concerns on the restrictive approach to the regulation of alcoholic beverages in India.

Sanitary and Phytosanitary Barriers

The United States has raised concerns about India's SPS-related trade restrictions in bilateral and multilateral fora including the TPF, the WTO SPS Committee, and Codex. The United States will continue to make use of all available fora with a view to securing the entry of U.S. dairy, poultry, pork, and other agricultural products, including alfalfa hay, cherries, strawberries, shrimp feed, pet food, and live animals into the Indian market. As part of the TPF, the United States and India met for a plant health bilateral meeting in March 2015, followed by an animal health bilateral meeting in September 2015. Both countries agreed during the October 2015 TPF that these bilateral meetings would also be held in 2016; the plant health bilateral meeting was held in February 2016. In addition, bilateral meetings on food safety and technical issues will also be held in 2016 under the umbrella of the TPF.

Food - Product Testing

FSSAI's Authorized Officer at the Mumbai Sea Port and Airport posted a notice in 2013 stating that "100 percent samples" will be drawn from all imported agricultural consignments effective from September 13, 2013. This notice broadens a 2004 Ministry of Commerce and Industry list of "high risk" food items, imports of which are subject to 100 percent sampling. This change was never notified to the WTO. Importers expressed concerns about both the increase in cost of testing and increased detention of cargoes for indeterminate periods of time, which is particularly costly with respect to perishable products. In June 2015, India announced a plan to transition its imported food inspection protocol from batch-to-batch inspections and sampling to a risk-based approach. During discussions at the TPF, Indian officials noted that they are actively working to develop and implement a risk-based inspection system and provided a general overview of its approach. The United States is collaborating with India on developing more specific guidance and a timeline to transition its inspections protocols.

Food - Product Approval

In May 2013, the FSSAI issued an advisory on new procedural guidelines for approval of food products, effective immediately. These guidelines were not notified to the WTO and apply to both domestic and imported foods. These guidelines supersede all preceding advisories and apply to approvals of food products for which standards are not specified under the Food Safety and Standards Act, 2006. FSSAI's product approval process came under intense media and political scrutiny in 2015 following a series of high-profile mistakes. In August 2015, the Supreme Court of India upheld an earlier decision by the High Court of Bombay, which ruled that FSSAI did not have the legal authority to maintain its product approval regime, as per the May 2013 advisory. FSSAI has stopped issuing product approvals in order to come into compliance with the Supreme Court's decision and is seeking a new approach to regulate new food and beverage products. U.S. stakeholders report confusion over products that were not yet approved or rejected under the old system and whether these products may now enter India.

Pork

The current Indian import certificate for pork requires that importers make an attestation that imported pork does not contain any residues of pesticides, drugs, mycotoxins, or other chemicals above maximum residue levels prescribed in international standards. However, this certificate fails to identify specific compounds and their corresponding international limits. India also limits pork imports to meat derived from animals that were never fed ruminant derived protein, requires attestations that are not consistent with international requirements, and prohibits imports of pork products obtained from animals raised outside the United States even if they were legally imported into the United States before slaughter. Further, veterinary certificates are valid for only six months, and a separate import permit must be obtained for each imported lot.

On March 16, 2015, India notified to the WTO a draft veterinary certificate for the import of pork and pork products for comment. On November 6, 2015, the Department of Animal Husbandry, Dairying, and Fisheries published a new veterinary health certificate for pork and pork product imports. To date, this veterinary health certificate has not been notified to the WTO. The primary concerns that the United States identified in the veterinary certificate include: (1) requirement of meat exports from U.S.-origin animals only; (2) separate processing facilities of meat from animals of differing species (*i.e.*, no beef in pork products); (3) veterinary drug residues; and (4) animal disease restrictions. In 2015, the United States and India began technical discussions on animal health issues, including pork, and discussed U.S. concerns. The United States will continue to seek market access for U.S. pork products in India under these discussions in 2016.

Poultry

Since 2007, India has banned imports of U.S. poultry, swine, and related products due to the detection of low pathogenic and highly pathogenic avian influenza in the United States. However, processed poultry meat and pork products are purportedly exempted from this ban. The United States has repeatedly raised concerns about India's measures in the WTO SPS Committee, has discussed these concerns bilaterally with India, and in 2012, filed a dispute settlement case at the WTO. Both the panel hearing the dispute and the Appellate Body found that India's avian influenza measures breach numerous provisions of the WTO SPS

Agreement. On June 19, 2015, the WTO Dispute Settlement Body (DSB) adopted the Appellate Body and panel reports. On July 17, 2015, India indicated it would bring its measures into compliance with the adverse findings. The United States and India have agreed that India has until June 19, 2016, to comply with the DSB's recommendations and rulings. Separately in 2015, FSSAI notified a Draft Order on Meat and Poultry to the WTO. The United States provided comments on the draft order and highlighted concerns regarding: (1) the requirement that imported meat be derived from animals that were never fed ruminant derived protein; (2) individual establishment approvals instead of the U.S. preference for a systems approach; and (3) veterinary drug residues.

Plant Health

India maintains zero-tolerance standards for certain plant quarantine pests, such as weed seeds and ergot, resulting in blocked U.S. wheat and barley imports. Bilateral discussions to resolve these issues, including at the senior official level, have achieved little success to date.

The government of India's requirement of methyl bromide (MB) fumigation at the port of origin as a condition for the import of pulses is not feasible in the United States. This is due to the U.S. phase-out of MB due to its demonstrated negative impact on the environment. In August 2004, the United States requested India to permit entry of U.S. peas and pulses subject to inspection and fumigation at the port of arrival. India has granted a series of extensions allowing MB fumigation on arrival, but has offered no permanent solution. On February 24, 2016, India's Ministry of Agriculture confirmed the extension of the fumigation-upon-arrival waiver for U.S. peas and pulses, including chickpeas, until September 30, 2016. While these extensions have not blocked trade, they are frequently last-minute and create uncertainty for U.S. exporters.

IMPORT POLICIES

The United States has actively sought bilateral and multilateral opportunities to open India's market, and the government of India has pursued ongoing economic reform efforts. Nevertheless, U.S. exporters continue to encounter tariff and nontariff barriers that impede imports of U.S. products into India.

Tariffs and other Charges on Imports

The structure of India's customs tariff and fees system is complex and characterized by a lack of transparency in determining net effective rates of customs tariffs, excise duties, and other duties and charges. The tariff structure of general application is composed of a basic customs duty, an "additional duty," a "special additional duty," and an education assessment ("cess").

The additional duty, which is applied to all imports except for wine, spirits, and other alcoholic beverages, is applied on top of the basic customs duty, and is intended to correspond to the excise duties imposed on similar domestic products. The special additional duty is a four percent *ad valorem* duty that applies to all imports, including alcoholic beverages, except those imports exempted from the duty pursuant to an official customs notification. The special additional duty is calculated on top of the basic customs duty and the additional duty. In addition, there is a three percent education cess (surcharge) applied to most imports, except those exempted from the cess pursuant to an official customs notification. India charges the cess on the total of the basic customs duty and additional duty (not on the customs value of the imported product). A landing fee of one percent is included in the valuation of all imported products unless exempted through separate notification.

While India publishes applied tariff and other customs duty rates applicable to imports, there is no single official publication publically available that includes all relevant information on tariffs, fees, and tax rates on imports. However, as part of its computerization and electronic services drive, in 2009 India initiated a web-based Indian Customs Electronic Commerce/Electronic Data Interchange Gateway, known as ICEGATE (http://icegate.gov.in). It provides options for calculating duty rates, electronic filing of entry documents (import goods declarations) and shipping bills (export goods declarations), electronic payment, and online verification of import and export licenses. In addition to being announced with the annual budget, India's customs rates are modified on an *ad hoc* basis through notifications in the Gazette of India and contain numerous exemptions that vary according to the product, user, or specific export promotion program, rendering India's customs system complex to administer and open to administrative discretion.

India's tariff regime is also characterized by pronounced disparities between bound rates (*i.e.*, the rates that under WTO rules generally cannot be exceeded) and the most favored nation (MFN) applied rates charged at the border. According to the latest WTO data, India's average bound tariff rate was 48.6 percent, while its simple MFN average applied tariff for 2014 was 13.5 percent. Given this large disparity between bound and applied rates, U.S. exporters face tremendous uncertainty because India has considerable flexibility to change tariff rates at any time. India's average WTO-bound tariff for agricultural products is 114 percent. Applied rates are also relatively high since the average applied agricultural tariff is 33.5 percent. On a trade-weighted basis, the average agricultural tariff is 52 percent. In addition, while India has bound all agricultural tariff lines in the WTO, over 30 percent of India's non-agricultural tariffs remain unbound (*i.e.*, there is no WTO ceiling on the rate).

Despite its goal of moving toward Association of Southeast Asian Nations (ASEAN) tariff rates (approximately 5 percent on average), India has not systematically reduced the basic customs duty in the past six years. India also maintains very high tariff peaks on a number of goods, including flowers (60 percent), natural rubber (70 percent), automobiles and motorcycles (60 percent to 75 percent), raisins and coffee (100 percent), alcoholic beverages (150 percent), and textiles (some *ad valorem* equivalent rates exceed 300 percent). Rather than liberalizing its customs duties, India instead operates a number of complicated duty drawback, duty exemption, and duty remission schemes for imports. Eligibility to participate in these schemes is usually subject to a number of conditions.

In 2014, India increased tariffs on certain categories of telecommunications equipment. U.S. companies have raised significant concerns with this action.

In 2015, India increased duties on a variety of goods. In August 2015, it increased duties on certain iron and steel products; Notification No. 46/2015-Customs, dated September 17, 2015, levied a 12.5-percent basic tariff on crude palm oil and increased basic rates in most categories of other edible oil by 5 percent; and Notification 51/2015-Customs, dated October 19, 2015, raised the basic customs duty on wheat from the rate of 10 percent to 25 percent.

India maintains very high basic customs duties, in some cases exceeding 20 percent, on drug formulations, including life-saving drugs and finished medicines listed on the World Health Organization's list of essential medicines (http://www.who.int/medicines/publications/essentialmedicines/en/index.html). India also imposes a 7.5 percent basic customs duty, 12.5 percent additional duty, and a 4 percent special additional duty for medical equipment and devices, such as pacemakers, coronary stents and stent grafts, and surgical instruments; and for parts of medical devices, such as medical grade polyvinyl chloride sheeting for the manufacture of sterile Continuous Ambulatory Peritoneal Dialysis bags for home dialysis. The basic customs duty on specified inputs for manufacturing flexible medical video endoscope was halved to 2.5 percent in March 2015, and the United States continues to urge India to reduce or eliminate high tariffs in the healthcare and other sectors.

Many of India's bound tariff rates on agricultural products are among the highest in the world, ranging from 100 percent to 300 percent. While many Indian applied tariff rates are lower (averaging 33.5 percent on agricultural goods in 2014), they still present a significant barrier to trade in agricultural goods and processed foods (*e.g.*, potatoes, apples, grapes, canned peaches, chocolate, cookies, and frozen French fries and other prepared foods used in quick-service restaurants). The large gap between bound and applied tariff rates in the agriculture sector allows India to use tariff policy to make frequent adjustments to the level of protection provided to domestic producers, creating uncertainty for importers and exporters. For example, in January 2013, India issued a customs notification announcing an immediate doubling of the tariff on imports of crude edible oils.

Imports are subject to state level value-added or sales taxes and the Central Sales Tax as well as various local taxes and charges. India allows importers to apply for a refund of the special additional duty paid on imports subsequently sold within India and for which the importer has paid state level value-added taxes. Importers report that the refund procedures are cumbersome and time consuming. In addition, U.S. stakeholders have identified various state-level taxes and other charges on imported alcohol that appear to be higher than those imposed on domestic alcohol. The central government has taken steps and continues to work with state governments to adopt a national goods and services tax (GST) that would replace most indirect taxes, including various charges on imports. Implementation of a national GST will first require amending the Indian Constitution. In 2015, India's government introduced the GST Bill in Parliament, but political hurdles have stalled prospects for its passage in the near term.

Import Licenses

India maintains a "negative list" of imported products subject to various forms of nontariff regulation. The negative list is currently divided into three categories: banned or prohibited items (*e.g.*, tallow, fat, and oils of animal origin); restricted items that require an import license (*e.g.*, livestock products and certain chemicals); and "canalized" items (*e.g.*, some pharmaceuticals) importable only by government trading monopolies and subject to cabinet approval regarding import timing and quantity. India, however, often fails to observe transparency requirements, such as publication of timing and quantity restrictions in its Official Gazette or notification to WTO committees.

For purposes of entry requirements, India has distinguished between goods that are new, and those that are secondhand, remanufactured, refurbished, or reconditioned. India allows imports of secondhand capital goods by the end users without an import license, provided the goods have a residual life of five years. India's official Foreign Trade Policy categorizes remanufactured goods in a similar manner to secondhand products, without recognizing that remanufactured goods have typically been restored to original working condition and meet the technical and safety specifications applied to products made from new materials. Refurbished computer spare parts can only be imported if an Indian chartered engineer certifies that the equipment retains at least 80 percent of its life, while refurbished computer parts from domestic sources are not subject to this requirement. India requires import licenses for all remanufactured goods. U.S. stakeholders report that meeting this requirement, like other Indian import licensing requirements, has been onerous. Problems that stakeholders report include: excessive details required in the license application; quantity limitations set on specific part numbers; and long delays between application and grant of the license.

India subjects boric acid imports to stringent restrictions, including arbitrary import quantity approval requirements and conditions applicable only to imports used as insecticide. Traders (*i.e.*, wholesalers) of boric acid for non-insecticidal use cannot import boric acid for resale because they are not end-users of the product and consequently cannot obtain "no objection certificates" (NOCs) from the relevant Indian government ministries and departments or import permits from the Ministry of Agriculture. NOCs are required before applying for import permits from the Ministry of Agriculture's Central Insecticides Board & Registration Committee. Meanwhile, local refiners continue to be able to produce and sell boric acid for non-insecticidal use subject only to a requirement to maintain records showing they are not selling to end users who will use the product as an insecticide. The United States urged India to eliminate its import licensing requirements on boric acid in meetings of the WTO Import Licensing Committee and the TPF during 2015, and the United States and India have committed to continue discussing the issue under the TPF in 2016.

Customs Procedures

U.S. exporters have raised concerns regarding India's application of customs valuation criteria to import transactions. India's valuation procedures allow Indian customs officials to reject the declared transaction value of an import when a sale is deemed to involve a lower price than the ordinary competitive price, effectively raising the cost of exporting to India beyond applied tariff rates. U.S. companies have also faced extensive investigations related to their use of certain valuation methodologies when importing computer equipment. Companies have reported being subjected to excessive searches and seizures of imports.

Furthermore, as explained above, India does not assess the basic customs duty, additional duty, and special additional duty separately on the customs value of a given imported product. Rather, India assesses each of these duties cumulatively; that is, the additional duty is assessed on the sum of the actual (or transaction) value and the basic customs duty, while the special additional duty is assessed on the sum of the actual (or transaction) value, the basic customs duty, and the additional duty. This raises concerns about the potential for importers paying higher duties than they should be liable for on the basis of the actual value of their imported product.

India's customs officials generally require extensive documentation, inhibiting the free flow of trade and leading to frequent and lengthy processing delays. In large part, this is a consequence of India's complex tariff structure, including the provision of multiple exemptions which vary according to product, user, or intended use. While difficulties persist, India has shown improvement in this area through the automation of trade procedures, including through the ICEGATE (http://icegate.gov.in) portal and other initiatives. The government of India is increasing use of electronic forms and only three documents are now required for importers and exporters for 13 separate government agencies, which has reduced wait times from weeks to days. India is also integrating an "Indian Trade Portal" for one-stop import and export information. A Customs Clearance Facilitation Committee was established in April 2015 at major ports, bringing together representatives from each of the regulatory agencies commonly involved in clearing shipments (Central Board of Excise and Customs, "Circular No 13/2015-Customs," April 13, 2015).

GOVERNMENT PROCUREMENT

India lacks an overarching government procurement policy, and as a result, its government procurement practices and procedures vary among the states, between the states and the central government, and among different ministries within the central government. Multiple procurement rules, guidelines, and procedures issued by multiple bodies have resulted in problems with transparency, accountability, competition, and efficiency in public procurement. A World Bank report stated that there are over 150 different contract formats used by the state owned Public Sector Units, each with different qualification criteria, selection processes, and financial requirements. The government also provides preferences to Indian Micro, Small and Medium Enterprises, and to state owned enterprises. Moreover, India's defense offsets program requires companies to invest 30 percent or more of the value of contracts above 3 billion rupees (approximately $56 million) in Indian produced parts, equipment, or services.

India has started the legislative process for enacting a new Procurement Bill. Comments were requested in April 2015. Speaking to foreign investors in September 2015, Finance Minister Arun Jaitley stated that the Procurement Bill is high on the government's agenda and would be put forward for parliamentary approval soon. The Indian Ministry of Defense also announced in August 2015 changes to its offset production regulations for defense industry companies contracting with the Indian government, providing greater flexibility in designating Indian offset production partners. These offset changes will apply to all current and future contracts.

India's National Manufacturing Policy calls for increased use of local content requirements in government procurement in certain sectors (*e.g.*, ICT and clean energy). Consistent with this approach, India issued the Preferential Market Access notification, which requires government entities to meet their needs for electronic products in part by purchasing domestically manufactured goods. India is not a signatory to the WTO Government Procurement Agreement, but is an observer to the WTO Committee on Government Procurement.

EXPORT SUBSIDIES

The Indian government's new Foreign Trade Policy (FTP) 2015-2020 announced on April 1, 2015 is primarily focused on increasing India's exports of goods and services to raise India's share in world exports from 2 to 3.5 percent. The FTP consolidated most of India's existing export subsidies and other incentives into two main export incentive schemes, namely the Manufactured Goods Exports Incentive Scheme (MEIS) and the Service Exports Incentive Scheme (SEIS) that allow benefits on exports.

India maintains several export subsidy programs, including exemptions from taxes for certain export-oriented enterprises and for exporters in Special Economic Zones. Numerous sectors (*e.g.*, textiles and apparel, paper, rubber, toys, leather goods, and wood products) receive various forms of subsidies, including exemptions from customs duties and internal taxes, which are tied to export performance.

India not only continues to offer subsidies to its textiles and apparel sector in order to promote exports, but it has also extended or expanded such programs and even implemented new export subsidy programs that benefit the textiles and apparel sector. As a result, the Indian textiles sector remains a beneficiary of many export promotion measures (*e.g.*, Export-Oriented Units, Special Economic Zones, Export Promotion Capital Goods, Focus Product, and Focus Market Schemes) that provide, among other things, exemptions from customs duties and internal taxes based on export performance.

India maintains a large and complex series of programs that form the basis of India's public stockholding program. India maintains stocks of food grains not only for distribution to poor and needy consumers but also to stabilize prices through open market sales. India uses export subsidies to reduce stocks and has permitted exports of certain agricultural commodities from government public-stockholding reserves at below the government's costs. In August 2013, for example, the government authorized the exportation of two million tons of wheat from government-held stocks. It also lowered the minimum price at which those stocks could be sold to $260 per ton FOB, significantly below the government's acquisition cost of $306 per ton, plus storage, handling, inland transportation cost, and other charges for exports. In February 2014, the Indian Cabinet Committee on Economic Affairs made 4 million metric tons of raw sugar eligible to receive export subsidies under a new, two-year subsidy program. The United States, along with other interested Member countries, has raised this issue in the WTO Committee on Agriculture.

Agriculture Programs

India provides a broad range of assistance to its agricultural sector, including credit subsidies, debt forgiveness, and subsidies for inputs, such as fertilizer, fuel, electricity, and seeds. These subsidies, which are of substantial cost to the government, lower the cost of production for India's producers and have the potential to distort the market in which imported products compete. In addition, producers of 24 agricultural products benefit from the government program to sell to the government at minimum support prices (MSPs). Rice and wheat account for the largest share of products procured by the government and distributed through India's public distribution system. However, in crop year 2014/2015, the Indian government purchased 1.6 million tons of cotton through announced minimum support price operations, at a cost of nearly U.S. $3 billion. Purchases made through these operations cost the government several hundred million dollars over market prices, which had the effect providing a subsidy to the entire cotton crop and distorting market prices and planting decisions. Moreover, much of the subsidized cotton that was procured under minimum support price operations was later exported. High guaranteed minimum support prices and extensive government procurement distorts domestic market prices and incentivizes over production, which restricts demand for imports and distorts international markets.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

India remained on the Priority Watch List in the 2015 Special 301 Report because of concerns regarding weak protection and enforcement of intellectual property rights (IPR). Through the High-level Working Group on Intellectual Property under the TPF, the United States and India have held numerous and regular dialogues on the range of IPR challenges facing U.S. companies in India with the intention of creating stronger IPR protection and enforcement in India.

Fostering an environment that stimulates innovation through, and not at the expense of, IPR is important for improving U.S.-India trade and investment ties and for helping achieve important domestic initiatives of the Modi government. India's pending National IP Policy provides an important opportunity to usher in important IPR-related reforms to support India's domestic and international economic goals, particularly in the important areas of copyrights, patents, trade secrets, and innovation. In October 2014 the Department of Industrial Policy and Promotion (DIPP) constituted a six-member IPR Think Tank (Think Tank) to draft the National IP Policy and to advise the Indian government on IPR issues. On December 24, 2014, the Think Tank released a first draft National IPR Policy for public comment, which outlined recommendations intended to improve the IPR environment in India. The Think Tank revised this draft based upon public feedback and submitted a final set of recommendations to the government of India in 2015. The government is currently reviewing these recommendations with the intention of issuing a final National IPR Policy in the near future.

Comprehensive reform of India's overall IPR regime is important, particularly in the areas of copyrights, patents, trade secrets, and innovation-promotion. The United States commends Indian authorities for conducting small- and large-scale raids surrounding the release of major films in 2015. The United States also welcomed India's positive statements on addressing copyright piracy at the 2015 TPF and urged the government of India to expeditiously introduce the Indian Cinematograph Act to parliament. This act contains important anti-camcording provisions that could further bolster enforcement efforts. Significant additional action is necessary, however, as the effectiveness of copyright enforcement varies greatly among the states and commercial-scale pirating operations are constantly adapting to evade new enforcement methods. Additionally, India's 2012 Copyright Law amendments have not effectively implemented the

World Intellectual Property Organization Internet treaties, including with respect to protecting against the circumvention of technological protection measures.

In the area of patents, there are a number of factors that negatively affect stakeholders' perception of India's overall IPR regime, investment climate, and innovation goals. The United States recognizes the availability of tools and remedies that support patent holders' rights in India, noting, in particular, some court decisions in 2015 that upheld patent rights. However, concerns remain over recent revocations and other challenges to patents, particularly patents for pharmaceutical products. The United States also continues to monitor India's application of its compulsory licensing law, and has requested clarification from the government of India on issues of concern. For example, current Indian law suggests that the lack of local manufacturing in India may be considered in reviewing a request for a compulsory license, and India's National Manufacturing Policy recommends curtailing patent rights to facilitate technology transfer in the clean-energy sector. Furthermore, in April 2013, the Indian Supreme Court stated that India's Patent Law creates a second tier of requirements for patenting certain technologies, like pharmaceuticals, an interpretation that may have the effect of limiting the patentability of an array of potentially beneficial innovations. In addition, while the United States welcomes India's interest in reducing patent review times, the proposed draft patent rules published in October 2015 raise serious concerns, particularly with respect to imposing local manufacturing requirements in exchange for expedited review.

India currently lacks an effective system for protecting against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical and agricultural products. The U.S. Government and stakeholders have also raised concerns with respect to infringing pharmaceuticals being marketed without advance notice or opportunity for parties to resolve their IPR disputes.

India currently lacks a specific law to enforce against trade secrets misappropriation. While other laws may be used in certain circumstances to provide civil and criminal recourse, foreign and domestic Indian companies would benefit from stronger and clearer protection in the market. Under the TPF, the United States has urged India to consider taking steps to address this through standalone legislation.

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SERVICES BARRIERS

The Indian government has a strong ownership presence in major services industries such as banking and insurance. Foreign investment in businesses in certain major services sectors, including financial services and retail, is subject to limitations on foreign equity. Foreign participation in professional services is significantly restricted, and in the case of legal services, prohibited entirely.

Insurance

In March 2015, India's Parliament enacted the Insurance Laws (Amendment) Act, 2015, that allows up to 49 percent FDI in Indian insurance companies, a change long sought by U.S. and other foreign companies. FDI was previously capped at 26 percent. However, the amendment was accompanied by a new requirement that all insurance companies be Indian "controlled." Responding to uncertainty about the meaning of this term, the Insurance Regulatory Authority of India (IRDAI) promulgated guidelines on October 19, 2015 that prescribe conditions for satisfying the "Indian control" requirement. The guidelines include: (1) a mandatory requirement that a majority of directors be nominated by Indian investors; (2) limitations on the rights of foreign-nominated board members; (3) requirements for how "key management persons" are to be appointed; and (4) requirements on the manner in which control over "significant policies" of the enterprise must be exercised. Foreign investors have expressed concern that the new requirements create a rigid structure that ignores operational realities and will dilute the rights of foreign investors in Indian insurance companies, making additional FDI in the sector unattractive. As these guidelines are intended to be applied retroactively, the requirements regarding "control" would apply to existing companies with foreign investment regardless of whether foreign investors plan to increase their equity, in addition to companies planning future investment.

The Insurance Laws (Amendment) Act, 2015, also allows foreign reinsurance companies to open branch offices in India to engage in reinsurance business. The IRDAI promulgated draft regulations regarding reinsurance and issued a revision of the draft regulations in late October 2015. In December 2015, the IRDAI issued another revision to the draft, which gives local Indian reinsurers a mandatory first order of preference (or right of first refusal) for reinsurance business in India. Such a requirement severely restricts the business for which foreign reinsurers could compete, which may decrease the interest of foreign reinsurers to establish branches, with resulting impacts to the supply and cost of reinsurance in the Indian market.

Banking

Although India allows privately held banks to operate in the country, the banking system is dominated by state owned banks, which account for roughly 72.1 percent of total market share and 84 percent of all Indian bank branches. The market participation by foreign banks in India is largely controlled by the Reserve Bank of India (RBI). As of March 2013, India had 26 public sector banks, 20 private Indian-origin banks, 43 foreign banks and over 100 smaller, regional banks and credit cooperatives, with a combined network of over 100,000 branches. Foreign banks, with a combined 327 branch offices, constitute less than one half of one percent of the total bank branches in India, including four U.S. banks with a total of 49 branches. Under India's branch authorization policy, foreign banks are required to submit their internal branch expansion plans on an annual basis, and their ability to expand is hindered by nontransparent limitations on branch office expansion.

Foreign banks also face restrictions on direct investment in Indian private banks. Unlike domestic banks, foreign banks are not authorized to own more than five percent of an Indian private bank without approval by the RBI. Total foreign ownership of any private bank from all sources (foreign direct investment, foreign institutional investors, and nonresident Indians) cannot exceed 74 percent.

RBI released framework guidelines in 2013 governing the establishment of wholly-owned subsidiaries by foreign banks in India. These guidelines contain several provisions that U.S. stakeholders have requested the government of India to clarify. According to the guidelines, foreign banks present in India prior to 2010 will have the option to subsidize or continue to operate as branches. However, the guidelines incentivize foreign banks to subsidize by offering Indian subsidiaries of foreign banks treatment similar to domestic banks when it comes to opening branches.

The passage of certain amendments to the Banking Regulation Act allows Indian business conglomerates and non-bank financial institutions to establish new private banks. In a much lauded move to introduce differentiated licensing, the RBI issued two universal banking licenses, 10 small bank licenses, and 11 payment bank licenses in 2015. However, the RBI restricted total foreign shareholding in any bank established by such entities to 49 percent for the first five years, after which the limit would be the same as that applicable to foreign ownership of other private banks, *i.e.*, 74 percent.

Audiovisual Services

U.S. companies continue to face difficulties with India's "Downlink Policy." Under this policy, international content providers that transmit programming into India using satellite must establish a registered office in India or designate a local agent. U.S. companies have reported that this policy is overly burdensome and serves little practical purpose, other than ensuring the creation of a taxable presence in India. India also requires that foreign investors have a net worth of Rs. 50 million (approximately $800,000) in order to be allowed to downlink one content channel. A foreign investor must have an additional Rs. 25 million (approximately $400,000) of net worth for each additional channel that the investor is allowed to downlink.

The Telecommunications Regulatory Authority of India has introduced new regulations on content aggregation and distribution that eliminates bundling of channels and certain types of distribution partnerships. Content aggregation is commonly used internationally as it allows niche and foreign content to be bundled into and sold by domestic partners without a large local presence or sales force. The new regulations are particularly difficult for small and international content providers, as the result is that these companies must now interact with each of the 60,000 local cable operators, radio, and TV broadcasters that they seek to target.

There are also a number of limits on foreign ownership in the audiovisual and media sectors: cable networks (49 percent); FM radio (26 percent); head-end in the sky (74 percent); direct-to-home (DTH) broadcasting (74 percent); teleports (74 percent); news broadcasting (26 percent); and newspapers (26 percent). Additionally, pending litigation related to audiovisual services, including the acquisition of content and telecasting rights and advertising revenue of foreign telecasting companies, is causing uncertainty for companies considering market entry.

Accounting

Foreign accounting firms face obstacles to entering the Indian accounting services sector. Foreign accounting firms may only practice in India if their home country provides reciprocity to Indian firms. Only accounting firms structured as partnerships under Indian law may supply financial auditing services, and only Indian-licensed accountants may be equity partners in an Indian accounting firm.

Legal Services

At present, membership in the Bar Council of India (BCI), the governing body for the legal profession, is mandatory "to practice law" in India and is limited to Indian citizens. Foreign law firms are not allowed to open offices in India. The Advocates Act, which is administered by BCI, provides for foreign lawyers' or law firms to visit India on a reciprocal basis for temporary periods to advise their clients on foreign law and diverse international legal issues.

Some in India, both in industry and in government, are reviewing the merits of liberalization of the legal services market in India. An inter-ministerial committee led by the Ministry of Commerce is working with BCI to draft a framework that will allow foreign legal firms into India based on reciprocal arrangements. India would possibly implement phased entry for these firms over a period of five to seven years, with each subsequent phase dependent upon the successful completion of the earlier phase. There are no indications of possible timelines for implementation. The United States and India are continuing to discuss liberalization of legal services under the TPF.

Architecture

Although Indian companies continue to demand high quality U.S. design for new buildings and infrastructure development, foreign architecture firms are finding it difficult to do business in India due to the legal environment. An uncertain Indian legal regime for architectural and related services has resulted in court cases against foreign design firms seeking to perform work in India and harassment of their potential clients, causing significant losses for U.S. companies.

Telecommunications

India eliminated a 74 percent cap on FDI in Indian wireless and fixed telecommunications providers in August 2013, though government approval is required for FDI above 49 percent. U.S. companies note that India's one-time licensing fee (approximately $500,000 for a service-specific license, or $2.7 million for an all India Universal License) for telecommunications providers serves as a barrier to market entry for smaller market players.

The government of India continues to hold equity in multiple telecommunications firms. These ownership stakes have caused private carriers to express concern about the fairness of India's general telecommunications policies. For example, valuable wireless spectrum was set aside for Mahanagar Telephone Nigam Limited (MTNL) and Bharat Sanchar Nigam Limited (BSNL), state-owned telecommunications service providers in India, instead of being allocated through competitive bidding. Although MTNL and BSNL did not pay a preferential price for their spectrum, they received their spectrum well ahead of privately owned firms.

Satellite

India's Ministry of Information and Broadcasting (MIB) has issued guidelines that establish a preference for Indian satellites to provide capacity for delivery of Direct-to-Home (DTH) subscription television services. In practice, authorized DTH licensees have not been permitted to contract directly with foreign satellite operators and have encountered procedural and contracting delays when they have sought to do so. Rather, DTH licensees must procure any foreign satellite capacity through the Indian Space Research Organization (ISRO) which, in turn, only permits such procurements if it does not have available capacity on its own system. This issue is compounded by a lack of transparency regarding ISRO's plans for future transponder capacity. If ISRO does permit the use of foreign satellite capacity, the foreign satellite operator must sell the capacity to ISRO, which then resells the capacity to the end-user after adding a surcharge. Foreign satellite operators are thus prevented from developing direct relationships with DTH licensees. This is a particular concern to the United States, as it puts U.S. satellite operators at a competitive disadvantage and prevents DTH licensees from offering a fuller range of services from U.S. satellites. The United States continues to encourage India to adopt an "open skies" satellite policy to allow consumers the flexibility to select the satellite capacity provider that best suits their business requirements and to promote market access for foreign satellite service providers.

Distribution Services

India requires government approval for retailers selling a single brand of product if foreign ownership is above 49 percent. Foreign investments exceeding 51 percent are also contingent on, among other things, a requirement to source from Indian firms at least 30 percent of the value of products sold, preferably sourcing from small and medium sized enterprises (although, DIPP's Press Note No. 12 (2015 Series) of November

2015 allows the government to relax the local sourcing requirement for "state of the art" or "cutting edge" technology and where local sourcing is not possible).

India permits up to 51 percent foreign ownership in companies in the multi-brand retail sector, but leaves to each Indian state the final decision on whether to authorize such FDI in its territory. In addition, where such FDI is allowed, it is subject to conditions, including requirements for the foreign investor to: invest at least approximately $100 million, of which at least 50 percent must be in "back-end infrastructure" (*e.g.*, processing, distribution, quality control, packaging, logistics, storage, and warehouses) within three years of the initial investment; open stores only in cities that have been identified as eligible by the respective state government; and source from "Indian 'small enterprises' which have a total investment in plant and machinery not exceeding" $2 million or at least 30 percent of the value of products sold.

Indian states have periodically challenged the activity of direct selling (the marketing and selling of products to consumers away from fixed locations) as violations of the Prize Chits and Money Circulation Schemes (Banning) Act of 1978 (Prize Chits Act), creating uncertainty for companies operating in the direct selling industry. This central government legislation contains no clear distinction between fraudulent activities and legitimate direct-selling operations. Enforcement of the Prize Chits Act is reserved to the states, which have adopted varying implementation guidelines and taken unexpected enforcement actions on the basis of the ambiguous provisions of the Act, including the arrest of a chief operating officer of a direct selling company.

Stakeholders have asked DIPP to issue guidance establishing a definition of direct selling and clarifying ambiguities, including uncertainty related to commissions earned in connection with the sale of products. In 2012, the Ministry of Finance issued draft guidelines designed to guide the preparation of state measures implementing the Prize Chits Act. Rather than clarifying the distinction between fraudulent schemes and legitimate business operations, however, the draft guidelines contained provisions making many standard direct selling activities, including activities that go to the core of the direct selling business model, inconsistent with the Prize Chits Act. As of October 2015, the Indian Institute of Corporate Affairs (IICA), under the Ministry of Corporate Affairs, issued a white paper on direct selling. The IICA initiated discussions with stakeholders and has received positive feedback from U.S. stakeholders. Under the TPF, the United States encouraged India to move ahead with reforms outlined in the white paper, which include efforts to distinguish legitimate direct selling from illegal pyramid schemes, including establishing a clear legal definition of direct selling, a central regulatory body, and a mandatory registration process.

Education

Foreign suppliers of higher education services interested in establishing a presence in India face a number of barriers, including: a requirement that representatives of Indian states sit on university governing boards; quotas limiting enrollment; caps on tuition and fees; policies that create the potential for double-taxation; and difficulties repatriating salaries and income from research.

ELECTRONIC COMMERCE

India allows for 100 percent FDI in business-to-business (B2B) electronic commerce, but largely prohibits foreign investment in business-to-consumer (B2C) electronic commerce transactions. In practice, this has meant that an inventory-led electronic retailing model cannot attract FDI whereas a market-place based electronic retailing model can still attract FDI. The only exception allowing for B2C foreign investment in electronic commerce was published in November 2015 by the Ministry of Commerce and Industry, DIPP, Press Note No. 12 (2015 Series) and states that single brand retailers that meet certain conditions, including the operation of physical stores in India, may undertake retail trading through electronic commerce. This narrow exception limits the ability of the majority of potential B2C electronic commerce foreign investors to access the Indian market.

India's 2011 Information Technology Rules govern the liability of internet intermediaries (internet service providers (ISPs), hosting services, search engines, social networks, online forums, and other web platforms) for content on their networks. U.S. stakeholders have raised concerns that these rules are vague and inconsistently applied, and do not provide safeguards against abuse of the process. Any citizen can complain that certain content is "disparaging" or "harmful," and intermediaries must respond by removing that content within 36 hours. Failure to act, even in the absence of a court order, can lead to liability for the intermediary. Such strict rules encourage over-compliance with takedown notices, causing intermediaries to remove content that may not be illegal. Foreign companies providing internet services in India are forced to choose between needlessly censoring their customers and subjecting themselves to the possibility of legal action.

India's National Telecom M2M ("machine to machine") Roadmap, issued in May 2015, recommends the mandatory localization of certain hardware, and preferences for domestic Subscriber Identity modules (SIMs) in devices to be used in India. The objective of the Roadmap appears to be to provide preference for domestic manufacturing of goods with "security implications." The Roadmap recommends requiring that all M2M application servers and gateways serving customers in India be located domestically. Likewise, the Roadmap recommends that foreign SIMs be permitted in devices to be used in India only if they fulfill traceability criteria and that machines sold and manufactured in India should only be equipped with SIMs of Indian telecom providers. The government of India has not yet implemented these recommendations, and it is not clear how they would do so.

OTHER BARRIERS

In 2010, India initiated the Jawaharlal Nehru National Solar Mission (JNNSM), which aims to bring 100,000 megawatts (MW) of solar-based electricity online by 2022, as well as promote solar module manufacturing in India. Under the JNNSM, India imposes certain local content requirements (LCRs) for solar cells and modules. Specifically, under the JNNSM, participating solar power developers must use solar cells and modules made in India in order to enter into long-term power supply contracts and receive other benefits from the Indian government.

On February 6, 2013, the United States requested consultations with India concerning India's domestic content requirements under "Phase I" of the JNNSM. On February 10, 2014, the United States requested supplementary consultations concerning India's domestic content requirements under "Phase II" of the JNNSM. Under Phase II, the LCRs were expanded to cover solar thin film technologies, which comprise the majority of the components made in the United States. Thin film technologies had been excluded from the LCRs under Phase I. In May 2013, the WTO established a panel to examine the LCRs under Phase I and II of the JNNSM. On December 21, 2015, the Panel issued a report finding the LCRs inconsistent with India's national treatment obligations under Article III:4 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and Article 2.1 of the *Agreement on Trade-related Investment Measures* (TRIMS Agreement).

India has steadily increased export duties on iron ore and its derivatives. In February 2011, India increased the export duty on both iron ore fines and lumps from 5 percent and 15 percent, respectively, to 20 percent on both, and increased that export duty to 30 percent in January 2012. A 5 percent *ad valorem* export duty on iron ore pellets has been in place since January 2014. Furthermore, a 10 percent export duty is levied on iron ore containing Fe (iron) less than 58 percent since May 2015. In February 2012, India changed the export duty on chromium ore from Rs. 3,000 per ton to 30 percent *ad valorem*, an increase at current chromium ore price levels. In recent years certain Indian states and stakeholders have increasingly pressed the central government to ban exports of iron ore. India's export duties impact international markets for raw materials used in steel production.

Lack of transparency with respect to new and proposed laws and regulations affecting traders remains a problem due to a lack of uniform notice and comment procedures and inconsistent notification of these measures to the WTO. This in turn inhibits the ability of traders and foreign governments to provide input on new proposals or to adjust to new requirements. In February 2014, India's Ministry of Law and Justice issued a policy on pre-legislative consultation, which was to be applied by all Ministries and Departments of the Central Government before any legislative proposal was to be submitted to the Cabinet for its consideration and approval. The policy also required central government entities to publish draft legislation or a summary of information concerning the proposed legislation for a minimum period of 30 days. Issuance through electronic media was also encouraged in the policy, as were public consultations. However, despite U.S. requests, the Indian government has provided no information on the implementation of the policy, other than to clarify it is only intended to apply to draft legislation, not regulations. U.S. stakeholders continue to report new requirements that are issued with no or inadequate public notice and consultation or without WTO notification. This lack of transparency imparts a lack of predictability in the Indian marketplace, negatively affecting the ability of U.S. companies to enter or operate in the Indian market.

INDONESIA

TRADE SUMMARY

U.S. goods exports in 2014 were $8.3 billion, down 8.4 percent from the previous year. Indonesia is currently the 35th largest export market for U.S. goods. Corresponding U.S. imports from Indonesia were $19.4 billion, up 2.6 percent. The U.S. goods trade deficit with Indonesia was $11.0 billion in 2014, an increase of $1.3 billion from 2013.

U.S. exports of services to Indonesia were $2.2 billion in 2013 (latest data available), and U.S. imports were $692 million. Sales of services in Indonesia by majority U.S.-owned affiliates were $3.2 billion in 2012 (latest data available), while sales of services in the United States by majority Indonesia-owned firms were $85 million.

The stock of U.S. foreign direct investment (FDI) in Indonesia was $12.8 billion in 2013 (latest data available), down from $13.6 billion in 2012. U.S. FDI in Indonesia is led by the mining sector.

Overview

In recent years, Indonesia has enacted numerous regulations on imports that have increased the burden for U.S. exporters. Import licensing procedures and permit requirements, product labeling requirements, pre-shipment inspection requirements, local content and domestic manufacturing requirements, and quantitative import restrictions impede U.S. exports. In addition, the Indonesian government has adopted protectionist measures as it pursues the objective of agricultural self-sufficiency. The United States will continue to press Indonesia to resolve U.S. concerns with Indonesia's restrictive trade and investment policies.

Numerous other measures have been adopted or are being considered in the context of draft legislation, including food and quarantine laws. In January 2014, Indonesia's legislature, the Dewan Perwakilan Rakyat (DPR), passed an industry law (3/2014) outlining a master plan for national industrial development and tariff and non-tariff measures to protect domestic industries, citing protection of natural resources, national interest, and strategic importance. In February 2014, the DPR passed a comprehensive trade law (7/2014), which outlines the government's broad powers to oversee trade, including the ability to limit exports and imports in order to protect domestic interests. To date, only some of the implementing regulations have been published for both the trade and industry laws.

In late 2015 and early 2016, the Indonesian government released ten economic reform packages designed to ease regulatory burdens and attract additional investment. Due to their limited scope and slow implementation, these packages have not yet significantly altered the protectionist nature of Indonesia's trade and investment policies. Nonetheless, these reform packages, along with President Joko Widodo's statement that Indonesia intends to join the Trans-Pacific Partnership, may signal a renewed emphasis on openness and reform in Indonesian economic policymaking.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Toys – Standards and Testing Requirements

In April 2014, Indonesia began enforcing a new mandatory toy regulation (Ministry of Industry (MOI) Regulation 24/2013). Under the regulation, Indonesia will accept test reports from foreign International Laboratory Accreditation Cooperation-accredited laboratories for a two-year period, subject to further registration and sampling requirements, after which the regulation will require a bilateral mutual recognition agreement to avoid in-country testing.

U.S. stakeholders remain concerned about the frequency of testing requirements, which is on a per-shipment basis for imports and every six months for domestic products. They also are concerned about burdensome documentation requirements, as well as specific technical requirements, such as for formaldehyde, which are not based on the latest International Organization for Standardization (ISO) standard. In addition, U.S. stakeholders are concerned about a lack of coordination of Indonesia National Standard registration and pre-shipment inspection. U.S. stakeholders have asked MOI to reduce the inspection frequency once an importer demonstrates a history of compliance along the lines of the U.S. Consumer Product Safety Commission's post-market surveillance approach. Since the regulation came into effect, importers have reported that the import testing and registration process has increased from 15 days to an average of 80 to 90 days. In mid-2015, Indonesia indicated that it was considering amending the regulation, but has not done so to date. The United States has raised concerns over this regulation bilaterally and in the WTO Committee on Technical Barriers to Trade and will continue to work to address concerns with Indonesia on this issue.

Cell Phones, Handhelds, Tablets and Laptops

Indonesia has issued a number of measures that make it more difficult to import cellular and Wi-Fi-equipped products. In late 2012, Indonesia issued Ministry of Trade (MOT) Regulation 82, which was subsequently amended by MOT Regulation 38 in 2013, and MOI Regulation 108. Under this regime, in order to obtain an import license, companies must provide product identification numbers for each imported item, and receive: (1) an import certification from MOI; (2) a certification for telecommunication device and equipment from the Ministry of Communication and Information Technology; and (3) approval of a label written in Bahasa Indonesia. Companies are unable to provide identification numbers months in advance and, as such, therefore often need to apply for this license, as well as the other import license required (as discussed in the Indonesia Import Licensing Section of this report), on a per shipment basis.

Wireless Equipment Certification

The Ministry of Communication and Information Technology published Postel Regulation 5 in 2013, which imposes strict testing requirements on cellular and Wi-Fi equipped products, as well as on notebooks and personal computers. This measure requires that imported cell phones, tablets, handhelds, laptops, and other equipment with Bluetooth or wireless LAN features be tested at the device level rather than the more common modular level. While similar devices produced locally face the same testing requirements, Indonesia requires that tests must be conducted in Indonesian test labs. Since full implementation began in January 2014, U.S. companies have reported some delays in product testing due to testing capacity constraints.

Bahasa Indonesia Labeling Requirements

In September 2015, Indonesia issued Regulation 73/2015 on product labeling, replacing Regulation 67/2013. Pre-approved Bahasa Indonesia-language labels are still required on a wide range of products, including various information and communications technology products, building materials, motor vehicle goods, household products, and apparel and textiles, that are distributed or sold in Indonesia. However, labeling can now be done in Indonesia before the product is distributed to the market. Previously, regulation 67/2013 required that food products must be labeled before entering Indonesia. The regulation also requires that labels be "embossed or printed on the goods, or wholly attached to the goods". In fall 2014, Indonesian officials clarified that "permanent stickers" are permitted.

Halal Certification

In September 2014, Indonesia passed Law 33/2014 governing halal products. The law makes halal certification mandatory for all food, beverage, pharmaceuticals, cosmetics, chemicals, and organic and agricultural biotech products sold in Indonesia, as well as machinery and equipment used in processing these products, subject to further implementing regulations. Companies have five years from October 2014 to comply with the new law. In the meantime, companies have been instructed to follow existing Indonesia Ulama Council (MUI) halal-certification procedures. The law calls for the establishment of a new institution called the Halal Product Assurance Agency to issue halal certificates. In September 2015, the government issued Presidential Regulation 83, which established the structure of the new agency under the Ministry of Religious Affairs. Its staffing and operational functions are yet to be determined. The law also calls for a number of other implementing regulations, which the Ministry of Religious Affairs is reportedly drafting. The United States will continue to monitor developments and engage with Indonesia on these issues. (*See Import Policies Section for information on the pharmaceutical market access requirements in these regulations*.)

In 2014, the Ministry of Agriculture issued meat import Regulation 139/2014, replacing Regulation 84/2013. Regulation 139/2014 requires all meat and poultry facilities wishing to export to Indonesia to limit their production to 100 percent halal. The U.S. Embassy in Jakarta notes, however, that in practice this rule has only been applied to poultry. Among the halal requirements, all poultry slaughter facilities in the country of origin must meet the Indonesian halal standard in order for facilities to be eligible to export to Indonesia. As a result, even poultry slaughter facilities in the United States that meet the halal standard of a halal certification body in the United States are banned from shipping to Indonesia, as exports are only allowed from countries with 100-percent halal poultry slaughter.

Prepackaged and Fast Foods – Labeling of Sugar, Salt and Fat Requirements

In September 2015, the government delayed implementation of Regulation 30/2013 on the inclusion of sugar, salt, and fat content information on labels for prepackaged and fast foods. The regulation also requires inclusion of a health message affixed to labels for processed and fast foods. Indonesia failed to notify the regulation to the WTO TBT Committee until after it was finalized and effective. The United States supports Indonesia's regulatory and public health effort to improve nutritional literacy and raise awareness among Indonesians about healthy lifestyle choices, but is concerned about the lack of an open public consultation process regarding this measure. U.S. stakeholders have raised concerns regarding the need for further technical clarification and implementing guidance – including acceptable methods for the required nutrient conformity tests – and whether tests performed by foreign laboratories or by companies' "in-house" laboratories would be acceptable. Indonesia's strict testing procedure may not allow *de minimis* variations between batches and would possibly lead to unnecessary shipment-by-shipment inspections for label conformity. The United States submitted written comments on the regulation and raised the regulation at all three WTO TBT Committee meetings in 2014 and will continue to engage with Indonesia on it. As much as $418 million in U.S. prepackaged food exports to Indonesia could be affected by the regulation.

Sanitary and Phytosanitary Barriers

Beef and Pork

Indonesia requires each U.S. meat establishment seeking to export to Indonesia to complete an extensive questionnaire that includes proprietary information, and to be inspected by Indonesian inspectors before it can ship meat to Indonesia. The United States has raised concerns about the establishment questionnaires and approval system with Indonesia repeatedly, including at the WTO Committee on Sanitary and Phytosanitary matters and at meetings of the United States-Indonesia Council on Trade and Investment, and will continue to raise concerns in WTO and bilateral fora.

Animal-Derived Products

Indonesia's animal health and husbandry law (Law 18/2009, as amended by Law 41/2014) requires companies that export animal-derived products, such as dairy and eggs, to Indonesia to complete a pre-registration process with the Indonesian Ministry of Agriculture. The law allows imports of these products only from facilities that Indonesian authorities have individually approved. To date, Indonesia has not notified the law to the WTO. After a 2011 audit of the U.S. food safety system as it applies to dairy products, Indonesia agreed to a simplified questionnaire for U.S. dairy facilities seeking to pre-register for review and approval. The United States is continuing to work with Indonesia to further improve the system under which U.S. establishments become eligible to export dairy products to Indonesia.

Poultry

In December 2014, Indonesia banned all poultry imports from the United States due to the detection of highly pathogenic avian influenza (HPAI) in backyard and commercial flocks in several U.S. states. The U.S. Embassy in Jakarta notes that in practice, the ban is only relevant to day-old chicks, as poultry meat exports to Indonesia are hindered by other trade barriers. The United States will continue to urge Indonesia to apply its HPAI-related measures on a regionalized basis.

Horticulture

Under Ministry of Agriculture Regulation 88 "Food Safety Control Over Import and Export of Fresh Food of Plant Origin," to export a covered horticulture product to Indonesia, an exporting country must have a food safety control system that has been recognized by Indonesia or registered food safety testing laboratories. In 2014, the Ministry of Agriculture notified the WTO SPS Committee of an amendment to Regulation 88, which retained this requirement. Indonesia recognizes that the United States meets this requirement. Nonetheless, this rule has the potential to restrain trade with Indonesia in these products. (*See Customs Barriers section for more information*.)

IMPORT POLICIES

Tariffs

In 2013, Indonesia's average MFN applied tariff rate was 6.9 percent. Indonesia periodically changes its applied rates. Since December 2011, the average tariff rate for oilseeds have fluctuated between zero and 5 percent. In 2009, 2010, 2011, and 2015, Indonesia increased its applied tariff rates for a range of goods that compete with locally manufactured products, including electronic products, electrical and nonelectrical milling machines, chemicals, cosmetics, medicines, wine and spirits, iron wire and wire nails, and a range of agricultural products including milk products, animal and vegetable oils, fruit juices, coffee, and tea.

Indonesia's simple average bound tariff rate of 37 percent is much higher than its average applied tariff. Most Indonesian tariffs on non-agricultural goods are bound at 40 percent, although bound tariff levels exceed 40 percent or remain unbound on automobiles, iron, steel, and some chemical products. In the agricultural sector, tariffs on more than 1,300 products have bindings at or above 40 percent. Tariffs on fresh potatoes, for instance, are bound at 50 percent, although the applied rate is 20 percent. The high bound tariff rates, combined with unexpected changes in applied rates, create uncertainty for foreign companies seeking to enter the Indonesian market.

U.S. motorcycle exports remain severely restricted by the combined effect of a 60 percent tariff, a luxury tax of 75 percent, a 10 percent value-added tax, and the prohibition of motorcycle traffic on Indonesia's highways.

Luxury Taxes

Luxury goods (defined as goods not considered necessities), imported or locally produced, may be subject to a luxury tax of up to 200 percent. Currently, however, there are no luxury goods subject to the 200 percent rate, and the applied luxury tax rates generally range from 10 to 75 percent, depending on the product. Finance Ministry Regulation 106, issued in June 2015, updated luxury tax rates for certain non-motor vehicle luxury goods, including yachts, aircraft, firearms, and certain types of housing.

Pursuant to Government Regulation 22/2014, issued in March 2014, the current highest tax rate applied is 125 percent for special luxury cars. However, under Regulation 41/2013, the luxury goods sales tax base rates are lowered for motor vehicles that meet certain environmental requirements. Luxury sales taxes are reduced by up to 100 percent for motor vehicles with an internal combustion engine with a cylinder capacity up to 1,200 cc and a fuel consumption rate of at least 20 kilometers per liter of fuel, or a compression ignition engine (diesel or semi-diesel) with a cylinder capacity of up to 1,500 cc and a fuel consumption rate of at least 20 kilometers per liter of fuel. A luxury tax reduction of 50 percent is granted for motor vehicles using advanced technology diesel or petrol engines, biofuel engines, hybrid engines, or compressed natural gas (CNG) or liquefied gas for vehicles (LGV) dedicated engines, with fuel consumption of more than 28 kilometers per liter of fuel or other equivalent. A luxury tax reduction of 25 percent is granted for motor vehicles that use advanced technology diesel or petrol engines, dual petrol-gas engines (CNG kit converter or LGV), biofuel engines, hybrid engines, or CNG or LGV dedicated engines, with fuel consumption ranging from 20 kilometers per liter to 28 kilometers per liter of fuel.

Although Indonesia has eliminated its luxury tax on imported distilled spirits, the current excise tax regime imposes higher excise taxes on imported spirits than on domestic spirits. In July 2015, the excise tax was increased to 150 percent on spirits and to 90 percent on wine.

Import Licensing

Indonesian importers must comply with numerous and overlapping import licensing requirements that impede access to Indonesia's market. Several of these regulations are currently being reviewed or revised. MOT Regulation 70/2015 came into effect in January 2016, replacing MOT Regulation 27/2012 as amended by Regulation 59/2012. The new regulation requires all importers to obtain an import license as either importers of goods for further distribution (API-U) or as importers for their own manufacturing (API-P), but they cannot obtain license for both activities. In response to stakeholder concerns, in November 2015, MOT issued a draft regulation on complementary goods that would allow companies that operate under an API-P import license to import finished products for "market test" and for after sales service purposes, as long as the goods are new, consistent with the company's business license, and produced by an affiliated firm, subject to reporting requirements.

In October 2015, MOT issued Regulation 87/2015 on the Import of Certain Products (replacing Decree 56/2009, which had been extended through MOT Regulation 83/2012). Like its predecessors, Regulation 87/2015 requires pre-shipment verification by designated companies (known in Indonesia as "surveyors") at the importer's expense and limits the entry of imports to designated ports and airports. In addition, Regulation 87/2015 maintains non-automatic import licensing requirements on a broad range of products, including electronics, household appliances, textiles and footwear, toys, food and beverage products, and cosmetics. However, for holders of an API-U license, Regulation 87/2015 appears to eliminate the additional requirement to apply or register as an importer of certain products.

MOT Regulation 82/2012, as amended by Regulations 38/2013 and 68/2015, and MOI Regulation 108/2012, in effect since January 2013, imposes burdensome import licensing requirements for cell phones, handheld computers, and tablets. Under Regulation 82/2012, importers of cell phones, handheld computers, and tablets can no longer sell directly to retailers or consumers. Importers must have at least three years of experience and must use at least three distributors to qualify for a MOT importer license. In addition, an amendment issued in 2013 (MOT Regulation 38/2013) requires an importer to commit to establish an "industry" (*e.g.*, manufacturing) within three years of obtaining an import permit. U.S. companies have reported that, in some cases, MOI is informally limiting imports under existing licenses (issued under MOI Regulation 108/2012) to protect locally manufactured cell phones, handheld computers, and tablets. (*See above TBT section for related information*.)

Import Licensing for Agricultural Products

Import licensing requirements also apply to horticultural products. In August 2013, Indonesia adopted Ministry of Agriculture (MOA) Regulation 86/2013 (replacing MOA Regulations 47/2013, 60/2012, and 3/2012) on horticultural imports. MOT Regulation 71/2015 was also adopted, replacing MOT Regulation 47/2013. The regulations require Indonesian importers to obtain the following import recommendations and permits in order to import horticultural products: (1) an Import Recommendation of Horticultural Products (RIPH) from MOA; and (2) an Import Approval (SPI) from MOT. Additionally, importers must obtain an Importer Identification Number (General or Producer) and must prove that they have met certain criteria set by MOT.

Importer designations and approvals are issued on a biannual basis and are valid for one six-month period. RIPHs specify, *inter alia*, the product name, HS code, country of origin, manufacturing location (for industrial materials), and entry point for all horticultural products the applicant wishes to import. After securing an RIPH, an importer must obtain an SPI from MOT before importing horticultural products. An SPI specifies the total quantity of a horticultural product (by tariff classification) that an importer may import during the period for which the SPI is valid. Importers cannot amend existing SPIs or apply for additional ones outside the application window.

Indonesia adopted similar rules for the importation of animals and animal products (MOA Regulation 139/2014 (replacing Regulations 84/2013, 96/2013, and 110/2014), MOA Regulation 58/2015, and MOT Regulation 46/2013 (replacing Regulation 22/2013)). These regulations require importers seeking to import animals or animal products to obtain: (1) a Recommendation from MOA; and (2) an Import Approval from MOT. Indonesia requires importers of beef to purchase local beef in order to obtain an import Recommendation from MOA.

Recommendations and SPIs for animals and animal products are issued quarterly. Recommendations may be valid for up to the remainder of the current year. SPIs are valid for a fixed term of three months, which restricts exports of U.S. beef products, as shipping times from the United States to Indonesia are long. The Directorate of Veterinary Public Health and Postharvest issues Recommendations, and importers may apply for SPIs only after obtaining a Recommendation for a given product. Recommendations specify, *inter alia*, the name, tariff category, entry point, country of origin, and intended use (which the regulations limit to certain sectors) of the products to be imported. SPIs specify the quantity of each product that may be imported. Importers must demonstrate actual importation of at least 80 percent of the quantity specified in their SPI from the previous year or risk losing their Registered Importer designation.

Similar to the prior import regulations, the new import regulations restrict the import of poultry and poultry products. The regulations governing animals and animal products maintain a positive list of products that may be imported with a permit. The regulations provide for the import of whole fresh or frozen poultry carcasses (chicken, turkey, or duck) but not for the import of poultry parts, effectively resulting in a ban on the import of poultry parts. Additionally, although the regulations provide for the import of whole chicken carcasses, Indonesia in practice does not issue import permits covering these products. This practice was expanded to whole duck and turkey carcasses as Indonesia has not issued import permits for these products since December 2013.

The licensing regimes for horticultural products and animals and animal products have significant trade-restrictive effects on imports, and the United States has repeatedly raised its concerns with Indonesia bilaterally and at the WTO. Indonesia has failed to address these concerns. As a result, in January 2013, the United States requested consultations with Indonesia under the WTO's dispute settlement procedures. After the consultations failed to resolve the concerns, the United States requested establishment of a WTO dispute settlement panel, and a panel was established in April 2013. In August 2013, New Zealand joined the dispute by filing its own request for consultations to address Indonesia's measures. At the same time, the United States filed a revised consultations request to address recent modifications to Indonesia's measures and to facilitate coordination with co-complainant New Zealand. A panel was established in May 2015.

Pharmaceutical Market Access

The United States continues to have serious concerns about barriers to Indonesia's market for pharmaceutical products. Ministry of Health Decree 1010/2008 requires foreign pharmaceutical companies either to manufacture locally or to entrust another company that is already registered as a manufacturer in Indonesia to obtain drug approvals on its behalf. Among its requirements, Decree 1010/2018 mandates local manufacturing in Indonesia of all pharmaceutical products that are five years past patent expiration. It also contains a technology transfer requirement. A subsequent pair of regulations, Regulation 1799/2010 and an updated regulation on drug registration from the Indonesian Food and Drug Regulatory Agency (BPOM) (most recently revised in Regulation 27/2013), provide additional information about the application of the local manufacturing requirements and applicable exceptions. The United States remains concerned by Indonesian government statements indicating that Indonesia failed to abide by domestic legal procedures in issuing a compulsory license decree in 2012 and indicating that Indonesian patent law does not require individual merits review in connection with the grant of compulsory licenses. The United States will continue to monitor the implementation of these regulations.

U.S. stakeholders have also expressed concerns regarding a proposed Regulation on Foods for Special Medical Purposes that could prohibit the promotion, sale, and distribution of some nutritional products directly to the customer and would instead require customers to access the products through their pediatrician.

The Indonesian Parliament passed a bill in September 2014 requiring halal certification of pharmaceuticals as well as other products. The United States will continue to monitor the status of the implementing regulations for this bill, including the potential impact on market access for affected products. (*See TBT Section for related information on the Halal Law*.)

The innovative pharmaceutical industry has also raised concerns regarding the transparency of and opportunity for meaningful stakeholder engagement within the Indonesian pricing and reimbursement system. In particular, stakeholders report a lack of clarity and certainty regarding how pharmaceutical products are selected for listing on the Indonesian National Formulary (FORNAS) and whether and for how long such products will remain on the FORNAS. The United States will continue to follow this issue and request that the Ministry of Health have quarterly meetings with U.S. stakeholders to discuss these issues.

Quantitative Restrictions on Imports

MOT recently issued Regulation 71/2015, updating Indonesia's import rules on horticultural products. The new import rules outlined in this regulation supersede MOT Regulations 16/2013, 47/2013, and 40/2015, but make few substantial changes. Import licenses are still required and quantities will be allocated subject to the importer's cold storage capacity. MOT eliminated the 80 percent rule for horticultural products, which imposed punitive measures on importers that used less than 80 percent of the quota allotted under their import permits. The new regulation also specifies that the total import allocation will be set annually and that importers are no longer required to register as horticultural product importers.

Importers also report that MOA is enforcing an unofficial regulation, limiting citrus imports to February, March, September, and October. Importers report that this practice is intended to limit imports to periods outside of Indonesia's citrus harvest.

There has been no written change to meat import rules, implying that the 80 percent rule is still in effect for beef products. Exporters report that meeting the 80 percent import requirement is burdensome and adds unnecessary risk. For example, the Indonesian government has shown little flexibility in accommodating importers that were unable to import their required volume within the duration of the Import Recommendation due to acts beyond their control, such as shipping delays and production shortages in the country of origin.

The Indonesian government has also stated that the import of many agricultural products, including meat and some horticultural products, will be subject to a reference price system, whereby imports will be permitted as long as domestic prices are above a set target price. In the event that prices fall below a set target price, the Indonesian government reserves the right to "postpone" imports. As of December 2015, Indonesia has not yet suspended imports under this provision.

Indonesia imposes an "unofficial" restriction on corn imports. Since 2012, only feed millers can import corn. They must apply for an import permit from MOA. The import permit specifies the volume of corn that can be imported. The import volume is set based on the level of domestic feed production.

Indonesia bans salt imports during the agricultural harvest season. It requires salt importers to be registered and to purchase domestic supplies as well as imports. Indonesia also maintains a seasonal ban on imports of sugar, in addition to limiting the annual quantity of sugar imports based on domestic production and consumption forecasts. Indonesia bans exports of raw and semi-processed rattan.

Indonesia applies quantitative limits on the importation of wines and distilled spirits. Companies seeking to import these products must apply to be designated as registered importers authorized to import alcoholic beverages, with an annual company-specific quota set by MOT.

Product Registration

BPOM reportedly has improved the efficiency of its product registration system through the implementation of an e-registration system for low-risk products. Still, concerns remain about proposed changes to the registration requirements and submission process that can further complicate product registration. U.S. stakeholders continue to express concern about the process to obtain product registration numbers (known as ML registration numbers). The United States will continue to monitor developments in this area.

Product Testing

BPOM sets out requirements for testing of heavy metals in food, drugs and cosmetics in BPOM Regulation 17/2014. A new regulation, BPOM 12/2015, provides further guidance on this requirement, which is fulfilled via a certificate of analysis that is valid for six months. In practice, Indonesian customs is requiring each shipment to provide a separate test in addition to the certificate. This measure appears targeted at limiting exports and adds unnecessary costs. In addition, in the case of cosmetics, U.S. and other stakeholders have expressed concern that the pre-market testing requirement goes against the intent of the ASEAN Cosmetics Directive, which stipulates that monitoring of heavy metals should be undertaken via post-market surveillance.

Customs Barriers

U.S. firms continue to report that Indonesian customs relies on a schedule of reference prices to assess duties on some imports rather than using actual transactions as required by the WTO Agreement on Customs Valuation. Indonesia's Director General of Customs and Excise makes a valuation assessment based on the perceived risk status of the importer and the average price of a same or similar product imported during the previous 90 days.

U.S. horticultural exports continue to use Tanjung Priok port, based on Indonesia's recognition of the U.S. food safety system for fresh foods of plant origin (FFPO). Australia, New Zealand, and Canada have also received FFPO recognition and have access to Tanjung Priok. In December 2015, MOA renewed the U.S. FFPO status for two years.

State Trading

The National Logistics Agency maintains exclusive authority to import standard unbroken rice (medium grain, medium quality). Indonesia cited "food security" and price management considerations as the principle objectives of the authorization, but the Indonesian government separately cited its aspirations for food self-sufficiency. The National Logistics Agency is not allowed to import rice before, during, or immediately after the main harvest period. Private firms are only allowed to import broken rice for processing and specialty rice varieties, such as basmati and jasmine rice for retail or food service. Importers of broken and specialty rice must obtain a special importer identification number from MOA. Since mid-2014, Indonesia has refused to issue import recommendations to private traders for the import of sushi-grade rice. According to government sources, sushi rice falls under the same category as standard unbroken rice.

In December 2014, MOA issued Regulation 139/2014, which it then amended in January 2015 through Regulation 2/2015. Regulation 2/2015 stipulates that state-owned companies are allowed to import carcasses and secondary meat cuts in order to ensure food availability, to anticipate price volatility and inflation, and in case of natural disaster. Per these regulations, private importers are no longer allowed to import secondary meat cuts, which has not been defined (but excludes beef offals).

EXPORT RESTRICTIONS AND TAXES

Indonesia's 2009 mining law requires companies to process ore locally before shipping it abroad. Indonesia has implemented this law through a series of regulations, including January 2014 regulations that ban the export of over 200 types of mineral ore, including nickel and bauxite. U.S. stakeholders have expressed serious concern about the potential impact of these measures.

Indonesia provisionally allows the export of eight concentrates associated with these mineral ores (including copper, lead and iron), subject to a prohibitive export tax that increases every six months through the end of 2016, at which time the export of the mineral ore concentrate will be banned altogether. Under a regulation issued in July 2014, if a company makes certain commitments with respect to the construction of a smelter in Indonesia, it will be assessed significantly reduced duties during this transition period. Once the smelter achieves an advanced stage of construction, these duties will be eliminated. In addition to these measures, Indonesia has put in place certain verification and inspection procedures with respect to the export of mineral ores. The United States will continue to raise concerns about these issues with the Indonesian government.

Indonesia imposes a progressive export tax on cocoa and palm oil exports. The cocoa export tax rate ranges from 5 percent to 15 percent and is calculated based on a monthly average of export prices. As of October 2014, the prices of crude palm oil dropped below the level at which export taxes are applied. However in July 2015 the government introduced a new minimum levy of US 50/metric ton for crude palm oil and USD 30/metric ton for processed palm oil. Indonesia also effectively bans the export of steel scrap and bans exports of raw and semi-processed rattan. The Indonesian government is considering imposing export taxes on other products, including coconut, base metals, and coal.

GOVERNMENT PROCUREMENT

Indonesia grants special preferences to encourage domestic sourcing and to maximize the use of local content in government procurement. It also instructs government departments, institutes, and corporations to utilize domestic goods and services to the maximum extent feasible. Presidential Regulation 54/2010 requires procuring entities to seek to maximize local content in procurement, use foreign components only when necessary, and designate foreign contractors as subcontractors to local companies. Presidential Regulation 2/2009 stipulates that all state administrations should "optimize" the use of domestic goods and services and give price preferences for domestic goods and providers.

Indonesia's 2012 Defense Law mandates priority for local materials and components and requires defense agencies to use locally produced defense and security goods and services whenever available. In addition, when an Indonesian government entity procures from a foreign defense supplier due to lack of availability from an Indonesian supplier, there is a requirement for trade balancing, incorporation of local content, and/or offset production. The amount of domestic value or local content required starts at 35 percent, and increases by 10 percent increments every five years until the value of local content is equal to 85 percent. The 35-85 percent domestic value must then be compensated by "counter-trade agreements," incorporation of local content, or offset production. Forthcoming implementing regulations will also include a series of "multipliers" that will increase the calculated final value of a given offset component on the basis of a determination from the Defense Industry Policy Committee. The implementing regulations for the 2012 Defense Law are contained in Presidential Decree 76/2014, but numerous details, including specifics for multiplier values, remain undetermined. Calculations for the value of local content can include design, engineering, IPR, raw materials, facilities/infrastructure costs, education and training, labor costs, and after-sales service.

Indonesia is an observer but not a member of the WTO Agreement on Government Procurement.

SUBSIDIES

Indonesia has not filed a subsidy notification under the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) since March 1998, a fact the United States noted in comments regarding Indonesia's last Trade Policy Review (TPR) in 2013. In response to questions regarding its 2013 TPR, Indonesia indicated that it was pursuing support policies to, *inter alia*, improve export performance and develop downstream industries, but provided few details regarding specific measures. According to the Secretariat Report on the 2013 TPR, Indonesia provides fiscal and non-fiscal incentives for manufacturing and exports in connection with its export processing zones and special economic zones programs. These include incentives related to corporate income tax, property tax, import duty, value-added tax, excise and luxury taxes, and local taxes, as well as assistance on land acquisition, licensing, investment and manpower. Additionally, Indonesia provides various forms of official export financing, insurance, and guarantees through the state-owned Indonesia Eximbank and the Asuransi Ekspor Indonesia. In 2013, Indonesia became subject to the WTO rule against export subsidies under Article 3.1(a) of the Subsidies Agreement when it graduated from the Annex VII(b) list of developing countries exempted from the rule.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Indonesia remained on the Priority Watch List in the 2015 Special 301 Report. Key concerns in Indonesia include continuing widespread copyright piracy, trademark counterfeiting, an inadequate number of criminal prosecutions, and non-deterrent penalties for convicted offenders. Counterfeiting activity extends to products that present serious risks to human health and safety, such as pharmaceutical products. U.S. stakeholders report that one of its most significant frustrations remains the nontransparent court system, which impedes the ability of rights holders to obtain information about cases directly affecting their interests. Amendments to the 2002 Copyright Act (Law 28/2014) made duplication by video camera in movie theaters explicitly illegal, provided for the criminalization of illegal uploading and downloading of copyrighted material for commercial purposes, and introduced landlord liability for knowingly allowing the sale of copyright-infringing materials. However, the legislation removed certain key legal authorities that had previously been available to enforcement officials in favor of a complaint-based system. Indonesia is currently finalizing updates to its Trademark and Patent Laws. The United States is working with the Indonesian government to develop a mutually agreed upon intellectual property action plan to address deficiencies in IPR protection and enforcement, as well as public education and outreach.

SERVICES BARRIERS

Legal Services

Only Indonesian citizens may be licensed as lawyers in Indonesia. Foreign lawyers may work in Indonesia as legal consultants with the approval of the Ministry of Justice and Human Rights. A foreign law firm seeking to enter the market must establish a partnership with a local firm.

Express Delivery and Logistics Services

Indonesia maintains restrictions on the provision of postal services, broadly defined to include courier, express delivery, and other logistics services. The law requires that postal service suppliers be majority-owned by Indonesians and that foreign suppliers limit their activities to provincial capitals with international airports and seaports. Under Regulation 15/2013 and Regulation No. 32/2014, only an Indonesian legal entity can apply for a license and foreign ownership of a company offering postal services may not exceed 49 percent.

Health Services

The negative list of foreign investment restrictions allow for up to 67 percent foreign ownership of private specialist hospitals in all regions of Indonesia. However, foreign ownership is prohibited for health research centers, private maternity hospitals, and general or public hospitals.

Financial Services

A single entity, either foreign or Indonesian, may own no more than 40 percent of an Indonesian bank. The Financial Services Authority (OJK) may grant exceptions and allow an entity to own more than 40 percent ownership of an Indonesian bank in certain cases. Indonesia's financial authorities announced in November 2015 that a foreigner will be able to hold a majority stake in a bank provided that they buy two banks and merge them. However, this change will only apply for small banks that have capital of less than IDR 1 trillion (approximately $73 million). Separately, the DPR is debating a draft banking law that would lower the overall foreign ownership cap on locally incorporated banks, which is currently 98 percent.

In December 2013, Bank Indonesia adopted a regulation, No. 15/49/DPKL, restricting foreign ownership in private credit reporting firms to 49 percent.

In September 2014, the DPR passed the Insurance Law. The law requires all insurance companies to incorporate locally as Indonesian corporate entities (Perseroan Terbatas or "PT"). All foreign investment in PT insurance companies will be by publicly traded shares, so there will be no direct foreign purchase of corporate assets. The Negative Investment List limits foreign ownership of an insurance company to 80 percent. Previously OJK allowed foreign owners to inject capital if needed, subject to approval, which in some cases diluted the ownership percentage of the local partner. OJK plans to enforce the equity cap, such that companies with more than 80 percent foreign ownership are expected to reduce the foreign holding to 80 percent by November 2019 (five years after the effective date of the 2014 Insurance Law). The Insurance Law does not contain an explicit cap on foreign equity ownership, but pursuant to the Law OJK must issue a regulation clarifying the threshold for foreign investment in the future by April 2017.

Nonbank financial service suppliers may do business in Indonesia as a joint venture or be partially owned by foreigner investors, but cannot operate in Indonesia as a branch of a foreign entity.

OJK regulation 14/2015 came into effect January 1, 2016, with certain transition periods. It requires, among other things, domestic insurance companies operating in the Indonesian market to cede 100 percent (up from the current 5 percent to 15 percent) of the reinsurance covering simple risks for certain products (such as vehicle, accident, health, and life insurance, and minimum amounts on other lines of insurance) to domestic reinsurance companies. The regulation also requires insurers writing other types of risks to cede a minimum amount of reinsurance to domestic reinsurers, unless exceptions apply, such as if a reinsurer is unwilling to provide reinsurance. The United States has noted concerns over these requirements for reinsurance the last several years and will continue to engage with Indonesia.

Energy Services

Article 79 of Presidential Regulation 35/2004, which regulates contractor activities in the upstream oil and gas sector, provides that contractors must "prioritize" the use of domestic services, including energy-related services, as well as technologies and engineering and design capabilities. (*See Investment Barriers section for more information*)

Maritime Cabotage

Indonesia's Law 17/2010 on Shipping requires all vessels operating in Indonesian waters to be Indonesian flagged. In addition, it limits foreign ownership of Indonesian-flagged vessels to 49 percent. However, the Indonesian shipbuilding industry does not have the capacity to build the variety of specialty ships its economy requires and is unlikely to have such capacity in the near to medium term. Full implementation of the law would be particularly problematic for foreign investors in Indonesia's energy and telecommunications sector, which would no longer be permitted to bring in the sophisticated rigs and specialized vessels needed to develop large upstream projects or service undersea cables.

In response to concerns raised by the United States and other countries, the Ministry of Transportation issued Regulation 48/2011 allowing certain classes of non-transportation vessels to be eligible for a three-month renewable waiver from the domestic flagged-vessel requirements when there is no suitable Indonesian-flagged vessel available. The Ministry of Transportation issued Regulations 10/2014, 79/2014, and 10/2015 to provide further exemptions to Law 17/2010 and extended the renewable waiver period to one year for non-transport foreign vessels engaged in oil and gas surveying, drilling, offshore construction, dredging, salvage, and other under water work. Under the regulation, treatment of other categories of specialty foreign vessels will be decided on a case-by-case basis for waivers of up to one year. The United States will continue to press Indonesia to provide a longer-term solution for foreign-flagged specialty ship operators and their customers.

Audit and Accounting Services

Foreign public accounting firms must be affiliated with a local public accounting firm to conduct business in Indonesia. A foreign accounting firm must use the name of its local affiliate in addition to the foreign firm's name in presentations and disclosures. Indonesia allows a maximum of 10 percent foreign national staff for each level of management in the affiliated local accounting firm. In affiliated accounting firms, the ratio of foreign audit signing partners to local signing partners cannot exceed one to four.

Film

The 2009 Law on Film imposes a 60percent local content requirement for local exhibitors and, to achieve that quota, also includes the authority to implement unspecified import restrictions, prohibitions against the dubbing of foreign films, and prohibitions against foreign companies distributing or exhibiting films. The law also restricts vertical integration across segments of the film industry, but the local content requirement and integration restriction have not been fully implemented.

Firms have raised concerns with a 2008 regulation requiring all local and imported movies, both theatrical prints and home video copies, to be replicated locally, with penalties on exhibitors for failing to do so. Its full implementation continues to be postponed under annual one-year suspensions, the most recent in January 2015. The Indonesian Government has said that film policy will move from the Ministry of Tourism. However, it remains unclear whether it will fall under the Ministry of Education and Culture, the newly formed Creative Economy Agency, or some combination of both. The United States continues to advocate for the permanent suspension and repeal of this regulation.

Construction, Architecture, and Engineering

Prior to November 2014, foreign construction firms were only allowed to be subcontractors or advisors to local firms in areas where the Indonesian government believed that local firms are unable to do the work. Government Regulation 10/2014 now permits the reverse relationship, *i.e.*, if the Indonesian government determines that a local firm is not capable of managing an entire project on its own, the local firm may now serve as subcontractor or advisor to a foreign construction firm. The foreign firm would work together with a 100 percent locally owned firm, or if it is a joint venture, the local ownership should be at least 65 percent. There are a number of conditions to this regulation, including that the construction project should be worth at least Rp100 billion (or a minimum of Rp20 billion for a consultation project), that it should be a high-tech construction project, and that the risk ratio should be high. Beginning in 2015, the National Construction Services Development Board (LPJK) certifies foreign entities as construction companies, consulting companies, or integrated (engineering, procurement, and consulting) companies. An entity may have only one of these designations.

Education

Indonesia limits foreign investment in primary, secondary, and tertiary educational institutions through special licenses. Foreign investment in non-formal education is limited to 49 percent. A foreign national may provide educational services at the tertiary level only if authorized by the Ministry of Education and the Ministry of Manpower. Authorization is granted on a case-by-case basis and only when there are no Indonesian instructors capable of filling the position.

Indonesia also issued a regulation overseeing the classification of schools. In May 2014, the Ministry of Education and Culture issued Regulation 31/2014 which provides that, starting December 1, 2014, every international school and National Plus School must become a "Satuan Pendidik Kerjasama" (SPK – 'Education Unit Partnership'), which prohibits independent international schools. International schools must now be administered by partner institutions from overseas (or Foreign Educational Institutions already accredited or recognized in Indonesia) and can no longer use the word "international" in their names, among other requirements.

Franchising

Indonesia's MOT made three major regulatory changes in the franchising sector in recent years that threaten to have a significant chilling impact on future operations of foreign franchisors. In August 2012, Indonesia promulgated MOT Regulation 53/2012, which establishes a local content requirement obliging an Indonesian franchisee to source 80 percent of its equipment and inventory domestically, unless a waiver is granted. While implementing rules remain vague, this sourcing requirement could have a significant negative impact in the development of new franchising agreements in Indonesia. This new requirement is not expected to be fully enforced against existing licensed franchisees until 2017.

In October 2012, MOT issued Regulation 68/2012 restricting the number of outlets that can be owned by a modern retail franchisee, such as supermarkets, to 150 before it must sub-franchise additional units to another local entity. In February 2013, MOT issued Regulation 7/2013 restricting the number of outlets that can be owned by a food and beverage franchisee to 250. In 2014, MOT issued amendments – Regulations 57/2014 and 58/2014 – to the existing franchising requirements. These revised regulations grandfather franchisors or franchisees of restaurants, cafés, and bars that already have more than 250 outlets, but the existing requirements will still apply to newcomers or those that do not already have more than 250 outlets.

In December 2013, MOT issued Regulation 70/2013 requiring modern retail establishments, such as shopping centers, minimarkets, and hypermarkets, to sell 80 percent domestic product. The regulation also limits the stock of these establishments to a maximum of 15 percent private label products. Retailers must comply with these regulations by June 2016. For stand-alone brand or specialty stores, MOT may provide exceptions to the requirement that retailers sell 80 percent domestic products based on the following criteria: (1) products requiring uniformity of production and sourcing from a global supply chain; (2) products with "world famous" or premium branding that are not yet produced in Indonesia; or (3) products from certain countries sold to meet the needs of their citizens living in Indonesia.

Telecommunications Services and Equipment

Telecommunications suppliers face myriad investment restrictions in a regime notable for its confusing system for classifying services and a track record of backsliding from steps toward liberalization. The Negative Investment List, updated through Decree 39/2014, caps foreign ownership at 65 percent for fixed and wireless network services and 49 percent for Internet and multimedia-based communication service suppliers (down from 65 percent). Previously, the foreign-ownership limitation on suppliers of fixed services was 95 percent.

Local content requirements are also a significant concern. KOMINFO Regulations 07/2009 and 19/2011 requires that equipment used in certain wireless broadband services contain local content of at least 30 percent for subscriber stations and 40 percent for base stations, and that all wireless equipment contains 50 percent local content within five years. Indonesian telecommunication operators are also required, pursuant to Decree 41/2009, to expend a minimum of 50 percent of their total capital expenditures for network development on locally sourced components or services. In 2015, the Ministry of Communication and Information Technology issued Regulation 27/2015, which requires all 4G enabled devices to contain 30 percent local content, and all 4G base stations to contain 40 percent local content by January 2017. MOI Regulation 68/2015 sets forth a formula for calculating local content, including assigning weights to both manufacturing value and development value, which can include research and development, design, software development, and other values. The U.S. Government continues to engage the Indonesian government on these issues.

INVESTMENT BARRIERS

Indonesia's decentralized decision-making processes, legal uncertainties, and powerful domestic vested interests contribute to Indonesia's complex and difficult investment climate. Indonesian government requirements often compel foreign companies to do business with local partners and to purchase goods and services locally.

Indonesia's 2007 Investment Law significantly increased the number of sectors in which foreign investment is restricted and increased foreign equity limitations in a number of sectors, including telecommunications, pharmaceuticals, film and creative industries, and construction.

An April 2014 revision to the Investment Law eased foreign investment restrictions in several sectors, including land transportation, pharmaceutical manufacturing, and infrastructure investments made under public-private partnership agreements, while further closing other sectors, including e-commerce, distribution and warehousing, and various areas of oil, gas, and mining services. Following a review initiated in September 2015, the Investment Coordination Board announced changes to the Negative Investment List in early March, but as of March 14 the revised regulation has not been issued.

In early 2014, Indonesia announced it would terminate its bilateral investment treaties (BITs) by permitting the more than 60 agreements to expire as soon as the agreements allow, apparently in response to ongoing and potential investor-state dispute settlement (ISDS) cases against the government. The United States does not have a BIT with Indonesia.

Energy and Mining

Over the past several years, the Indonesian government has introduced regulatory changes to increase government control and local content levels in the energy and mining sectors. The regulatory changes have raised costs for foreign businesses, and raised questions about the sanctity of contracts already in force with the Indonesian government.

In the oil and gas sector, for example, Regulation 79/2010 allows the Indonesian government to change the terms of certain existing production sharing contracts, eliminate the tax deductibility of certain expenses, change the terms and criteria for cost recovery, and place limits on allowable costs for goods, services, and salaries. In 2013, criminalization of the civil production sharing contract added to uncertainty, as U.S. company contractors and employees were convicted, fined, and imprisoned for doing work that was approved and defended in court by relevant government regulators. In 2014, the Indonesian Supreme Court heard appeals of several of these cases; rather than overturning the lower courts' decisions, the Supreme Court lengthened the defendants' prison sentences.

Article 79 of Presidential Regulation 35/2004, which regulates contractor activities in the upstream oil and gas sector, provides that contractors must "prioritize" the use of domestic services, including energy-related services, as well as domestic technologies and engineering and design capabilities. Foreign energy and energy services companies have noted that these local preference policies severely undermine their ability to efficiently and profitably operate in the Indonesian market.

In 2011, Indonesia's oil and gas regulator tightened rules relating to how local content is measured with respect to oil and gas projects. Once fully implemented, the new criteria are intended to achieve an average of 91 percent local content by 2025, up from 61 percent in 2012. Moreover, under the new rules, the goods and services of companies without majority Indonesian shareholding can no longer qualify as local content. As a result, foreign energy service companies have been placed at a disadvantage *vis-à-vis* majority Indonesian-owned companies, which can more easily meet local content requirements, but are often less able to meet the technical requirements of a project. The Indonesian House of Representatives continues to pressure the oil and gas regulator to maintain or increase the local content requirements, leading to increased uncertainty in the market. The United States will continue to monitor developments in this area.

Since 2013, upstream oil and gas regulator SKK Migas, through policy PTK 51 of 2013, has ceased cost recovery reimbursement to oil and gas companies engaged in disputes with respect to reimbursement amounts. At the same time, the Indonesian government increased pressure on oil and gas companies to repatriate export earnings into Indonesian state-owned banks, per Bank of Indonesia Regulation 13/2011 as amended by Regulation 14/2012, subjecting such earnings to Indonesian banking law and regulations despite production sharing contracts that allow companies to retain such earnings abroad. In addition, Regulation 31/2013, promulgated by the Ministry of Energy and Mineral Resources, limits the amount of time expatriates may work in Indonesia's oil and gas sector to four years, and prohibits expatriates from working past the age of 55. U.S. companies believe these requirements will significantly affect staffing patterns and technical capacity.

Indonesia's 2009 Mining Law created a system for granting mining concessions based on licenses, though some companies still operate on existing contracts of work. While the law gives local governments authority to issue mining licenses, Regulation 24/2012 returned authority to the central government for issuing licenses to companies with any foreign ownership. The law and its implementing regulations impose onerous requirements on companies doing business in the mining sector, including local content requirements, domestic sale requirements, and a requirement to process raw materials in Indonesia prior to export. Because the mining licenses are subject to future regulatory requirements, permitting, and tax changes, they provide significantly less certainty than the contract of work system. In some cases, U.S. firms seeking to extend their mineral export licenses have been subjected to gradually escalating requirements. Additionally, the Indonesian government is requiring companies with contracts of work to renegotiate those existing contracts in order to increase government royalty rates, increase local content requirements, require domestic smelting of minerals, decrease the size of mining areas, and make other changes that significantly alter the economic potential of these projects. An implementing regulation of the law also restricted foreign ownership in the sector to 49 percent within 10 years of the start of production. In October 2014, Regulation 77/2014 eased the foreign ownership restrictions to 60 percent for companies that smelt domestically, and 70 percent for companies that operate underground mines. The United States will continue to press Indonesia on this range of issues.

In September 2014, the Indonesian legislature passed the Provincial Administration Law. The law greatly reduces the authority of the regional governments in tendering concessions, and issuing licenses and approvals in the mining and oil and gas sectors, and, thus, has the potential to streamline various processes. Several provisions of the law, however, are inconsistent with or contradict the 2009 Mining Law. Until amendments are enacted or other measures are taken to clarify these discrepancies, the coexistence of the two laws contributes to regulatory uncertainty for investment in the mining sector.

ELECTRONIC COMMERCE

Data localization requirements are a serious concern in Indonesia. Under Article 17 of Government Regulation 82/2012, Indonesia requires providers of a "public service" to establish local data centers and disaster recovery centers in Indonesia. Indonesian officials have indicated that "public service" means any activity regulation that provides a service by a public service provider, consistent with the definition in the implementing regulations to the 2009 Public Service Law. This circular definition creates uncertainty for service suppliers across sectors with respect to the scope of the localization requirement. There has been little information to date on how this requirement has been implemented.

The Indonesian government has signaled plans to enact a personal data protection regulation under Regulation 82/2012, and may pursue national legislation on personal data protection in 2016, both of which could further define requirements for data localization. A local data center requirement could prevent service suppliers from fully leveraging the economies of scale from existing data centers and discourage future investment in Indonesia. Furthermore, such a requirement could inhibit the cross-border data flows that are essential to electronic commerce. The U.S. Government continues to engage the Indonesian government on this issue.

OTHER BARRIERS

Although the Indonesian government and the Corruption Eradication Commission continue to investigate and prosecute high-profile corruption cases, many investors consider corruption a significant barrier to doing business in Indonesia. Other barriers to trade and investment include poor coordination within government, the slow pace of land acquisition for infrastructure development projects, poor enforcement of contracts and the criminalization of contractual disputes, an uncertain regulatory and legal framework, restrictive labor laws, arbitrary tax assessments, and lack of transparency in the development of laws and regulations. The ongoing process of transferring investment-related decisions from central to provincial and district governments, while helping reduce some bureaucratic burdens, has led to inconsistencies between national and regional or local laws. U.S. companies seeking legal relief in contract disputes have reported that they are often forced to litigate spurious counterclaims and report growing concern about criminalization of contract issues.

ISRAEL

TRADE SUMMARY

The U.S. goods trade deficit with Israel was $10.9 billion in 2015, a 38.2 percent increase ($3.0 billion) over 2014. U.S. goods exports to Israel were $13.6 billion, down 10.1 percent ($1.5 billion) from the previous year. Corresponding U.S. imports from Israel were $24.5 billion, up 6.5 percent. Israel was the United States' 23rd largest goods export market in 2015.

U.S. exports of services to Israel were an estimated $5.1 billion in 2014 (latest data available), and U.S. imports were $5.6 billion. Sales of services in Israel by majority U.S.-owned affiliates were $3.1 billion in 2013 (latest data available), while sales of services in the United States by majority Israel-owned firms were $2.0 billion.

U.S. foreign direct investment (FDI) in Israel (stock) was $10.8 billion in 2014 (latest data available), a 10.7 percent increase from 2013. U.S. direct investment in Israel is led by manufacturing, information, and professional, scientific, and technical services.

The United States-Israel Free Trade Agreement

Under the United States-Israel Free Trade Agreement (FTA), signed in 1985, the United States and Israel agreed to implement phased tariff reductions culminating in the complete elimination of duties on all products by January 1, 1995. While tariffs on non-agricultural goods traded between the United States and Israel have been eliminated as agreed, tariff and nontariff barriers continue to affect a significant number of key U.S. agricultural product exports.

To address the differing views between the two countries over how the FTA applies to trade in agricultural products, in 1996 the United States and Israel signed an Agreement on Trade in Agricultural Products (ATAP), which established a program of gradual and steady market access liberalization for food and agricultural products effective through December 31, 2001. Negotiation and implementation of a successor ATAP was successfully completed in 2004. This agreement was effective through December 31, 2008 and granted improved access for select U.S. agricultural products. The second ATAP has been extended eight times, most recently through December 31, 2016, to allow time for the negotiation of a successor agreement. That ATAP provides U.S. food and agricultural products access to the Israeli market under one of three different categories: unlimited duty-free access, duty-free tariff-rate quotas (TRQs), or preferential tariffs, which are set at least 10 percent below Israel’s most-favored nation rates.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Israeli regulatory bodies, such as the Ministry of Economy (Standards Institute of Israel), Ministry of Health (Food Control Services), and the Ministry of Agriculture (Veterinary Services and the Plant Protection Service), often adopt standards developed by European standards organizations rather than international standards, which results in added costs to U.S. exports to Israel.

Sanitary and Phytosanitary Barriers

Negotiations continue on a mutually-agreed protocol that would allow U.S. beef and beef products access to the Israeli market. In July 2015, inspectors from Israel's Veterinary Service travelled to the United States to audit two slaughterhouses and one processing plant for compliance with Israeli food safety standards. Even after the United States and Israel agree on a protocol, however, slaughterhouses interested in exporting to Israel will still need to obtain kosher certification from Israeli rabbinical authorities. Israel does not currently recognize U.S.-based kosher certifying bodies.

IMPORT POLICIES

Agriculture

U.S. agricultural exports that do not enter duty free under WTO, FTA, or ATAP provisions face barriers, such as high tariffs and a complicated TRQ system. These products include higher value goods that are sensitive for the Israeli agricultural sector, such as dairy products, fresh fruits, fresh vegetables, almonds, wine, and some processed foods. According to industry estimates, the elimination of levies on processed foods, including a broad range of dairy products, could result in increased sales by U.S. companies in the range of $30 million to $55 million. The removal of quotas and tariffs on dried fruits could result in an increase in sales by U.S. exporters of up to $12 million. U.S. producers of apples, pears, cherries, and stone fruits estimate that the elimination of Israeli trade barriers would lead to an increase of up to $15 million in export sales of these products. Stakeholders estimate that full free trade in agriculture could also result in U.S. cheese exports to Israel increasing significantly. Similarly, stakeholders estimate that removing tariffs on food product inputs used by U.S.-based restaurant chains operating in Israel could save these chains millions of dollars annually and lead to their expansion in Israel.

Customs Procedures

Some U.S. exporters have reported difficulty in claiming preferences for U.S. goods entering Israel under the FTA, specifically related to the presentation of certificates of origin to Israeli customs authorities. The U.S. Government continues to engage in discussions with Israel to clarify and resolve this issue.

GOVERNMENT PROCUREMENT

Israel has offset requirements that it implements through international cooperation (IC) agreements. Under IC agreements, foreign companies that have been awarded government contracts are required to offset foreign goods or services provided under the contracts by agreeing to localization commitments to invest in local industry, co-develop or co-produce with local companies, subcontract to local companies, or purchase from Israeli industry. Israel is a party to the WTO Agreement on Government Procurement (GPA). Since January 1, 2009, the IC offset percentage for procurements covered by Israel's GPA obligations has been 20 percent of the value of the contract; for procurements excluded from GPA coverage, the offset is 35 percent, and for military procurements the offset is 50 percent.

U.S. suppliers suspect that the size and nature of their offset proposals can be a decisive factor in close tender competitions, despite an Israeli court decision that prohibits the consideration of offset proposals in determining the award of a contract. Small and medium sized U.S. exporters are often reluctant to commit to make purchases in Israel in order to comply with the IC agreements, and, as a result, their participation in Israeli tenders is limited. As part of the revised GPA, which entered into force in 2014, Israel committed to phase out its offsets on procurement covered by the GPA.

In addition, the inclusion of unlimited liability clauses in many government tenders discourages U.S. firms from competing. When faced with the possibility of significant legal costs for unforeseeable problems resulting from a government contract, most U.S. firms are forced to insure against the risk, which raises their overall bid price and reduces their competitiveness.

The United States-Israel Reciprocal Defense Procurement Memorandum of Understanding (MOU), extended in 1997, is intended to facilitate defense cooperation in part by allowing companies from both countries to compete on defense procurements in both countries on as equal a basis as possible, consistent with national laws and regulations. The MOU, which has benefited Israeli defense industries by opening up the U.S. procurement market to Israeli products, has not significantly opened the market for U.S. suppliers interested in competing for Ministry of Defense (MOD) procurements funded by Israel.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The United States removed Israel from the Special 301 Report in 2014. Israel has passed patent legislation that satisfies the remaining commitments Israel made in a Memorandum of Understanding from 2010 concerning several longstanding issues regarding Israel's intellectual property rights regime for pharmaceutical products. These issues included data protection, the terms of patents for pharmaceutical products, and Israeli practices with respect to the publication of patent applications.

The United States remains concerned with the limitations of Israel's copyright legislation, particularly related to digital copyright matters, and Israel's interpretation of its commitments for protection of confidential test and other data related to marketing approval of biologic pharmaceuticals.

SERVICES BARRIERS

Telecommunications

The Ministry of Communications is the lead agency for most telecommunication issues. The primary telecommunications provider is Bezeq, which was founded in 1984 as a government-owned corporation and took over the provision of telephone services from the Ministry of Communications.

Israeli law largely prohibits broadcast TV channels and radio stations, both public and private, from carrying advertisements. Only two selected private Israeli broadcast TV channels and a few private radio stations are allowed to do so. A few additional broadcast TV channels have received broadcast licenses and advertising privileges in exchange for local investment commitments. Foreign channels that are distributed through the country's cable and satellite networks are permitted to carry advertising directed at a foreign audience.

ELECTRONIC COMMERCE

Israel has two laws which govern consumer contracts, including the Standard Form Contract Law and the Consumer Protection Law, however, electronic signatures are regulated by Israel's Electronic Signature Law. Because Israeli law allows the consumer to decline to pay for any merchandise for which he or she did not physically sign, there is a significant disincentive to the establishment of online consumer e-commerce businesses.

JAPAN

TRADE SUMMARY

The U.S. goods trade deficit with Japan was $68.6 billion in 2015, a 2.2 percent increase ($1.5 billion) over 2014. U.S. goods exports to Japan were $62.5 billion, down 6.5 percent ($4.4 billion) from the previous year. Corresponding U.S. imports from Japan were $131.1 billion, down 2.2 percent. Japan was the United States' 4th largest goods export market in 2015.

U.S. exports of services to Japan were an estimated $46.7 billion in 2014 (latest data available), and U.S. imports were $31.2 billion. Sales of services in Japan by majority U.S.-owned affiliates were $71.6 billion in 2013 (latest data available), while sales of services in the United States by majority Japan-owned firms were $146.5 billion.

U.S. foreign direct investment (FDI) in Japan (stock) was $108.1 billion in 2014 (latest data available), a 10.3 percent decrease from 2013. U.S. direct investment in Japan is led by finance/insurance, manufacturing, and wholesale trade.

Overview

Trans-Pacific Partnership -- Japan is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest-growing economies in the world, promoting U.S. exports of goods and services, and benefit American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address non-tariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

In addition to TPP, the United States will continue to address trade-related concerns and issues with Japan through bilateral and other fora.

Trade in Services Agreement -- Japan is also participating in the Trade in Services Agreement (TiSA) negotiations, which are aimed at promoting fair and open trade in services while taking on new issues arising from the rapid growth of digital trade. The 23 economies participating in TiSA represent 75 percent of the world's $44 trillion services market.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Food Safety

Beef and Beef Products

In December 2003, Japan banned U.S. beef and beef products following the detection of an animal positive for bovine spongiform encephalopathy (BSE) in the United States. Following steps taken by Japan in July 2006, February 2013, and January 2015 that expanded U.S. access to the Japanese market for beef and beef products, the United States is currently eligible to export all beef and beef products from cattle less than 30 months of age slaughtered in the United States.

U.S. beef exports to Japan have grown significantly since the 2013 expansion of U.S. access to the Japanese market, reaching $1.3 billion in 2015. The United States continues to urge Japan to fully open its market to U.S. beef and beef products from animals of all ages, consistent with recognition by the World Organization for Animal Health (OIE) of the United States as a country with negligible risk for BSE.

Gelatin and Collagen

Japan banned the importation of U.S. ruminant-origin gelatin and collagen for human consumption (along with the importation of most other ruminant-origin tissues from the United States) following the detection of a BSE-positive animal in the United States in December 2003. In November 2014, Japan revised its regulations to allow importation of pharmaceutical-grade gelatin made from cattle bones. On March 27, 2015, Japan revised its regulations on imported ruminant-origin gelatin and collagen for human consumption as well as ruminant-origin raw materials (including bone chips and hides) for the production of gelatin and collagen for human consumption (including for both food and pharmaceutical uses). Following these regulatory revisions, requests from the United States that Japan re-establish U.S. market access, and subsequent intensive technical discussions, Japan has opened its market to all but two U.S. ruminant-origin gelatin, collagen, and raw material products consistent with science and OIE guidelines. The United States will continue efforts with Japan to achieve market access for remaining products in 2016.

Food Additives

Japan's regulation of food additives has restricted imports of several U.S. food products, especially processed foods. Many additives that are widely used in the United States and other markets are not permitted in Japan. In addition, U.S. manufacturers have raised concerns about the length of Japan's approval process for indirect food additives (*i.e.*, additives that are no longer present in the food product when consumed, such as solvents). Based on the Japanese government's assessment that the greatest hurdle to regulatory approval of food additives is the preparation of the application, in July 2014 it created the Food Additive Designation Consultation Center (FADCC) to assist applicants. The FADCC's services are free of charge, but communication with the center must be conducted in Japanese. It is unclear how effective the FADCC has been since its inception.

In 2002, Japan created a list of 46 food additives that would be subject to an expedited approval process. All have been approved with the exception of four, which the United States understands Japan to be currently reviewing. The United States has urged Japan to complete the reviews.

Pre- and Post-Harvest Fungicides

Japan classifies fungicides that are applied pre-harvest as pesticides, and fungicides that are applied post-harvest as food additives. Japan's requirement that post-harvest fungicides be classified as food additives does not have a significant impact on domestic producers, as Japanese farmers do not generally apply fungicides after harvest. However, it affects U.S. producers in various ways.

Japan has historically required a separate risk assessment and application process. Based on U.S. requests, Japan will streamline the review process for agricultural chemicals, including fungicides, applied both as pesticides (pre-harvest application) and as food additives (post-harvest application). The United States also remains concerned that Japan requires products that are treated with a post-harvest fungicide to be listed with each chemical and labeled at the point of sale with a statement indicating that they have been so treated, which dampens demand for the products. The United States will continue to work with the Japanese government on these issues.

Maximum Residue Limits

Japan has historically maintained burdensome application requirements for pesticide maximum residue level (MRL) approvals that hinder the use of newer and safer crop protection products on crops to be shipped to Japan. In addition, the United States remains concerned that Japan's procedures still require industry-wide enhanced surveillance of shipments of a product after a single MRL violation by a single shipper. While there has been improvement in how Japan handles MRL violations, the United States continues to work with the Japanese government and U.S. producers to address both of these concerns.

Plant Health

Chipping Potatoes

Chipping potatoes from 16 U.S. states are eligible for importation. Shipments may be made during a six-month window (February to July) and may only be sent to two chipping facilities in Japan. In March 2015, Japan approved overland transportation of chipping potatoes to the approved chipping facility that lacks a port capable of receiving transnational cargo ships. However, negotiations between Japan and the importer regarding risk mitigation requirements during overland transportation limited the volume of chipping potatoes moving overland during the 2015 shipping season. The United States will continue to monitor developments ahead of the 2016 shipping season.

IMPORT POLICIES

Japan is already the fourth largest market for U.S. agricultural products, with U.S. exports valued at over $11.1 billion in 2015, despite the existence of substantial market access barriers. The TPP agreement covers all agricultural products, and, once implemented, will deliver new and expanded access to Japan's market through a variety of actions and mechanisms.

Rice Import System

Japan's highly regulated and nontransparent importation and distribution system for imported rice limits meaningful access to Japan's consumers. Japan has established a tariff-rate quota (TRQ) of approximately 682,000 metric tons (milled basis) for imported rice. The Staple Food Department of the Ministry of Agriculture, Forestry, and Fisheries (MAFF) manages imports of rice within the TRQ through periodic ordinary minimum access (OMA) tenders and through simultaneous buy-sell tenders. Imports of U.S. rice under the OMA tenders are destined almost exclusively for government stocks. MAFF releases these stocks exclusively for non-table rice uses, such as industrial food processing or feed sector and for re-export as food aid. U.S. rice exports to Japan in 2015 were valued at nearly $278 million, totaling 360,000 metric tons. Only a small amount of this rice reaches Japanese consumers identified as U.S. rice, despite industry research showing Japanese consumers would buy U.S. high-quality rice if it were more readily available. Under the TPP, U.S. rice exports will achieve significantly improved access through the establishment of a new country-specific quota (CSQ), and modifications to Japan's quota administration procedures. The United States continues to monitor Japan's rice import system in light of its WTO import commitments.

Wheat Import System

Japan requires wheat to be imported through the Grain Trade and Operations Division of MAFF's Crop Production Department, which then resells the wheat to Japanese flour millers at prices substantially above import prices. These high prices discourage wheat consumption by increasing the cost of wheat-based foods in Japan. In 2007, MAFF revised its wheat import regime to allow more frequent adjustment to the resale price so that prices more closely reflect international price movements. The United States continues to carefully monitor the operation of Japan's state trading entity for wheat and its potential to distort trade. Under the TPP, Japan will develop a new country-specific quota for food wheat that will grow over a period of years and offer new duty-free access for feed wheat outside of the current WTO tariff-rate quota mechanism. The TPP will also improve access for a range of wheat products, including food preparations (mixes/doughs), and high value consumer products like biscuits, cookies, crackers, and pasta.

Pork Import Regime

Japan is the largest export market for U.S. pork and pork products on a value basis, with shipments valued at nearly $1.6 billion (406,187 metric tons) in 2015, accounting for 28 percent of the value of total U.S. shipments to all destinations. The import tariff for chilled and frozen pork is established by a gate price system that applies a 4.3 percent *ad valorem* tariff when the import value is greater than or equal to the administratively established reference price. When the value of imports falls below the reference price, the importer pays an additional specific duty equal to the difference between the import value and the reference price. Under TPP, fresh, chilled, and frozen cuts will benefit from the elimination of the applied *ad valorem* tariff and the sharp reduction in the specific duty applied to lower-cost cuts of pork, the latter resulting in a significantly less restrictive gate price system. Tariffs on a wide range of processed pork products, including ground seasoned pork, will be eliminated over time.

Beef Safeguard

In 2015, Japan remained the largest export market for U.S. beef and beef products on a value basis. Shipments to Japan were valued at $1.3 billion, totaling 204,927 metric tons. In 1995, as part of the results of the Uruguay Round, Japan was allowed to institute a beef special safeguard (SSG) to protect domestic producers in the event of an import surge. The SSG is triggered when the import volume of beef increases by more than 17 percent from the level of the previous Japanese fiscal year on a cumulative quarterly basis. When triggered, beef tariffs rise to 50 percent from 38.5 percent for the rest of the Japanese fiscal year. Although U.S. exports have increased significantly since further market opening at the start of 2013, the safeguard has not been triggered. Under the TPP, fresh, chilled, and frozen cuts of beef will benefit from a sharp reduction in the current *ad valorem* tariff of 38.5 percent, which includes a deep cut upon entry into force. Tariffs on a wide range of processed beef products will be eliminated over time. A TPP safeguard will replace Japan's existing WTO safeguard, and will be phased out over time.

Fish and Seafood Products

Total U.S. fish and seafood exports to Japan in 2015 were valued at $822 million, an 11 percent increase over 2014. However, tariffs on several fish and seafood products remain an impediment to U.S. exports and also pose an impediment for importers who rely on U.S. raw product for their processing operations. Other market access issues include Japan's import quotas on Alaska pollock, cod, Pacific whiting, mackerel, sardines, squid, and Pacific herring, as well as on specific products such as pollock roe, cod roe, and surimi. Although Japan has reduced tariffs, increased import quota volumes, and eased the administrative burdens associated with those quotas, the import quotas continue to present barriers to U.S. exports. The United States is urging Japan to take further action to eliminate tariffs on, and remove nontariff obstacles to, U.S. exports of fish and seafood.

High Tariffs on Citrus, Dairy, Processed Food, and Other Agricultural Products

Japan maintains high tariffs that hinder U.S. exports of agricultural and other food products, including grains, sugar, citrus, wine, dairy, and a variety of processed foods. Examples of double digit import tariffs include tariffs of 32 percent on oranges imported during the period of December to May, 40 percent on processed cheese, 29.8 percent on natural cheese, 22.4 percent on shredded frozen mozzarella cheese, 20 percent on dehydrated potato flakes, 17 percent on apples, 10.5 percent on frozen sweet corn, 20.4 percent on cookies, up to 17 percent on table grapes during the period of March to October, and 15 percent to 57.7 percent on wine depending on the tariff classification. These high tariffs generally apply to food products that Japan produces domestically. Under the TPP, Japan has committed to eliminate tariffs on a wide range of agricultural products, including cherries, apples, grapes, grape juice, walnuts, almonds, oranges, grapefruit, raisins, dried prunes, strawberries, raspberries, cranberries, potatoes, frozen French fries, eggs and egg products, and wine. Addressing tariffs and improving market access for these and other products remains a high U.S. priority.

Wood Products and Building Materials

The United States remains concerned that Japan maintains numerous localization barriers at the national, prefectural, and municipal levels in the form of domestic content subsidy programs that may favor domestic wood products.

Leather/Footwear

Japan continues to apply a leather footwear TRQ that substantially limits imports into Japan's market, negatively impacting market access for U.S. made and U.S. branded footwear. Under the TPP, tariffs and quotas on leather goods will be eliminated.

Customs Issues

The United States continues to urge Japan to improve customs processing and to facilitate expedited treatment of goods at the border. The United States has encouraged Japan to raise the Customs Law *de minimis* ceiling from ¥10,000 (approximately $84) to a higher level. Strengthening Japan's system for advance rulings would also improve transparency and predictability for U.S. exporters.

SERVICES BARRIERS

Japan Post

The government of Japan has committed to privatize the non-postal elements of Japan Post Holdings (JP Holdings). The sale of a first tranche of shares in JP Holdings and two financial subsidiaries, Japan Post Bank (JP Bank) and Japan Post Insurance (JP Insurance), in an initial public offering (IPO) in November 2015 began the final phase of the privatization process. The United States continues to monitor carefully the Japanese government's postal reform efforts to ensure that all necessary measures are taken to achieve a level playing field between the Japan Post companies and private sector participants in Japan's banking, insurance, and express delivery markets.

In the area of express delivery services, the United States remains concerned by unequal conditions of competition between Japan Post and international express delivery suppliers. The United States continues to urge Japan to take action to enhance fair competition by leveling the playing field, including by equalizing customs procedures and requirements and prohibiting the subsidization of Japan Post's international express service with revenue from non-competitive (monopoly) postal services. Under the TPP, Japan would undertake new obligations in these areas, including non-discriminatory treatment in delivery of parcels, packages, and goods.

The United States also continues to urge the Japanese government to ensure that the postal reform process, including implementation of revisions to the Postal Privatization Law, is fully transparent, including by providing full and meaningful use of public comment procedures and opportunities for interested parties to express views to government officials and advisory bodies before decisions are made. Timely and accurate disclosure of financial statements and related notes is a key element in the postal reform process, as is the continued public release of meeting agendas, meeting minutes, and other relevant documents.

The IPO sold 11 percent of available shares in three of four Japan Post entities. The final entity, the postal service subsidiary Japan Post Co., will remain a wholly owned subsidiary of JP Holdings. Follow-on sales of shares in the three companies will take place over time, as the Postal Privatization Law requires the government to sell a majority share (up to two-thirds of all shares) in JP Holdings, and all shares of JP Bank and JP Insurance, as soon as possible. Timing for additional sales has not yet been determined. The United States will continue to monitor developments and urge that the IPO process proceed in a fully transparent manner.

Insurance

Under the TPP, Japan and all TPP Parties agreed that postal entities supplying insurance products would operate on a level playing field in accordance with relevant laws and regulations applicable to all other insurance market participants. In addition, the Government of Japan made commitments to the United States regarding access for U.S. insurance companies to Japan Post's distribution network and committed to allow U.S. companies to operate under equivalent conditions of competition as Japan Post undergoes privatization.

Japan's private insurance market is the second largest in the world, after that of the United States, with direct net premiums of ¥40,598 billion (approximately $338.3 billion based on a ¥120 per U.S. dollar exchange rate). In addition to the offerings of Japanese and foreign private insurers, insurance cooperatives (kyosai) and JP Insurance, a majority government-owned entity of JP Holdings, also provide substantial amounts of insurance to consumers. Given the size and importance of Japan's private insurance market, the United States continues to place a high priority on ensuring that the Japanese government's regulatory framework fosters an open and competitive insurance market.

Postal Insurance

Japan's postal life insurance system retains a substantial share of Japan's insurance market. At the end of Japanese fiscal year 2014, there were approximately 37.7 million postal life and postal annuity insurance policies in force. In comparison, approximately 157.4 million life and annuity policies were in force with all other life insurance companies combined. The United States has long standing concerns about the postal insurance company's negative impact on competition in Japan's insurance market and continues to closely monitor the implementation of reforms.

The United States continues to urge the Japanese government to take steps to address a range of level playing field concerns in the insurance sector, including differences in supervisory treatment between JP Group's financial institutions and private sector companies, access to the postal network for private suppliers (including the process of selection of financial products), and cross-subsidization among the JP businesses and related entities. In regard to private suppliers' access to the postal network, there has been significant progress since 2013. For example, in July 2013, JP Holdings concluded a comprehensive tie-up agreement with a U.S. insurance company, American Family Life Assurance Company of Columbus (Aflac), to increase the number of JP outlets that distribute Aflac's cancer insurance products. As a result, by July 2015, the number of postal outlets selling Aflac's cancer insurance products increased from 1,000 to more than 20,000.

The United States continues to urge the Japanese government not to allow the JP Group to expand the scope of operations for its financial services companies before a level playing field is established. The current restraints on the scope of JP Group operations – including the cap on the amount of insurance coverage and limits to the types of financial activities and products JP entities can offer – have helped to limit the extent to which the uneven playing field harms private insurance companies. The U.S. Government welcomed the statement by Deputy Prime Minister Taro Aso on April 12, 2013, that the Japanese government will refrain from approving new or modified cancer insurance or stand-alone medical products of JP Insurance until it determines that equivalent conditions of competition with private sector insurance suppliers have been established, and that JP Insurance has a properly functioning business management system in place, which Japan expects will take at least several years to achieve. In addition, before final decisions are made, it is vital that Japan's process for approving new products be transparent and open to all parties, including active solicitation and consideration of private sector views, along with careful analysis and full consideration of actual competitive conditions in the market.

Kyosai

Insurance businesses run by cooperatives (kyosai) hold a substantial share of insurance business in Japan. Some kyosai are regulated by their respective agencies of jurisdiction (*e.g.*, the Ministry of Agriculture, Forestry, and Fisheries (MAFF) or the Ministry of Health, Labor and Welfare (MHLW)) instead of by the Financial Services Agency (FSA), which regulates all private sector insurance and financial services companies. These separate regulatory schemes create a nontransparent regulatory environment, and afford kyosai critical business, regulatory, and other advantages over their private sector competitors. The U.S. Government remains concerned about limited FSA supervisory authority over kyosai.

Bank Sales of Insurance

Japanese consumers increasingly turn to banks to meet their insurance needs. As a result, banks have become an important distribution channel for the sale of insurance products. In December 2007, the Japanese government fully liberalized the range of insurance products eligible for sale through banks. In July 2011, the Japanese government carried out a follow-up review of the bank sales channel based on the changes in 2007, yet there were concerns about the transparency and results of that review. Limits continue to remain on the sales of some products, there are different rules for the treatment of customer data in some cases, and sales restrictions on insurance are applied to certain categories of customers (for example, customers who work for small or medium sized corporate borrowers). The U.S. Government continues to call on the Japanese government to conduct in the near term a fact-based and transparent review of the bank sales channel that includes meaningful opportunities for input from interested stakeholders and that takes into account global best practices to further enhance policyholder protection and improve consumer choice.

Policyholder Protection Corporations

The Life and Non-life Policyholder Protection Corporations (PPCs) are mandatory policyholder protection systems created to provide capital and management support to insolvent insurers. In March 2012, the Japanese government extended the existing system of government pre-funding of the PPCs for an additional five years, until March 2017. The United States continues to urge Japan to consider more fundamental changes in the PPC systems, including through full and meaningful deliberations with interested parties, before renewing these measures again.

Other Financial Services

While improvements have been made in Japan's financial services sector, such as the FSA's continued commitment to its Better Markets Initiative, the United States continues to urge reforms in the areas of defined contribution pensions, sustainable lending practices, and sharing of customer information. The FSA continues to enhance its engagement and outreach with both domestic and foreign financial firms operating in Japan, but more improvement in this sector is needed, particularly with respect to transparent practices such as enhancing the effectiveness of the no-action letter and providing written interpretations of Japan's financial laws.

Telecommunications

The United States continues to focus on ensuring fair market opportunities for emerging technologies and business models in Japan, and ensuring a regulatory framework appropriate for addressing converged and Internet-enabled services, and competitive safeguards on dominant carriers. The United States also continues to urge Japan to improve transparency in rulemaking and ensure the impartiality of its regulatory decision-making.

Dominant Carrier Regulation

The Nippon Telegraph and Telephone Corporation (NTT) continues to dominate Japan's fixed-line market through its control over almost all "last-mile" connections. Although NTT's market share declined by 1 percentage point from the previous year, it still holds a 70.1 percent share as of the end of June 2015 in the fiber-to-the-home (FTTH) market. NTT's authority to bundle its fixed-line services with mobile phone operator NTT Docomo's mobile service is also of concern, as it appears to undermine the rationale for structurally separating the companies. NTT began wholesaling its fiber-optic fixed-line services to other companies, including NTT Docomo, in February 2015, claiming that it does not violate the Telecommunications Business Act if it treats all customers equally. However, mobile carriers and CATV companies have expressed concerns that this could result once again in NTT obtaining a dominant market share. The United States will continue to monitor developments.

New Mobile Wireless Licenses

Unlike most advanced economies, Japan does not use auctions to allocate spectrum, and the factors the Ministry of Internal Affairs and Communication (MIC) uses to determine how to evaluate applications have raised questions related to the fairness of the allocation process. In March 2012, Softbank was awarded 900MHz frequencies, and in June 2012, NTT Docomo, telecommunications operator KDDI, and eAccess (acquired by Softbank in January 2013) were awarded 700MHz spectrum. While Softbank launched its 900MHz networks in 2013, the 700MHz frequencies will not be used until 2016. In July 2013, MIC awarded additional frequencies in the 2,625 MHz to 2,645 MHz bands to UQ Communications, a subsidiary of KDDI, to provide advanced Broadband Wireless Access systems. Although the Japanese government has previously considered introducing legislation that allows for auctions as an option to assign commercial spectrum, it remains unclear whether such legislation will be introduced.

Information Technologies (IT)

Health IT

The United States has urged Japan to improve the quality and efficiency of health care by rapidly implementing health IT that is based on international standards, promotes technology neutrality and interoperability, and allows patients greater access to their own health records. Engagement between U.S. and Japanese government health IT experts continues to address health IT issues of mutual interest.

Privacy

Separate and inconsistent privacy guidelines among Japanese ministries have created an unnecessarily burdensome regulatory environment with regard to the storage and general treatment of personally identifiable information in Japan. The United States has urged Japan to introduce greater uniformity in the enforcement of the Privacy Act across the central government through policy standardization and consistent implementation of guidelines. In September 2015, the Japanese Diet passed an amendment to the Personal Information Protection Act, seeking to "enhance the use of personal data for business purposes while protecting privacy." The amendment creates new rules for the protection of personal data including the transfer of personal data over the Internet, and establishes a third party authority similar to the EU's Privacy Commissioner as regulator. The Specific Personal Information Protection Commission (the Commission) plans to issue its guidelines for personal information protection in the spring of 2016. While the process of drafting the new law incorporated several useful suggestions from stakeholders, problematic elements, such as a mandate for the Commission to evaluate countries as acceptable destinations for information, remained intact, and details on how the law will be implemented will bear careful monitoring.

Consumption Tax on Online Content from Abroad

March 2015 legislation amending the Income Tax Act extended Japan's consumption tax to electronic commerce products (such as digital books, music, and advertisements) sold by foreign businesses without a physical presence in Japan. Such products offered by firms with a physical presence in Japan had already been subject to a consumption tax. Any future increases to the consumption tax, currently eight percent, would also apply to online content from abroad.

Legal Services

Japan imposes cumbersome and time-consuming procedures for the registration of foreign lawyers to provide international legal services in Japan, and prohibits foreign lawyers from establishing branch offices in Japan (except for one type of firm which is first required to corporatize locally). The United States continues to urge Japan to further liberalize the legal services market. For example, the United States urges Japan to eliminate the requirement that two years of post-admission practice of home country law take place outside Japan; ensure that legal or bar association rules do not impede Japanese lawyers becoming members of international legal partnerships; and significantly simplify and accelerate the registration process for new foreign legal consultants.

Educational Services

The United States continues to urge the Japanese government to work with foreign universities to find a nationwide solution that grants tax benefits to foreign universities operating in Japan comparable to those provided to Japanese schools and allows foreign universities to continue providing their unique contributions to Japan's educational environment.

In its Economic Revitalization Strategy first issued in June 2013, the government of Prime Minister Abe committed to promoting an educational system that more effectively provides the Japanese people with the skills to compete in the global economy. Consistent with that commitment, in 2014 Japanese authorities actively engaged with American universities operating satellite campuses or extension facilities in Japan to seek a way forward on taxation and other issues. American universities have reported success in being recognized as educational institutions eligible for issuance of visas to foreign students to study at their campuses in Japan. However, despite extensive consultations with authorities, no American university has been able to satisfy all the legal requirements to be granted "educational corporation" (gakkou houjin) status, which would confer the same tax benefits enjoyed by Japanese universities. The requirement that such corporations be "independently administered" (*i.e.*, not subject to direct administration by the parent university in the home country) is a particularly difficult legal hurdle to overcome. Lack of gakkou houjin status means foreign satellite universities are also excluded from participation in new Japanese government grant programs that promote international exchange and provide financial support for students wishing to study abroad.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Japan generally provides strong intellectual property rights protection and enforcement. The United States, however, continues to urge Japan to improve IPR protection and enforcement in specific areas through bilateral consultations and cooperation, as well as in multilateral and regional fora.

The United States also has urged Japan to continue to reduce piracy rates, including by adopting methods to protect against piracy in the digital environment. Police and prosecutors generally lack *ex officio* authority to prosecute IPR crimes on their own initiative, without a complaint from a rights holder. The United States also seeks improvements to Japan's Internet service provider liability law to promote cooperation between rights holders and Internet service providers.

In addition, the United States continues to urge Japan to further strengthen its laws to provide effective criminal and civil remedies against the unauthorized circumvention of technological protection measures used by rights holders to protect their works, as well as effective criminal and civil remedies against the trafficking in tools used to circumvent such technological protection measures. Furthermore, although Japan provides a 70-year term of protection for cinematographic works, it provides only a 50-year term for other works protected by copyright and related rights. The United States continues to urge Japan to extend the term of protection for all subject matter of copyright and related rights in line with emerging international trends. Also, while the United States welcomed clarifications to Japan's Copyright Law in 2010 that made clear that the statutory private use exception does not apply in cases where a downloaded musical work or a motion picture is knowingly obtained from an infringing source, the United States continues to urge the Japanese government to expand this limitation on the private use exception to cover all works protected by copyright and related rights.

In its June 2013 Economic Revitalization Strategy, the Cabinet announced that Japan would undertake revisions to the Patent Act, Design Act, Trademark Act, and Patent Attorney Act in order to promote the creation, protection, and strategic use of intellectual property. Legal revisions in support of the economic revitalization strategy took effect in 2015 and included amending the Trademark Act to grant legal protection to non-traditional trademarks and regional collective trademarks. In addition, in July 2015 Japan revised the Unfair Competition Prevention Act with the goal of strengthening deterrence against the theft of trade secrets. The amendment, which took effect in January 2016, will increase fines and other penalties, enable criminal charges for theft without a formal complaint from the rights holder, and expand the scope of punishable activities to include attempted infringements. The amendment also reduces the burden of proof for wrongful use and extends the statute of limitations to 20 years.

The "Act for Protection of Designated Agricultural, Forestry and Fishery Products and Foodstuff" (GI Act) entered into force on June 1, 2015. As of December 22, 2015, seven geographic indications – including Kobe beef and Yubari melon – have been registered, and eight additional applications have been announced on MAFF's website. The seven geographic indications registered to date all include the geographic place name plus the product name. The United States continues to monitor implementation of the GI Act to ensure consistency with core transparency and due process principles, in particular with respect to the protection of existing trademarks, the safeguarding of the use of generic terms, and the effective operation of objection and cancellation procedures.

Under the TPP Agreement, which sets strong and balanced standards on IPR protection and enforcement, Japan has committed to strengthen its IPR regime. The United States continues to work with Japan to address IPR issues through TPP implementation as well as through bilateral engagement.

GOVERNMENT PROCUREMENT

Japan is a signatory to the WTO Agreement on Government Procurement (GPA), which obligates Japan to open its government procurement to suppliers from the United States and other GPA members. Japan has also made commitments to the United States under bilateral agreements.

The United States continues to monitor Japan's implementation of these agreements to ensure the greatest possible transparency in tendering processes and opportunity for participation by qualified bidders. The U.S. Government is paying special attention to government procurement associated with construction projects for the Tokyo 2020 Olympics; major expressway projects; major public buildings; railroad and railroad station projects; urban development and redevelopment projects; planned port facilities expansion projects; major private finance initiative projects; and the projects covered under the 1988 United States-Japan Major Projects Arrangements (MPA, updated in 1991) that have yet to be undertaken or completed. The U.S. Government is also monitoring developments related to environmental remediation and "green" building and design.

Under the TPP Agreement, Japan will make government procurement commitments similar to its GPA commitments to the United States and other TPP partners. In addition, under the United States-Japan Parallel Negotiations on Non-Tariff Measures conducted in tandem with TPP, Japan has agreed to take steps on government procurement to prevent bid-rigging and to provide for greater transparency and participation in the bidding process (such as maintaining an open data portal website that makes information on prior government procurements publicly available).

INVESTMENT BARRIERS

Despite being the world's third largest economy, Japan continues to have the lowest inward FDI as a proportion of total output of any major OECD country. According to OECD statistics, FDI stock at the end of 2013 was only 3.5 percent of GDP in Japan, compared to 32.1 percent on average for all OECD members (latest data available). Inward foreign merger and acquisition (M&A) activity, which accounts for a large portion of FDI in other OECD countries, also lags in Japan.

While the Japanese government recognizes the importance of FDI to revitalizing the country's economy, its performance in implementing domestic regulatory reforms to encourage a sustained increase in FDI has been uneven. In June 2013, the government of Prime Minister Abe announced its goal of doubling Japan's inward 2012 year-end FDI stock by 2020, and it reconfirmed this commitment in its revised growth strategy issued in June 2014. The government is pursuing a range of policies intended to promote this target.

Prior to the Abe administration, the Japanese government had done little to explicitly encourage inward investment through M&A as a policy priority. However, the number of annual inbound M&A deals has remained relatively flat and low for an economy the size of Japan, raising questions about the adequacy of the government's measures if its 2020 target is to be achieved. A variety of factors make inbound M&A difficult in Japan, including attitudes toward outside investors, inadequate corporate governance mechanisms that protect entrenched management over the interest of shareholders, cross-shareholdings, aspects of Japan's commercial law regime (*see Commercial Law section*), and a relative lack of financial transparency and disclosure.

ANTICOMPETITIVE PRACTICES

Improving Anti-Monopoly Compliance and Deterrence

Japan's Anti-Monopoly Act (AMA) provides for both administrative and criminal sanctions against cartels and administrative sanctions for non-cartel conduct. Criminal prosecutions, which have the strongest deterrent effect against anticompetitive behavior in other countries, have been few, and penalties against convicted company officials have been weak. While the Japanese government has taken some steps to address these concerns, particularly through amendments to the AMA enacted in June 2009 that increased fines for cartel violations, the United States has continued to urge Japan to take steps to maximize the effectiveness of enforcement against cartel violations of the AMA.

Improving Fairness and Transparency of JFTC Procedures

Japan recently amended the procedures for Japan Fair Trade Commission (JFTC) hearings and appeals from JFTC orders to address concerns as to whether the preexisting system provided sufficient due process protections. The Diet enacted an AMA amendment in 2013, which took effect in April 2015, to eliminate the *ex post* hearing system and to allow appeals of JFTC orders to go directly to the Tokyo District Court. JFTC also adopted in April 2015 the "Regulation on Opinion Hearings Pertaining to Cease-and-Desist Orders and Other Measures," which includes detailed provisions on how parties subject to a cease-and-desist or surcharge payment order may review evidence relied upon by the JFTC and submit evidence and arguments in their defense to a JFTC hearing officer prior to issuance of a final order by the JFTC.

In connection with the amendments, Japan established a cabinet office advisory panel to study additional ways that the JFTC might change its procedures to enhance the transparency and fairness of enforcement proceedings. In December 2014, the advisory panel recommended that the JFTC issue guidelines regarding administrative procedures to enhance the transparency of enforcement proceedings. The panel's report examined JFTC investigation procedures regarding on-the-spot inspections, depositions, and attorney-client privilege. It recommended that the JFTC clarify its procedures on issues related to on-the-spot inspections (for example, the ability of a firm to make copies of its seized documents) and depositions (for example, the ability of a defense attorney to attend a deposition). On the issue of whether to recognize the right to assert the attorney-client privilege (a privilege that is not recognized in Japan) in JFTC investigations, while acknowledging the merits of the privilege and that certain panel members supported the privilege, the panel recommended further examination of the privilege in the future.

In December 2015, in response to the advisory panel recommendations, and in an effort to promote the transparency of JFTC investigative procedures, the JFTC published new "Guidelines on Administrative Investigation Procedures under the Antimonopoly Act (Guidelines)." These new Guidelines also were addressed in the United States-Japan Parallel Negotiations on Non-Tariff Measures conducted in tandem with TPP. The Guidelines outline JFTC procedures for on-the-spot inspections, treatment of items seized during inspections, and JFTC procedures during depositions. The Guidelines also detail a new complaint system that allows formal objections to the JFTC's comportment and handling of inspections and depositions. The JFTC plans to review the Guidelines after two years and will examine issues, such as the attorney-client privilege, at that time.

Broadening Measures to Combat Bid-Rigging

The United States continues to raise concerns with the problem of bid-rigging in Japan, and urges that further measures be taken to prevent conflicts of interest in government procurement and improve efforts to eliminate involvement in bid-rigging by government officials.

OTHER SECTORAL AND CROSS-SECTORAL BARRIERS

Transparency

Advisory Groups

Advisory councils and other government-commissioned study groups are accorded a significant role in the development of regulations and policies in Japan. However, the process of forming these groups can be opaque, and too often non-members are not uniformly offered meaningful opportunities to provide input into these groups' deliberations. The United States continues to urge Japan to ensure transparency with respect to the formation and operation of advisory councils and other groups convened by the government by adopting new requirements to ensure that ample and meaningful opportunities are provided for all interested parties, as appropriate, to participate in, and directly provide input to, these councils and groups. As addressed in the United States-Japan Parallel Negotiations on Non-Tariff measures conducted in tandem with TPP, government-established advisory councils will be subject to greater transparency requirements.

Public Comment Procedure

Many U.S. companies remain concerned by inadequate implementation of the public comment procedure by Japanese ministries and agencies. For example, in some cases comment periods appear unnecessarily short, and in some cases comments do not appear to have been adequately considered given the brief time between the end of the comment period and the issuance of a final rule or policy. The United States has stressed the need for Japan to make revisions to improve the system, such as lengthening the standard public comment period for rulemaking. TPP contains commitments to provide "a reasonable opportunity to comment" on all proposed measures, and obligates parties to endeavor to publish draft proposed regulations 60 days in advance of the date on which comments are due.

Commercial Law

Foreign investment into Japan remains constrained by a range of issues, including conditions for using tax-advantaged merger tools for inward-bound investment in Japan, securities law and capital market issues inherent in cross-border stock-for-stock transactions, and corporate governance systems that have not adequately reflected the interests of shareholders. The United States continues to urge Japan to identify and eliminate impediments to cross-border mergers and acquisitions, including the availability of reasonable and clear incentives for many such transactions, and to take measures to ensure that shareholder interests are adequately protected when Japanese companies adopt anti-takeover measures or engage in cross-shareholding arrangements. The United States also continues to urge Japan to improve further its commercial law and corporate governance systems in order to promote efficient business practices and management accountability to shareholders in accordance with international best practices. Areas ripe for improvement include facilitating and encouraging active and appropriate proxy voting, and strengthening protection of minority shareholders by clarifying fiduciary duties of directors and controlling shareholders.

The Abe government has committed to improving corporate governance as part of its economic growth strategy. The revised Companies Act that took effect on May 1, 2015, establishes a "comply or explain" rule that requires companies to appoint at least one outside director to their boards or publicly explain why such an appointment is inappropriate. Alternatively, companies may institute an audit and supervisory committee whose members do not serve as directors.

Taking corporate governance a step further, the Financial Services Agency (FSA) and Tokyo Stock Exchange (TSE) drafted Japan's first Corporate Governance Code, modeled on OECD and UK principles. The new code, which took effect in June 2015, applies to more than 2000 listed companies, and aims to increase corporate transparency and management accountability in five broad areas, to encourage a stronger management focus on earnings and shareholder value. The Code requires at least two independent directors and encourages firms to implement a roadmap to ensure that at least one-third of the board is comprised of independent directors. It also has a "comply or explain" requirement for cross-shareholdings and for cases where a company has fewer than two independent directors. The new Corporate Governance Code complements the Stewardship Code for institutional investors launched by the FSA in April 2014, and together these codes are expected to encourage companies to increase investment, raise dividends, and take on more "smart risk" that can boost Japan's overall growth.

Automotive

A variety of nontariff barriers have traditionally impeded access to Japan's automotive market. Overall sales of U.S.-made vehicles and automotive parts in Japan remain low, which is a serious concern. The United States has expressed strong concerns with the overall lack of access to Japan's automotive market for U.S. automotive companies. Barriers include certain issues relating to standards and certification; a lack of transparency, including the lack of sufficient opportunities for input by interested persons in the development of regulations; hindrances to the development of distribution and service networks; and the lack of equivalent opportunities for U.S. vehicle models imported under the preferential handling procedure (PHP) certification program to benefit from financial incentive programs. In a positive development, the TPP and the U.S.-Japan bilateral agreement on motor vehicle trade address a wide range of nontariff measures, including transparency in regulations, standards, certification, financial incentives, and distribution. Also, the provisions in the bilateral agreement include long U.S. tariff staging, strong rules of origin, and robust dispute settlement requirements. In July 2014 Japanese authorities eased restrictions on maintenance procedures for vehicles using a particular type of air conditioner refrigerant, allowing for importation of new models in which the refrigerant is installed. Also, in 2013, Japan more than doubled (from 2,000 to 5,000) the number of imported vehicles per type that may use the simplified certification method of PHP.

Medical Devices and Pharmaceuticals

Japan continues to be one of the most important markets for U.S. medical device and pharmaceutical exports. According to Business Monitor International, the Japanese medical device market had an estimated value of $28.1 billion in 2014 and is projected to expand to $29.6 billion by 2018. Foreign suppliers have approximately 40 percent of the market. According to the American Medical Devices and Diagnostics Manufacturers' Association, approximately 60 percent of "new medical devices" approved in Japan were from its member companies. The pharmaceuticals market in Japan had an estimated value of $112.2 billion in 2014; it is projected to contract to $102.7 billion in 2019. The total market share of U.S.-origin pharmaceuticals in Japan is estimated to be approximately 20 percent if local production by U.S. firms and compounds licensed to Japanese manufacturers is included.

Prime Minister Abe continues to call for increased promotion of Japan's pharmaceutical and medical device industries. Japan has recently made progress in several areas, including the reduction of lengthy approval periods for medical devices and pharmaceuticals. For medical devices, the New Collaboration Plan to Accelerate Review of Medical Devices, implemented in April 2014, contains performance goals that, if met, will lead to speedier approvals by the end of the program (March 2019). The U.S. Government continues to urge Japan to improve performance goals for product reviews by meeting performance targets and ensuring that Quality Management System audits are completed within the standard review period. For pharmaceuticals, Japan has brought its approval periods in line with, or even faster than, U.S. and European norms. The U.S. Government continues to urge Japan to further harmonize efforts of its key regulatory agencies on international standards in clinical development, multiregional clinical trials, and risk management.

In order to accelerate development of medical drugs and devices, the Japanese government established the Japan Agency of Medical Research and Development (AMED) in April 2015. AMED controls medical-related research projects that were previously handled within different ministries. In a more sweeping effort, the Japanese government revised and renamed the Pharmaceutical Affairs Law as the Pharmaceutical and Medical Devices Law (PMDL), which took effect in November 2014. The PMDL includes improvements to the regulatory review process. Based on the PMDL, the Japanese government expedited the approval of two regenerative medical products in 2015, although additional data will have to be submitted within five years.

The United States has urged Japan over the past decade to implement predictable and stable reimbursement policies that reward innovation and provide incentives for companies to invest in the research and development of advanced healthcare products and pharmaceuticals. The level of transparency in Japan's drug and medical device reimbursement decision-making processes has improved in recent years, and the United States looks forward to Japan building further on recent improvements in order to foster more open and predictable reimbursement policies.

U.S. stakeholders have expressed concerns, including with respect to the potential change from a biennial to an annual price revision cycle, the Foreign Average Price rule for medical devices, and the Pricing for Market Expansion scheme, including the new "Huge Seller" rule, for pharmaceutical products. The United States urges the government of Japan to follow transparent processes in the development of any regulations or measures related to these policies and to provide all stakeholders, including U.S. stakeholders, meaningful opportunities for input.

Nutritional Supplements

The latest estimated figure for Japan's nutritional or dietary supplements market shows a retail sales volume of ¥1.17 trillion (approximately $11 billion), according to UBM Media. Japan has taken steps to streamline import procedures and to open this market, although many significant market access barriers remain. Pursuant to the Abe government's Economic Revitalization Strategy issued in June 2013, Japan's Consumer Affairs Agency (CAA) started implementing a new Food with Functional Claim (FFC) system effective as of April 1, 2015. This FFC system is a third food-related category under the Food with Health Claims system, parallel to other premarket government approval systems Foods for Specified Health Uses (FOSHU) and Foods with Nutrient Function Claims (FNFC). However, the FFC system excludes vitamins and minerals, does not provide clear guidance on processing time, and limits the allowable additives. In addition, only products approved under the FOSHU or FNFC system are allowed to have health or structure/function claims. Producers of most nutritional supplements, however, are unable to obtain FOSHU or FNFC approval due to FOSHU's costly and time consuming approval process and the limited range of vitamins and minerals that qualify for FNFC. These processes apply to both imported and domestic products.

Other concerns include long lead times for food additive applications; difficulties associated with using unregistered food additives (including organic solvents) as processing ingredients for use in nutritional supplements; high import duties for nutritional supplements compared to duties on pharmaceuticals containing the same ingredients; lack of transparency in new ingredient classifications; and lack of transparency in the development of health food regulations.

Cosmetics and Quasi-Drugs

Based on the latest publicly available information as projected by Euromonitor International, Japan is the world's fourth largest market for beauty and personal care products, after the United States, China, and Brazil. The United States has consistently been the second largest source of cosmetics and personal care products imported into Japan. In 2014, U.S. exports were estimated at 40.3 billion yen (approximately $300 million), or 18.6 percent of the total import market. Unlike the over-the-counter drug monograph system in the United States, Japan requires pre-market approval for certain products such as "medicated cosmetics" that are classified as quasi-drugs under Japan's Pharmaceutical Affairs Law. The quasi-drug approval process includes requirements that are burdensome, lack transparency, and do not appear to enhance product safety, quality, or efficacy. In addition, restrictions on advertising claims for cosmetics and quasi-drugs reportedly prevent companies from informing customers of product benefits necessary for making informed choices. Enhanced communication between the U.S. and Japanese governments and industries has led to some improvements in the Japanese regulatory system, such as implementation of an online customs clearance system effective November 2014. Some recent further simplification of import processes, and improvements in customs clearance and product registration procedures, including the development of approval standards for "medicated cosmetics," among others, are expected to help create a more open, competitive market. The United States will closely monitor developments.

Proprietary Ingredient Disclosure Requirement for Food and Dietary Supplements

As part of its product classification process for new-to-market food and dietary supplement products, Japan mandates that such products include a list of all ingredients and food additives by name, along with content percentages and a description of the manufacturing process. In addition to being burdensome, this process risks the release of proprietary information to competitors.

Aerospace

Japan is among the largest foreign markets for U.S. civil aerospace products. The civil aerospace market in Japan is generally open to foreign firms, and some Japanese firms have entered into long-term relationships with U.S. aerospace firms. The United States continues to monitor Japan's development of indigenous aircraft.

Military procurement by the Ministry of Defense (MOD) accounts for approximately half of the domestic production of aircraft and aircraft parts and continues to offer the largest source of demand in the aircraft industry. Although U.S. firms have frequently won contracts to supply defense equipment to Japan, many contracts for defense equipment are not open to foreign bids. MOD's general preference is that defense products and systems be developed and produced in Japan, and it will often opt for local development and production, even when a foreign option exists that could fulfill the requirements more efficiently, at a lower cost, and with better interoperability with Japan's allies.

Although Japan has considered its main space launch vehicle programs as indigenous for many years, U.S. firms continue to participate actively in those space systems. Japan is also developing a regional navigation satellite system known as the "quasi-zenith" satellite system, or QZSS, as well as high-performance Advanced Satellite with New System Architecture for Observation systems. At the conclusion of the third meeting of the United States-Japan Comprehensive Dialogue on Space on September 11, 2015, the United States and Japan released a joint statement welcoming initiatives to enhance bilateral space situational awareness information sharing. The statement also reaffirmed interest in collaboration on evaluating the operational and economic benefits from the use of space for maritime domain awareness.

Japan has been taking steps to bolster aviation operations through the liberalization of regulations and investment in infrastructure. Japan is the United States' largest aviation partner in the Asia-Pacific region, and a bilateral open skies regime has been in place since 2010. Operations between the United States and Tokyo's Haneda Airport, however, are limited due to the fact that Haneda is an operationally-constrained airport with a limited number of slots for international services. In February 2016, the United States and Japan reached agreement on increased access to Haneda for U.S. carriers, which is expected to be realized as early as the start of the International Air Transport Association 2016/2017 winter traffic season.

In the general aviation sector, the United States and the APEC member economies, including Japan, have reached consensus on best practices for the treatment and regulation of international business aviation operations. The U.S. Government will continue to work closely with the government of Japan to promote greater liberalization in the business aviation sector through APEC's Transportation Working Group.

JORDAN

TRADE SUMMARY

The U.S. trade balance with Jordan shifted from a goods trade surplus of $650 million in 2014 to a goods trade deficit of $125 million in 2015. U.S. goods exports to Jordan were $1.4 billion, down 33.3 percent ($682 million) from the previous year. Corresponding U.S. imports from Jordan were $1.5 billion, up 6.6 percent. Jordan was the United States' 69th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Jordan (stock) was $249 million in 2014 (latest data available), a 14.7 percent increase from 2013.

The United States-Jordan Free Trade Agreement

Under the terms of the United States-Jordan Free Trade Area Agreement (FTA), which entered into force on December 17, 2001, the United States and Jordan completed the final phase of tariff reductions on January 1, 2010. Jordan now imposes zero duties on nearly all U.S. products, with exceptions for alcoholic beverages and mature subject materials. Following consultations under the United States-Jordan Joint Committee, Jordan endorsed the United States-Jordan Joint Principles on International Investment and Joint Principles for Information and Communication Technology (ICT) Services.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Jordan recognizes and accepts U.S. standards and specifications. However, Jordan has required that imports meet additional product standards. In July 2014, for example, Jordan applied a new energy-saving labeling requirement for household appliances above and beyond that required by international standards. The United States and Jordan have agreed that appropriate U.S. labeling and testing will fulfill this requirement. Some measures with the potential to be viewed as barriers to trade are imposed periodically, such as a 2014 restriction imposed on packaging sizes for poultry available for retail resale.

Sanitary and Phytosanitary Barriers

Some sanitary and phytosanitary (SPS) measures with the potential to be viewed as barriers to trade are imposed periodically without scientific justification and may take time to resolve with the concerned authorities. Jordan does not notify these measures to the WTO as required under the SPS Agreement. The United States has an ongoing dialogue with Jordan on SPS issues.

IMPORT POLICIES

Other Charges

Jordan's General Sales Tax law allows the government to impose a "Special Tax" at the time of importation in addition to the general sales tax. Over the past several years, Jordan increased special taxes on certain goods, changes to which can be unpredictable.

Agriculture

Import licenses, or advance approvals for importation, are required for specific food products by the Ministry of Health and raw agricultural goods by the Ministry of Agriculture. The ministries are the authorities charged with granting these licenses and approvals. The approvals process can be time consuming and, at times, lacks transparency, an issue the United States continues to engage Jordanian authorities to address.

Import Licenses

In addition to the special licensing and approval requirements for the importation of certain agricultural products, Jordan requires that importers of commercial goods be registered traders or commercial entities. The Ministry of Industry and Trade occasionally issues directives requiring import licenses for certain goods or categories of goods and products in newly emerging or protected sectors. The government of Jordan requires a special import license prior to the importation of telecommunications and security equipment.

GOVERNMENT PROCUREMENT

Jordan is an observer to the WTO Committee on Government Procurement. In 2002, it commenced the process of acceding to the WTO Agreement on Government Procurement (GPA), with the submission of its initial entry offer. Subsequently, 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 continue.

EXPORT SUBSIDIES AND TAXES

Net profits generated from most export revenue will remain fully exempt from income tax except for net profits from exports in the mining sector, exports governed by specific trade protocols, and foreign debt repayment schemes, which are subject to income tax. Under WTO rules, the tax exemption was initially set to expire on December 31, 2015, subject to an annual review. In November 2015, Jordan extended this tax exemption to December 2018. The United States is working with Jordan to develop a WTO-compliant alternative to this program.

In addition, 98 percent of foreign inputs used in the production of exports are exempt from customs duties; all additional import fees are assessed on a reimbursable basis.

Jordan imposes a $50 per ton tax on exports of steel scrap, discouraging its exportation.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Jordan was not listed in the 2015 Special 301 Report. The Jordanian government continues to take steps to provide more comprehensive protection of intellectual property rights. Despite past efforts by law enforcement officials to crack down on unauthorized products, prosecution efforts should be strengthened, particularly with respect to utilizing *ex officio* authority to bring charges in criminal cases.

KAZAKHSTAN

TRADE SUMMARY

The U.S. goods trade deficit with Kazakhstan was $290 million in 2015, a 27.9 percent decrease ($112 million) over 2014. U.S. goods exports to Kazakhstan were $509 million, down 49.6 percent ($500 million) from the previous year. Corresponding U.S. imports from Kazakhstan were $798 million, down 43.4 percent. Kazakhstan was the United States' 95th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Kazakhstan (stock) was $15.6 billion in 2014 (latest data available).

WTO Accession

Kazakhstan's accession package was approved by the WTO General Council on July 27, 2015. Effective November 30, 2015, Kazakhstan became a Member of the WTO. Kazakhstan's accession is the culmination of approximately 20 years of negotiations and preparatory work.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Systemic Issues

In addition to adopting the import requirements of the Eurasian Economic Union (EAEU) and the Russia-Kazakhstan-Belarus Customs Union (the Customs Union or CU), Kazakhstan now requires any importer or domestic producer of certain types of goods to obtain a Certificate of State Registration before the product can be sold in Kazakhstan. The Ministry of National Economy's Committee of Consumer Rights Protection is responsible for issuing these certificates. Goods subject to this certification requirement include:

- biologically active supplements, including baby food and formula;
- equipment and devices for water supply systems;
- items for intimate hygiene;
- products for disinfection (except of those used in veterinary services); and
- items designated for contact with food products (except dishes, table amenities, and microwave ovens).

The United States continues to work with Kazakhstan to encourage improvements in the EAEU SPS regime and to ensure that Kazakhstan's implementation of the EAEU's SPS measures is consistent with its WTO obligations and minimally disruptive to bilateral trade. (*See Import Policies section below for more information on the EAEU and CU.*)

Agricultural Biotechnology

The Kazakhstani law "On Seeds Farming" appears to permit field testing of agricultural biotech crops, though the field testing approval process has not yet been codified into law. A draft law regarding the approval process has been pending in the Kazakhstani Parliament since early 2011. The draft law may come up for discussion again in 2016.

CU regulations covering agricultural biotech products have recently come into force and Kazakhstan is enforcing them. These regulations require the labeling of both imported and domestically-produced agricultural biotech products. As Kazakhstan continues to integrate into the EAEU, it is expected that the policies and views of other EAEU countries will play a greater role in shaping the regulation of agricultural biotechnology in Kazakhstan.

Pork

Kazakhstan requires imported pork to be shipped frozen to mitigate the risk of trichinae. The United States does not consider this mitigation measure to be necessary for U.S. pork, as U.S. producers maintain stringent biosecurity protocols that serve to limit the prevalence of trichinae in commercial swine. The United States will continue to work with regulatory authorities in Kazakhstan and the EAEU to resolve this trade concern.

IMPORT POLICIES

Russia-Kazakhstan-Belarus Customs Union and the Eurasian Economic Union

On January 1, 2010, the Customs Union was formed when Russia, Kazakhstan, and Belarus adopted a common external tariff (CET), with the majority of its tariff rates established at the level that Russia applied at that time. (When Russia joined the WTO in 2012, the CU adopted Russia's WTO schedule of tariff bindings.) On January 1, 2015, Russia, Kazakhstan, and Belarus continued their move toward regional economic integration with the establishment of the EAEU, the successor to the CU. Armenia joined the EAEU on January 2, 2015, and Kyrgyzstan joined the EAEU on August 12, 2015.

The Eurasian Economic Commission (EEC) is the supranational body charged with implementing external trade policy for Member States and with coordinating economic integration among Member States. A common Customs Code applies to the EAEU Member States, and the Member States ended customs formalities on their internal borders, allowing for the free flow of most goods among the EAEU members.

As a consequence of its membership in the EAEU, Kazakhstan's import tariff levels, trade in transit rules, nontariff import measures (*e.g.*, tariff-rate quotas (TRQs)), import licensing, and trade remedy procedures, and customs policies (*e.g.*, customs valuation, customs fees, and country of origin determinations) are based on CU/EAEU legal instruments. On these and other issues involving goods, CU agreements and CU/EEC decisions establish the basic principles that are implemented at the national level through domestic laws, regulations, and other measures. CU agreements and CU/EEC decisions also cover issues such as enforcement of intellectual property rights, trade remedy determinations, establishment and administration of special economic and industrial zones, and the development of technical regulations and sanitary and phytosanitary measures. The Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of May 19, 2011 establishes the priority of WTO rules in the CU/EAEU legal framework.

Kazakhstan has not duplicated Russian sanctions with respect to U.S., EU, and Turkish goods. However, the Russian sanctions regime has complicated the transit of goods from third countries to Kazakhstan through Russian territory.

Tariffs and Quotas

With the implementation of the CET with Belarus and Russia, Kazakhstan increased the tariff rate on more than 5,000 tariff lines. However, under its WTO commitments, Kazakhstan will gradually lower 3,512 tariff rates to an average of 6.1 percent by 2020. On January 1, 2016, Kazakhstan began applying a lower-than-CET tariff rate to food products, automobiles, airplanes, railway wagons, lumber, alcoholic beverages, pharmaceuticals, freezers, and jewelry.

In 2015, the average import tariff for Kazakhstan was estimated at 9.2 percent. Kazakhstan applies a zero rate on 1,826 tariff lines, including livestock, pork, fish products, chemical and pharmaceutical products, cotton, textiles, machinery and equipment, and furniture.

Although deviations are permitted within the framework of the EAEU, Kazakhstan's deviation from CET tariffs is significant. EAEU countries have obliged Kazakhstan to enact measures to prevent re-export of goods released at its bound tariff rates to the markets of Russia, Belarus, Armenia, or Kyrgyzstan. In 2015, Kazakhstan will begin negotiations on tariff alignment with EAEU partners.

By EAEU regulations, Member States are permitted to increase or reduce tariffs for up to six months on selected goods in exceptional cases and with the permission of the EEC.

In 2010, Kazakhstan established TRQs on imports of poultry, beef, and pork to meet its obligations under the CU. In 2012, U.S. exporters raised concerns about the trade-limiting effects of these TRQs and the manner in which they were calculated and allocated. For the past five years, Kazakhstani TRQ allocations have not been made in a timely manner, which has further limited market access for U.S. goods such as poultry.

Under a September 2013 EEC decision, Kazakhstan introduced an import quota for combine harvesters from third countries. In contrast with Russia, Kazakhstan did not introduce a special 26.7 percent import duty, but allows importation of a limited number of combine harvesters from third countries at the previously established five percent tariff. Kazakhstan's quota allowed importation of 309 units in 2015 and 204 units in 2016 (through August 21).

Other EAEU/CU safeguard measures apply in Kazakhstan, including special duties for steel dishware (15.4-27.16%, valid until June 2020), cast iron baths from China (51.87%, valid until January 2018), and steel pipe (18.9-37.8%, valid until July 2016).

Licensing

In connection with its membership in the CU, Kazakhstan increased the number of goods subject to import or export licensing. Precious metals and stones, documents from national archives, and items of cultural value were made subject to export licensing. However, the EEC removed precious metals and stones, service and civilian weapons from this list in May 2015. Products with cryptographic functionalities, including certain commonplace consumer electronic products, are subject to import and export licensing procedures or a one-time notification requirement. (*See the Trade Estimate for the Russian Federation for more information on the CU's import licensing regime for products with cryptographic capabilities*.)

Customs Administration

Customs administration practices remain a substantial barrier to trade. Importers report high costs for customs clearance, a lack of transparency and information from customs authorities, and arbitrary interpretation of customs clearance requirements at the border.

EXPORT POLICIES

Kazakhstan maintains a ban on the export of light distillates, kerosene, gasoline, and lumber. Bans on the export of ferrous scrap, gold bearing rock, and unprocessed precious metals were introduced in 2013 and will remain in force until at least January 1, 2016.

GOVERNMENT PROCUREMENT

The lack of transparency and efficiency in government procurement remains a major challenge for local and foreign companies. The government recognizes this, and is taking steps to streamline its procurement process. Kazakhstan moved to an electronic procurement system on July 1, 2012. Resident and non-resident companies (if they are registered in Kazakhstan and maintain a physical presence) may participate in electronic tenders once they receive an electronic signature from the Ministry of Justice. The system's performance to date has been spotty.

Kazakhstan intends to join the WTO Agreement on Government Procurement (GPA) in 2018. Prior to this, the government has indicated that it plans to bring government procurement rules and procurement of quasi-sovereign companies into compliance with the GPA.

In December 2015, President Nazarbayev signed a new law on government procurement designed to make tender processes more transparent. The procurement rules under this law are expected to be developed by mid-2016. Pursuant to the law, potential suppliers will be able to read and discuss technical statements before a tender and see the documentation and bids of other suppliers. In addition, the law will toughen requirements for purchasing from a single vendor and will prohibit transfer of services to subcontractors. However, the law still requires pre-qualification for potential suppliers.

Assets of the National Welfare Fund and the government-owned holding company, Samruk-Kazyna, account for about 40 percent of Kazakhstan's GDP. Through share ownership, Samruk-Kazyna manages some of Kazakhstan's largest national companies, including Kazakhstan TemirZholy (the national railway), KazMunaiGas (the national oil and gas company), KEGOC (the electrical utility), and their subsidiaries. These enterprises are subject to Samruk-Kazyna's rules for procurement of goods and services, which stipulate criteria for the evaluation of bids and provide for price preferences of up to 1 percent for locally produced goods and services. Potential suppliers must receive a certificate from the National Chamber of Entrepreneurs confirming local content of goods or services.

On January 28, 2016, Samruk-Kazyna approved new rules on procurement in order to comply with the GPA. These rules cancel bill-back allowances and other forms of preferential treatment given to locally produced goods and services, which are inconsistent with WTO requirements. According to the new rules, however, only qualified suppliers would be eligible to participate in Samruk-Kazyna tenders, and a designated Samruk-Kazyna subsidiary would rank potential bidders in order to include them on a list of qualified suppliers.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

To facilitate its WTO accession and attract foreign investment, Kazakhstan took steps in 2015 to continue modernizing its legal regime for protecting IPR, including through the introduction of amendments to its trademark legislation to address obligations under the TRIPS Agreement. Further, Kazakhstan continues to examine ways to simplify procedures for issuing patents and to expand patent protection for utility patents, drugs, and fertilizers. In October 2015, Kazakhstan enacted a law that extends the regulatory data protection period for up to six years for innovative medicines. Although the United States acknowledges the efforts Kazakhstan has taken on IPR enforcement, customs controls need to be applied more effectively against imported IPR-infringing counterfeit and pirated goods. In addition, although civil courts have been used effectively to stem IPR infringement, judges often lack technical expertise in the area of IPR, which is a significant obstacle to further improvement in Kazakhstan's IPR enforcement.

SERVICES BARRIERS

Telecommunications

Kazakhstani law restricts foreign ownership to 49 percent of telecommunications companies that provide long distance and international telecommunication services and that operate fixed line communication networks (cable, optical fiber, and radio relay). This restriction was addressed during bilateral negotiations with Kazakhstan regarding its WTO accession. Kazakhstan agreed that, after a two-and-a-half year transition period from the date of accession, it will remove this foreign ownership restriction for telecommunications operators, except for the country's main carrier, KazakhTeleCom.

The law "On Communication" and Decree 1499 together require placing and registering Network Control Centers for very small aperture antennas within the borders of Kazakhstan. The U.S. satellite industry has expressed concerns regarding restrictions on the transport of video programming through foreign satellites and restrictions barring foreign firms from providing these services to the government. As part of its WTO accession commitments, Kazakhstan has agreed not to restrict services provided by foreign satellite operators to companies that hold a license for telecommunication services.

Other

Foreign banks and insurance companies must operate through joint ventures with Kazakhstani companies. However, Kazakhstan has agreed to eliminate the joint venture requirement and to permit direct branching following a transition period of five years after WTO accession. Kazakhstan's law also restricts foreign ownership in mass media companies, including news agencies, to 20 percent, a limitation that will still remain in force after WTO accession.

INVESTMENT BARRIERS

Local Content Requirements Before Kazakhstan's Accession to the WTO

Despite low oil prices and the corresponding delay of oil-related projects, approximately 70 percent of foreign direct investment in Kazakhstan is still in the oil and gas sector. Although local content requirements in this sector continue to pose a challenge for foreign operators, the situation is expected to improve thanks to Kazakhstan's accession to the WTO and the planned abolition of these requirements.

The 2010 Subsoil Law established strict local content requirements and harsh penalties for failure to meet them, including the potential cancellation of contracts. Kazakhstani goods do not always fully comply with international standards, and Kazakhstani service suppliers are not always able to provide the technically complex services necessary to support projects in the oil and gas sector. As a result, in times of better oil prices, foreign companies found it difficult to comply with the government's local content requirements, and they reported that local administrators took an increasingly inflexible approach to these regulations. The 2010 Subsoil Law also introduced a requirement on companies operating in the extractive sector to draft and seek approval for "project documents" that contained performance indicators and assessments of the economic feasibility of the project, which had to take into account potential Kazakhstani suppliers of goods and services, *i.e.*, the willingness of the investing firm to localize its procurements.

The November 2014 amendments to the 2010 Subsoil Law required new subsoil use contracts to quantify a firm's local labor content obligations in definitive numerical terms. The 2010 Subsoil Law previously required all new contracts to contain local content provisions, although the obligations could be unspecified. While the government has long pursued a policy of incorporating numerical local labor content obligations into subsoil contracts, this amendment codified the practice.

Local Content Requirements After Kazakhstan's Accession to the WTO

On November 9, 2015, Kazakhstan introduced amendments to the subsoil use legislation that significantly altered existing local content requirements to meet the country's WTO accession requirements. Subsoil use contracts concluded after January 1, 2016, will no longer contain local content requirements for goods or requirements to support local producers (*i.e.*, the requirement to reduce the stated (not actual) value of bids from Kazakhstani producers of goods by 20 percent to increase their likelihood of winning the tender). These requirements, however, will still apply until January 1, 2021, to subsoil use contracts signed before January 1, 2016.

Although from January 1, 2012, the amendments to the Expatriate Workforce Quota and Work Permit Rules allowed only 30 percent of company executives and 10 percent of engineering and technical personnel to be foreign nationals, the terms of Kazakhstan's accession to the WTO require that Kazakhstan relax these limits on foreign nationals by increasing the "quota" to 50 percent for both categories of personnel.

The November 2015 amendments to the migration and employment law were also meant to liberalize foreign workers' access to the local labor market by waiving quotas and work permit requirements for expatriates coming to Kazakhstan on their own looking for work. Local branches of the Ministry of Labor must certify that foreign workers meet required qualifications and assess expatriate workers on a graded system. The amendments will also allow electronic work permit applications to be processed at e-service centers, which are being used for an increasing number of licensing and payment transactions with the government. The move toward e-service centers is expected to speed up processing from 40 to five days, improve transparency, and reduce opportunities for corruption. Under the new system, employers will directly pay the local government for expatriate work permits, creating a monetary incentive not to impose bureaucratic obstacles on the issuance process, which previously was one of the main barriers to employing foreign workers. In order to encourage the employment of highly skilled foreign workers, the fees for work permits will vary based on worker qualifications; the higher the qualifications, the lower the fee. These changes will come into effect on January 1, 2017.

Under the current system, the foreign workforce quota for 2015 is 63,000 workers, or 0.7 percent of Kazakhstan's economically active population. As of October 1, 2015, there were 35,813 expatriates working in Kazakhstan, 64 percent as top and mid-level managers and specialists, 36 percent as skilled (*e.g.*, welders) and seasonal workers. The changes to the quota definition pursuant to the November 2015 amendments may not have an immediate effect, as international companies generally do not use their assigned quota as it is.

Sale of Investments

The 2010 Subsoil Law also included a preemption clause that guarantees Kazakhstan the right of first refusal when a party seeks to sell any part of its stake in a subsoil project, although this right was limited in the December 2014 amendments to the law to a smaller category of "strategically significant" projects. Previously, the government used its discretionary powers to designate subsoil deposits and areas as "strategic." The December 2014 amendments obligate the government to compile the list of such projects based on "strategic" criteria, rather than making determinations on a case-by-case basis. The Ministry of

Energy exercised this right in 2013 when it decided to buy ConocoPhillips' stake in the Kashagan oil field that the company had sought to sell to another foreign company.

Contract Issues

The 2010 Subsoil Law authorized the government to terminate contracts unilaterally if a subsoil user failed to correct more than two previously committed breaches of obligations under a subsoil use contract or project documents. According to the December 2014 amendments, the mere breach of obligations under project documents is no longer a sufficient ground for unilateral termination of a subsoil use contract. The December 2014 amendments introduced new grounds for unilateral termination – breaching financial obligations under a subsoil use contract by more than 70 percent for two consecutive years.

OTHER BARRIERS

Kazakhstan has a burdensome tax monitoring system, which companies report requires them to employ significant resources to comply with cumbersome rules and frequent inspections. The actions of tax and regulatory authorities can be unpredictable.

Corruption at many levels of government is also seen as a barrier to trade and investment in Kazakhstan, reportedly affecting nearly all aspects of doing business in Kazakhstan, including customs clearance, employment of locals and foreigners, payment of taxes, and the judicial system.

KENYA

TRADE SUMMARY

The U.S. goods trade surplus with Kenya was $371 million in 2015, a 64.6 percent decrease ($679 million) from 2014. U.S. goods exports to Kenya were $937 million, down 42.9 percent ($704 million) from the previous year. Corresponding U.S. imports from Kenya were $565 million, down 4.3 percent. Kenya was the United States' 80th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Kenya (stock) was $383 million in 2014 (latest data available), a 5.7 percent decrease from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Pursuant to a Kenyan Cabinet and Presidential decree, on November 21, 2012, the Kenyan Ministry of Public Health ordered public health officials to remove from the market all foods, feed, and seeds derived from agricultural biotech and to enact a ban on agricultural biotech food and feed imports. In August 2015, Deputy President William Ruto announced that the Kenyan government would lift the import ban on genetically modified products in two months. Although the announced implementation date has passed, the government continues to maintain the ban.

The ban contravenes Kenya’s National Biosafety Law, was implemented with little warning or stakeholder consultation, and was not notified to the WTO. Since the ban was imposed, key stakeholders in Kenya—scientists, universities, some non-governmental organizations, and policy makers, including influential governors and legislators—have launched educational and outreach programs to encourage the government to rescind the decision. Both food aid and commercial U.S. agricultural exports derived from agricultural biotech products have been kept out of the Kenyan market because of the ban. In January 2016, Kenya approved environmental release of biotech corn and is moving towards commercialization. The restriction does not affect fully processed products such as edible oils; however, it does impact U.S. exports of semi-processed foods, such as soy for feed and high-value soy products. As the demand for feed inputs rises, the ban is hampering potential U.S. exports of feed ingredients, including soy, feed corn and distiller dried grains.

The United States supports outreach efforts by Kenyan research scientists and private sector stakeholders to disseminate factual information about agricultural biotechnology.

Meat and Meat Products

Kenya maintains complex, non-transparent, and costly requirements for importation of all meat, dairy, and poultry products. These procedures, which have been in place for at least two decades, are based on more than 20 separate statutes implemented by numerous government agencies and include a shipment-by-shipment import permit requirement. Imported products must arrive with a standardized sanitary certification and a “Letter of No Objection to Import Permit” (no-objection letter) from the Department of Veterinary Services (DVS) under the Ministry of Agriculture, Livestock, and Fisheries. Before DVS issues the no-objection letter, the importer must explain the reason for importation through a “Letter of

Application to Import" and specifically address the market need the import would meet. DVS issues the no-objection letter for meat, dairy, and poultry products at its discretion. Although the Government of Kenya purports to prohibit imports only on sanitary grounds, in practice the exercise of discretion by DVS appears to be focused on protecting the domestic industry, not on scientifically-based animal or human health concerns. A common reason for DVS denial is that the proposed imports are locally available.

Plants and Plant Products

Since 2006, Kenya has banned wheat from the U.S. Pacific Northwest due to concerns over the flag smut fungus that has low risk due to the precautionary measures that the United States has taken to ensure that it is mitigated appropriately.

Kenya subjects imported and domestically produced corn to a total aflatoxin limit of 10 parts per billion (ppb) and a 13.5 percent maximum moisture content. The scientific basis for the 10 ppb aflatoxin limit is unclear; the Codex Alimentarius and U.S. standard is 20 ppb. Most U.S. corn has a moisture content higher than 13.5 percent and is, therefore, prevented from importation. However, the United States accepts these restrictions due to specific aflatoxin and grain storage concerns in Kenya. Under special circumstances such as food shortages, Kenya has allowed higher moisture content for imported corn, which must then be dried and milled immediately upon arrival to reduce the risk of aflatoxin contamination.

Kenya also restricts popcorn imports to a six percent maximum moisture requirement. The U.S. limit is 12.5 percent to 15 percent.

Kenya does not permit whole pea imports due to concerns about the *pseudomonas pisi* fungus, but permits the import of split peas. Kenya also bans bean imports due to the occurrence of *corynebacterium flaccumfasciens* bacteria in some parts of the United States and lentils are banned due to the threat of darnel weed. However, darnel weed already exists in Kenya.

IMPORT POLICIES

Tariffs

Kenya has a mostly liberalized economy with no price controls on major products. Quantitative import restrictions, as drafted, appear limited to products for which environment, health or safety concerns exist; however, officials exercise discretion to apply these restrictions at times seemingly to protect domestic industries. Kenya maintains high *ad valorem* import tariffs, a value-added tax (VAT), and a 1.5 percent Railway Development Levy (RDL) imposed on shipments of imported goods. The government of Kenya sometimes waives these tariffs when domestic agricultural prices exceed certain levels and there is a need to stabilize prices. According to the WTO, Kenya's average applied tariff rate for all products was 12.8 percent in 2014.

Kenya applies the East African Community (EAC) Customs Union's Common External Tariff, which includes three tariff bands: zero duty for raw materials and inputs; 10 percent for processed or manufactured inputs; and 25 percent for finished products. For "sensitive" products and commodities, comprising 58 tariff lines, the EAC has applied *ad valorem* rates above 25 percent. This includes rates of 60 percent for most milk products, 50 percent for corn and corn flour, 75 percent for rice, 35 percent for wheat and 60 percent for wheat flour. For some products and commodities, the tariffs vary across the five EAC member states.

The current VAT Act, adopted in 2013, reduced the number of VAT-exempt items from 400 to 27, purportedly to simplify tax administration, enhance tax compliance and eradicate a backlog of refunds. The

2013 Act went into effect with few specific guidelines, however, resulting in uncertainty surrounding the application of VAT rules.

Kenya amended and clarified VAT related rules in 2015. The 2015 amendments clarified some items that are VAT exempt, including: aircraft engines, aircraft parts, plastic bag biogas digesters, parts for the assembly of primary school laptop tablets, and goods for use by the Kenya Film Commission or in the construction of industrial and recreational parks subject to specified conditions. These amendments also made clear that VAT refund claims must be submitted within 12 months of purchase.

VAT-exempt companies, including importers, still experience lengthy wait times in receiving their VAT refunds. In September 2014, the Kenyan government commissioned an audit of ballooning VAT refund claims. The audit has not been completed, and backlogged VAT refund claims have not been paid. Remaining contentious issues regarding VAT are expected to be addressed through subsequent financial bills.

Disputes over tariffs and taxation are resolved through the judicial system, which is subject to delays and uncertainty. In June 2014, the Kenya Revenue Authority (KRA) launched an Alternative Dispute Resolution (ADR) mechanism aiming to provide taxpayers with an alternative, fast-track avenue for resolving tax disputes. Once operational, the KRA claims the ADR mechanism will provide a cheaper alternative for foreign investors and also provide an alternative to the lengthy court processes in Kenya.

Nontariff Measures

Kenya requires all importers to pay an import declaration fee of 2.25 percent of the customs value of imports and to meet other document requirements or have their goods subject to enhanced inspection. For example, importers must obtain a Certificate of Conformity (CoC) or have their goods inspected at the port of entry, which costs approximately 15 percent of the value of imported goods, and poses a risk of the goods being rejected after the payment of shipping costs. Importers that choose to obtain a CoC must apply for an export certification from a pre-shipment inspection company (SGS or Intertek International) that has a contract with the government. Following inspection or obtaining a CoC, the importer must seek an Import Standardization Mark, a stick-on label to be affixed to each imported item, from the Kenya Bureau of Standards (KEBS). Other required import documents include valid *pro forma* invoices, a Bill of Lading or Airway Bill, and a Packing List from the exporting firm. Kenya asserts that its import controls are necessary to address health, environmental, and security concerns.

GOVERNMENT PROCUREMENT

U.S. firms have had limited success bidding on government tenders in Kenya. Reportedly, corruption often influences the outcome of public tenders. Foreign firms, some without proven track records, have won government contracts when partnered with well-connected Kenyan firms.

The Public Procurement and Disposal Act allows for exclusive preferences for Kenyan citizens if the funding for the procurement is 100 percent from the government or a state-related entity, and if the amounts are below KES 50 million (approximately $575,000) for goods or services or KES 200 million (approximately $2.3 million) for public works. The Act also sets margins of preference: 15 percent in evaluation of bids for goods manufactured, mined, extracted, or grown in Kenya; 10 percent in cases where Kenyan nationals have over 51 percent of shareholdings; 8 percent in cases where locals have shareholdings below 51 percent but above 30 percent; and 6 percent in cases where locals have below 20 percent of shareholdings. The Public Procurement (Preference & Reservations) Amendment Regulations of 2013 call for at least 30 percent of government procurement contracts to go to women, youth, and persons with disabilities.

In 2014, the government inaugurated the Integrated Financial Management Information System (IFMIS), which the government claims will improve transparency and accountability in government financial management through the automation of budget, accounting, procurement, and revenue management functions. As part of the IFMIS, the government launched an eProcurement system to automate procurement tenders. In July 2015, the government made use of the eProcurement system mandatory for the national and local governments. The National Treasury has allocated $19 million for the continued implementation of the IFMIS. Lack of adequate IT support mechanisms and opposition by some government officials has hindered its implementation.

Kenya is neither a party nor an observer to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Kenya was not listed in the 2015 Special 301 Report. Kenya has a legal and institutional framework to protect Intellectual Property Rights (IPR), however, lax enforcement and poor coordination among agencies continues to be a challenge for U.S. firms. Pirated and counterfeit products in Kenya present a major impediment to U.S. business interests in the country, as well as health and safety hazards for consumers. The prevalence of “gray market” products – genuine products that enter the country illegally without paying import duties – also presents a challenge to U.S. companies, especially in the mobile phone and computer sectors. The Kenya Bureau of Standards (KEBS), the Pharmacy and Poisons Board, the Kenya Copyright Board, and the Anti-Counterfeit Agency (ACA) are the government agencies tasked to maintain product standards and combat counterfeit products. The ACA reports an influx of counterfeit products to Kenya, especially electronics such as phones, television sets, and phone batteries, and a surge in the counterfeiting of pharmaceuticals, pesticides, and soft and alcoholic drinks. U.S. companies operating in Kenya have expressed concerns about the lack of political will to enforce intellectual property laws and to prevent government corruption related to intellectual property matters.

Kenyan authorities are taking steps to improve IPR enforcement including empowering enforcement officers and magistrates. In December 2014, the ACA opened an office in Mombasa, the main entry point for counterfeit goods. Despite an increase in enforcement and police officers, overall resourcing of ACA remains inadequate to completely address the flow of counterfeit goods.

SERVICES BARRIERS

The Kenyan government wholly owns the National Oil Corporation and the Kenya Pipeline Corporation, and competition with these companies is limited. State owned enterprises, including Kenya Electricity Generating Company, Kenya Power and Lighting and the Geothermal Development Company dominate the electricity generation, transmission, and distribution portions of the energy sector, although there are a number of independent power producers active in the sector.

INVESTMENT BARRIERS

In 2015, the Kenyan government repealed regulations that imposed a 75 percent foreign ownership limitation for firms listed on the Nairobi Securities Exchange, allowing such firms now to be 100 percent foreign-owned.

The Capital Markets Authority allows foreign investors to increase their investment with prior written approval if the shares reserved for local investors are not fully subscribed. Kenya imposes foreign ownership limitations of 80 percent and 66.7 percent in the telecommunications and insurance sectors, respectively. The government allows telecommunications companies a three-year grace period to find local investors to achieve the local ownership requirements.

The 2010 Constitution prohibits foreigners from holding a freehold land title anywhere in the country, permitting only leasehold titles of up to 99 years. The cumbersome and opaque process required to acquire land raises concerns about security of title, particularly given past abuses relating to the distribution and redistribution of public land.

Kenya has been slow to open public infrastructure to competition because the government considers state-owned companies that control infrastructure as "strategic" enterprises. As a result, reform and partial privatization of the telecommunications, power, and rail sectors are not progressing very quickly.

When making their initial investment, foreign investors with foreign staff are required to submit plans for the gradual phasing out of non-Kenyan employees. In considering an application for investment, the Kenya Investment Authority considers the extent to which such investment or activity will contribute to employment creation, acquisition of new skills or technology, and government revenues.

In 2015, the Department of Immigration introduced a new directive making it more difficult for non-Kenyans to obtain work permits. Under the new rules, foreign nationals must apply for alien registration before a work permit can be formally endorsed. These rules have led to long delays in the processing of work permits for non-Kenyans.

OTHER BARRIERS

Corruption

Corruption remains a substantial trade barrier in Kenya. U.S. firms continue to report that they find it difficult to succeed against competitors willing to ignore legal standards or engage in bribery and other forms of corruption. Corruption is widely reported to affect government procurement tender processes at both the national and the county level. The government has not always implemented anticorruption laws effectively, and officials often engage in corrupt practices with impunity. While judicial reforms are moving forward, bribes, extortion, and political considerations continue to influence outcomes in civil cases.

Despite efforts to increase efficiency and public confidence in the judiciary, a backlog of cases and continuing corruption – both perceived and real – burden and reduce the credibility of Kenya's judicial system. Companies cite these deficiencies as obstacles to investment because they discourage lending and result in higher interest rates when financing is provided. An industrial court exists in Kenya, but it is plagued by long delays in rendering judgments. As such, foreign and local investors are subjected to lengthy and costly legal procedures.

Export Barriers

In March 2014, Kenya enacted the Scrap Metal Act 2014, which prohibits the export of any form of scrap metal absent authorization.

KOREA

TRADE SUMMARY

The U.S. goods trade deficit with Korea was $28.3 billion in 2015, a 13.1 percent increase ($3.3 billion) over 2014. U.S. goods exports to Korea were $43.5 billion, down 2.2 percent ($973 million) from the previous year. Corresponding U.S. imports from Korea were $71.8 billion, up 3.3 percent. Korea was the United States' 7th-largest goods export market in 2015.

U.S. exports of services to Korea were an estimated $20.7 billion in 2014 (latest data available), and U.S. imports were $10.4 billion. Sales of services in Korea by majority U.S.-owned affiliates were $12.6 billion in 2013 (latest data available), while sales of services in the United States by majority Korea-owned firms were $17.6 billion.

U.S. foreign direct investment (FDI) in Korea (stock) was $34.9 billion in 2014 (latest data available), a 5.6 percent increase from 2013. U.S. direct investment in Korea is led by manufacturing, finance/insurance, and wholesale trade.

United States-Korea Free Trade Agreement

On March 15, 2012, the United States-Korea Free Trade Agreement (KORUS, or the Agreement) entered into force. In the four years that this landmark agreement has been in effect, Korea has become the sixth-largest trading partner of the United States, and exports of U.S. manufactured goods, services, and agricultural products have seen significant gains. The Agreement has also improved Korea's investment environment through strong provisions on intellectual property rights, services, investment, labor, and environment. The Agreement supports U.S. exports, while helping to strengthen and expand ties with an important strategic partner in Asia.

Since the Agreement's entry into force, the United States and Korea have carried out four rounds of tariff cuts and eliminations, creating significant new market access opportunities for U.S. exporters. The Agreement has also expanded opportunities for the growing U.S. trade in services, improved transparency in Korea's regulatory system, strengthened intellectual property protection, leveled the playing field for key U.S. exports, including autos, and enhanced market access for U.S. exporters of all sizes including small and medium businesses. Overall, U.S.-Korea goods and services trade has risen from $126.5 billion in 2011 to $145.2 billion in 2014.

Year-on-year goods exports to Korea for 2014 were up 6.8 percent compared to 2013. This brought goods exports to a record level of $44.5 billion. Manufactured goods account for most of this total at $37.4 billion. This reflects growth of 5.6 percent in 2014 – nearly four times faster than manufacturing export growth to the world at large – and a total that is now 8.7 percent above pre-FTA levels. This growth has been strong across high-technology manufacturing, autos, heavy industry, and consumer goods.

Through a combination of tariff elimination and expansion of tariff rate quotas, nearly two-thirds of U.S. agricultural exports have had duty-free treatment since the Agreement entered into force. U.S. exports of key agricultural products benefiting from tariff cuts and the lifting of other restrictions under KORUS continued to post significant gains. Last year's 31.2 percent growth in farm exports to Korea was nearly seven times faster than U.S. agricultural export growth to the world at large. For agricultural goods that benefited from tariff elimination or reduction, there have been dramatic increases in exports in 2015 compared to 2011, including some particularly striking examples such as fresh cheese (nearly 400 percent), cherries (177 percent), shelled almonds (141 percent), and wine and beer (86 percent).

In addition, KORUS provides meaningful market access commitments across virtually all major services sectors, including improved access for telecommunications and express delivery services, and the opening up of the Korean market for foreign legal consulting services. Korea is in the process of opening its legal services market, and over a dozen U.S. law firms are now offering their services to Korea's increasingly global businesses. The Agreement also increases access to the Korean financial services market and ensures greater transparency and fair treatment for U.S. suppliers of insurance and other financial services.

U.S. services exports to Korea are particularly strong, up 24.4 percent to an estimated $20.7 billion in 2014 as compared to $16.7 billion in 2011. This rate of growth nearly doubled the overall 13.1 percent growth of U.S. services exports to the world.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Chemicals – Act on the Registration and Evaluation of Chemicals

The Registration and Evaluation of Chemicals (K-REACH) Act was enacted in 2013 and came into force on January 1, 2015. K-REACH requires manufacturers and importers of chemical substances to register and comply with annual reporting requirements. The Korean government released a draft Ministerial Decree to implement the law on July 9, 2015, asking for comments by August 20, 2015. The Korean government published a revised Ministerial Decree, based on comments received, on October 30, 2015. The United States raised a number of concerns, mainly with the lack of clarity regarding how K-REACH would be implemented, Korea's lack of transparency during the development of K-REACH's rules and requirements, insufficient time for companies to implement new requirements, and the lack of protection for confidential business information. The U.S. Government has raised these concerns numerous times bilaterally and at the WTO Committee on Technical Barriers to Trade. The U.S. Government has made significant progress in addressing concerns and will continue to monitor implementation.

On November 16, 2015, the Ministry of Environment announced its requirement under Korea's Chemical Control Act that companies make information on chemical products, such as the name and quantity of chemical products in production facilities, publicly available. This includes publicizing the information on the Internet. U.S. companies have concerns that the requirement will involve disclosing confidential business information that could end up in the hands of competitors. The Ministry of Environment accepted comments on the requirement until December 3, 2015, and announced that the new regulation had been implemented on January 1, 2016. The United States remains concerned that guidance documents are not sufficiently detailed, and that implementation timeframes have been too short to enable sufficient consideration of stakeholder input, and will engage Korean authorities as appropriate.

Information Technology Equipment – Electrical Safety Regulations

U.S. stakeholders have been working closely with the Korean Agency for Technology and Standards (KATS) and the Radio Research Agency on Korea's reorganization of safety regulations for information technology equipment. The United States and U.S. stakeholders have advocated for streamlined procedures that reflect the realities of contemporary manufacturing and provide an appropriate level of safety certification for low risk information technology equipment, such as printers and computers. KATS released its final Safety Regulations rule for information technology equipment, effective July 1, 2013. These regulations addressed many long-standing U.S. concerns, including by expanding the scope of products subject to a supplier's declaration of conformity and adopting the most current International Electrotechnical Commission (IEC) standard. However, some concerns continue to be outstanding. For example, the regulation requires separate safety certification with respect to each factory's products, even for identical products produced by the same company but in a different factory, and does not establish a certificate renewal process. Furthermore, despite being a member of the IEC System for Conformity Testing and Certification of Electrical and Electronic Components, Equipment and Products Certification Bodies' Scheme (CB), KATS does not accept CB reports without additional testing. Finally, the rule imposes burdensome labeling requirements for information that could be disclosed instead in an insert or manual. Such an adjustment is particularly appropriate for products that have small physical sizes such as cell phones. In 2016, the United States will continue to monitor implementation of the regulation and urge Korea to allow adequate implementation time for new products as its scope increases.

Solar Panels – Testing Requirements

Korea requires solar panels to be certified by the Korea Management Energy Corporation (KEMCO) before they can be sold in Korea for projects receiving government support (which comprise the vast majority of solar projects in Korea). KEMCO's certification standards effectively prevent certain types of thin film solar panels manufactured in the United States from entering the Korean marketplace. For example, KEMCO has established a standard for thin-film solar panels that can be satisfied only by panels manufactured from amorphous silicon and copper indium gallium selenide. As a result, other leading types of thin-film solar panels, including types made principally by U.S. firms such as cadmium telluride (CdTe) panels, cannot be tested or certified under the Korean standard. The United States has consistently urged Korea in bilateral trade consultations and at the WTO TBT Committee meetings in recent years to adopt in full the relevant international standard, IEC 61646, without limiting its application solely to the type of thin-film solar panel its industry produces. Korea conducted an environmental impact review in March 2014 on the use of cadmium in solar panels and determined that a hazard existed for using CdTe. U.S. stakeholders have raised methodological concerns with the studies Korea used to disqualify CdTe. The United States will continue to discuss this issue with Korea in 2016.

Repair History Reporting

Pursuant to an amendment of the Motor Vehicle Management Act, Korea requires, as of January 8, 2015, that all automobile manufacturers or dealers report vehicle repair histories to vehicle purchasers to account for any damage taking place between the manufacturing site and customer delivery. (While not regulated at the federal level in the United States, 36 states have some type of damage reporting requirement, though these differ in important ways from the new Korean requirement, such as by exempting certain types of damage and establishing *de minimis* levels of damage that would not need to be reported). U.S. stakeholders raised concerns that this new reporting requirement discriminates against automobile importers because local automobile manufacturing sites are co-located with pre-delivery inspection (PDI) facilities and thus vehicles are unlikely to require any reportable reconditioning. Since imported vehicles routinely undergo some kind of reconditioning that would require reporting under this law, consumers' perception of imported vehicles could be harmed.

U.S. stakeholders have requested that Korea's Ministry of Land, Infrastructure, and Transportation (MOLIT) draft subordinate implementing regulations that would clarify the underlying law so that Korea would recognize Korean PDI facilities as the conclusion of the manufacturing process, and requested that Korea consider establishing a *de minimis* rule on what repairs require reporting. MOLIT has not accepted this request, but met with foreign industry representatives in January 2015 to clarify definitions and technical details that addressed some stakeholder concerns. As an implementing guideline has not yet been created for this reporting requirement, MOLIT has not yet started enforcing the regulation. Instead, MOLIT commissioned a study on the *de minimus* rule in November 2015 for use in drafting the implementing regulations. The U.S. Government has raised this issue with Korean authorities, and will continue to address the issue in 2016.

"*Right to Repair*"

MOLIT proposed a revision to the Motor Vehicle Control Act on November 11, 2015, requiring automakers to provide independent automobile repair shops training and access to diagnostic tools and security codes so that repair shops can provide similar levels of service as car dealerships. MOLIT held a public comment period, which ended on November 30, 2015, and the Korean government completed the regulatory review process December 8, 2015. U.S. stakeholders requested numerous clarifications to the new requirements, including in regard to the manner in which training could be delivered, and also raised concerns about security-related reprogramming and protection of proprietary information. The announcement of the final version of the requirement is expected in early 2016.

Information Technology Equipment – Cybersecurity Testing Requirements

Korea launched the Network Verification Scheme (NVS) on October 1, 2014. NVS sets forth new Korea-specific requirements for network equipment such as routers or switches procured by Korean government entities, and requires agencies to submit procured equipment to the National Intelligence Service (NIS) for mandatory testing. Although Korea is a member of the Common Criteria Recognition Arrangement (CCRA), which sets cybersecurity standards for government-procured IT equipment, NIS does not accept CCRA certified equipment as compliant with NVS absent additional in-country testing. U.S. stakeholders have raised concerns that NVS ignores Korean commitments in CCRA. The U.S. Government has also raised such concerns as well as concerns that the implementation of NVS lacks transparency. The U.S. Government will continue to monitor the situation in 2016.

Organic Products

On July 1, 2014, the United States and Korea adopted an equivalence arrangement for processed organic food products. This arrangement allows processed products certified as organic in the United States or Korea to be sold as organic in either country without having to go through a costly certification process again under the importing country's standards. Exports to Korea in this fast growing sector, worth $35 million annually based on U.S. industry analysis, includes products like organic condiments, cereal, baby food, frozen meals, and milk. A bilateral Organics Working Group meets annually to review operations of the arrangement, discuss the scope of the arrangement, assess progress on identified technical issues, and discuss best practices and other issues related to organic food products. The United States is interested in expanding the scope of products covered by the arrangement to include all food and agricultural products.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Korea's regulatory system for agricultural biotechnology continues to present challenges to U.S. agriculture exports. The approval process for new genetically engineered events is onerous and protracted due to inefficiencies in the system. For example, approval of new events requires review by up to five different agencies. Compounding the problem, Korea's data and information requests are often redundant, leading to delays in the approval of new products. The United States will continue to engage with Korea on improving the approval process. The issue was discussed most recently at the KORUS Committee on Sanitary and Phytosanitary Matters (SPS Committee) meeting held on in December 2015 in Korea.

Beef and Beef Products

Prior to 2008, Korea restricted the importation of U.S. beef and beef products over BSE-related concerns. Following a 2008 bilateral agreement to fully re-open Korea's market to U.S. beef and beef products, Korean beef importers and U.S. exporters have operated according to a voluntary, commercial understanding that U.S. beef and beef products imported into Korea will be derived from animals less than 30 months of age, as a transitional measure, until Korean consumer confidence improves. To date, this agreement has operated smoothly. In 2015, the United States exported over $810 million in beef (including variety meats) to Korea, making Korea the fourth-largest export market for U.S. beef.

Poultry and Poultry Products

In December 2014, Korea banned all poultry imports from the United States due to the detection of highly pathogenic avian influenza (HPAI) in backyard flocks in Washington and Oregon. This action was inconsistent with World Organization for Animal Health (OIE) guidelines, which recommend that countries take regional approaches to imposing trade restrictions on poultry and poultry products from countries with HPAI findings in commercial or backyard flocks. The ban was lifted in November 2015, following a period of three months with no HPAI detections in the United States, but was re-imposed in January 2016 following another HPAI detection in the United States. The United States will continue to work with Korea to allow trade from areas that are not affected by HPAI in case of future HPAI incidents. Because of the ban, U.S. poultry exports to Korea in 2015 were valued at $19 million compared to $112.5 million in 2014.

Maximum Residue Limits

Korea is in the process of shifting to a new "positive list" system for agrochemical residues and veterinary drugs and will no longer allow imports of food containing agrochemical residues unless the substance has been approved for the commodity in question and a maximum residue level (MRL) has been established. The positive list will be implemented in December 2016 for tropical fruits, oil seeds, and tree nuts, and will be implemented in January 2018 for all other products.

In the process of making this shift, Korea is requiring the establishment of new import tolerances for agrochemicals and veterinary drugs previously registered for use in Korea, as well as for new substances not yet registered for use in Korea. This process may prove a significant challenge to U.S. exporters of fruit and grain if import tolerances are not set at an appropriate level and in a timely manner. The issue was most recently discussed at the KORUS SPS Committee meeting held in December 2015 in Korea, and the United States will continue to encourage Korea to maintain MRLs for substances that are currently approved.

Potatoes

In August 2012, Korea prohibited the importation of fresh potatoes from the states of Idaho, Oregon, and Washington due to the presence of zebra chip in the region. Korea continues to prohibit the importation of fresh table-stock potatoes from the Pacific Northwest even though Korea does not have an insect that can carry zebra chip from one potato plant to another, the only way the disease spreads. Additionally, U.S. potatoes exported to Korea are treated with sprout inhibitor and are destined for consumption or processing—not propagation. The United States continues to engage with Korea to remove the import prohibition on fresh table-stock potatoes from the Pacific Northwest. This issue was among those raised at the KORUS SPS Committee meeting held in December 2015 in Korea

IMPORT POLICIES

Origin Verification

KORUS permits each Party to perform origin investigations on originating goods and provides for customs officials to enforce the Agreement. The United States generally approaches verifications by targeting specific shipments, selected using a risk-based approach, and conducts verifications based on commercial documents typically kept in the course of business.

U.S. exporters and producers have raised concerns that the Korea Customs Service (KCS) has been conducting unduly onerous verifications. In several cases, KCS required documentation in excess of that necessary to reasonably substantiate a rule of origin. Lack of coordination and inconsistent application of rules of origin standards among customs offices were two other challenges raised by U.S. companies. Further, U.S. companies state that certifications of origin have been rejected by KCS for minor errors and that KCS has limited the ability of companies to make corrections to documentation.

Throughout 2013 and 2014, the United States worked closely with Korea to arrive at a common approach to verification procedures that would facilitate legitimate trade under KORUS and ensure that importers, exporters, and producers receive the benefits to which they are entitled. During 2014, a newly created *ad-hoc* Origin Verification Working Group met several times, helping to facilitate the issuance of positive determinations granting tariff benefits for U.S. exports, substantially resolving U.S. concerns on this issue. During 2015, this Working Group met to stress the importance of transparency, share best practices, interpret KORUS text on verification, and, as much as possible, align Korean and U.S. customs procedures. The United States will continue to monitor developments in this area in 2016 and plans to address lingering differences in understanding the rules of origin and proper verification practices.

Tariffs and Taxes

Under KORUS, Korean tariffs on almost two thirds of U.S. agricultural exports have been eliminated. U.S. products now facing no tariff include wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice, and wine. Other agricultural products receive immediate duty-free access under new tariff-rate quotas (TRQs). These products include skim and whole milk powder, whey for food use, cheese, dextrins and modified starches, barley, popcorn, oranges, soybeans for food use, dehydrated and table potatoes, honey, and hay.

To increase the competitiveness of the domestic agricultural and livestock industries, in 2015 Korea announced voluntary duty-free most-favored-nation TRQs on a wide range of agricultural commodities including young eels, whey for feed, manioc pellets for feed, unhulled barley for feed, oats for feed, soybean for oil crushing and oil cake for feed, cotton seed for feed, other sugar, wheat bran for feed, and over 15 other products.

Rice

During the Uruguay Round of multilateral trade negotiations, Korea negotiated a 10-year exception to “tariffication” (the WTO obligation to convert quantitative restrictions to tariffs) for rice in return for establishing a minimum market access (MMA) quota that was set to expire at the end of 2004. In 2005, Korea negotiated a 10-year extension of its exception to the tariffication commitment, along with an increase in its MMA commitment that called for Korea to increase its total annual rice imports over the course of the 10-year extension, from 225,575 metric tons in 2005 to 408,700 metric tons in 2014. The arrangement included country-specific quota commitments to purchase minimum amounts of imports from

China, Thailand, and Australia. The arrangement operated smoothly and U.S. access to the Korean market for rice improved significantly under the arrangement.

The MMA arrangement expired at the end of 2014, and on January 1, 2015, Korea initiated tariffication under a process at the WTO that has not yet been finalized. Korea has an ongoing WTO obligation to import 408,700 metric tons (on a milled basis) of rice annually, but it has eliminated country-specific quotas, instead utilizing a global TRQ. Korea also terminated the MMA-mandated requirement to import a set percentage of the total TRQ as table rice. The United States continues to work closely with Korea to ensure that the new arrangement takes appropriate account of the strong U.S.-Korea trading relationship in rice.

GOVERNMENT PROCUREMENT

Korea is a signatory to the WTO Agreement on Government Procurement (GPA) and has made additional commitments related to government procurement under KORUS. Under KORUS, U.S. suppliers now have the right to bid on the covered procurements of more than 50 Korean central government entities, nine more than are covered under the GPA. KORUS also expands the scope of procurements to which U.S. suppliers will have access by substantially reducing the threshold for eligible procurement contracts applied under the GPA, from $191,000 (in 2016 and 2017) to $100,000 (for government procurements of goods and services at the central government level). KORUS does not cover procurement by Korean sub-central government entities and government enterprises; however, such procurement is covered under the GPA. Under the GPA, for procurement of construction services, Korea applies a threshold of over $23 million, which is three times the threshold applied by the United States. For central government procurements of construction services, Korea uses the same threshold as the United States.

Encryption and Security Requirements for Public Procurement of Information and Communications Technology Equipment

Korea and the United States are both members of the Common Criteria Recognition Arrangement (CCRA), under which products certified at any CCRA-accredited laboratory in any member country should be accepted as meeting the certification requirements in any other member country. However, the Korean government requires network equipment such as routers and switches procured by government agencies to undergo additional verification in Korea by Korean government authorities, even if the products received CCRA certification outside Korea. Korea's NIS has managed this process in a nontransparent fashion without any public comment periods, and has broadly construed these requirements to apply to any government entity, including schools, local governments, libraries, and museums. U.S. stakeholders have also raised concerns that Korea is expanding the scope of these requirements (including the additional verification) to products not normally considered "security" products, such as routers, switches, and IP-PBXes. The U.S. Government has raised this issue with Korea in bilateral consultations and will continue to work with Korea in 2016, including within the CCRA, to address concerns.

Korea requires network equipment being procured by public sector agencies (*i.e.,* government agencies and quasi-government agencies) to incorporate encryption functionality certified by NIS. NIS only certifies encryption modules based on the Korean ARIA and SEED encryption algorithms, rather than the internationally standardized AES algorithm that is in widespread use worldwide. Some U.S. suppliers have been unable to sell virtual private network and firewall systems to Korean public sector agencies due to this restriction. The United States has urged Korea to ensure that equipment based on widely used international standards has full access to Korea's public sector market.

INDUSTRIAL SUBSIDY POLICY

Established under the Korea Development Bank Act of 1953, the Korea Development Bank (KDB) has been one of the government's main sources of policy-directed lending to favored industries. After the KDB Act was amended in 2008, the government of Korea began privatizing KDB in October 2009 as part of its reform of the financial sector. KDB split into two entities, the KDB Financial Group, which would continue as a bank, and the Korea Finance Corporation, which would provide loans to small and medium sized enterprises. In April 2013, the government launched a task force to consider the reorganization of the financial policy roles of government owned banks and financial corporations, including the plan for the privatization of the KDB. As the government decided that the KDB should be a policy lender to support small and midsized enterprises and strategic industries, the KDB Act was amended in May 2014, to reverse the privatization of the bank. Under the amended KDB Act, which became effective as of January 1, 2015, the Korea Finance Corporation was merged back into KDB and the KDB's role of providing public policy financial support to Korea's industries and companies was restored.

The U.S. Government has concerns with KDB as a state-owned enterprise providing government assistance to local companies that could place their competitors at a disadvantage, and will continue to monitor the lending policies of the KDB and other government owned or affiliated financial institutions.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Generally, Korea has a strong IPR protection and enforcement regime. Under KORUS, Korea and the United States agreed to strong enforcement provisions for all types of intellectual property and to join key multilateral IPR agreements. Moreover, the United States recognizes that the Korean government places importance on IPR protection and that Korea is a significant creator of intellectual property. However, problems remain. In addition to IPR-related concerns regarding competition law enforcement (discussed separately), issues include new forms of online piracy, corporate end-user software piracy, unauthorized use of software in the public sector, book piracy in universities, and counterfeiting of consumer products. With respect to unauthorized use of software in the public sector, the United States continues to urge the Korean government to take further steps to ensure that all government agencies fully comply with the Korean Presidential Decree mandating that government agencies use only legitimate, fully licensed software. This includes taking action to investigate and ensure that a sufficient number of licenses have been acquired to cover all users of the software in the respective agency. The U.S. Government continues to work with Korea to seek improvements in this area.

SERVICES BARRIERS

Screen and Broadcast Quotas

In Korea, foreign programs may not exceed 20 percent of terrestrial TV or radio broadcast time or 50 percent of cable or satellite broadcast time determined on a semi-annual basis. Within those overall quotas, Korea maintains annual quotas that further limit broadcast time for foreign films to 75 percent of all films for terrestrial broadcasts and 80 percent for cable and satellite broadcasts. Foreign animation is limited to 55 percent of all animation content for terrestrial broadcast and 70 percent of all animation content for cable and satellite broadcasts. Foreign produced popular music is limited to 40 percent of all music content. Another quota, applied on a quarterly basis, limits content from any one country to 80 percent of the quota available to foreign films, animation, or music. KORUS protects against increases in the amount of domestic content required and ensures that new platforms, such as online video, are not subject to these legacy restrictions.

Korea maintains a screen quota for films, requiring that any movie screen show domestic films at least 73 days per year.

The Broadcasting Act contains restrictions on voiceovers (dubbing) and local advertising for foreign retransmission channels. These prohibitions continue to be of concern to U.S. stakeholders, as they diminish the value of such channels in the Korean market.

Legal Services

Under KORUS, Korea is in the process of opening its legal services market. The first step involved creating a legal status for foreign legal consultants and allowing foreign law firms to open foreign legal consultant offices (FLC offices) in Korea. The law allows foreign attorneys with a minimum of three years of work experience to provide consulting services on the law of the jurisdiction in which they are licensed. The second stage, implemented as of March 15, 2014, allows FLC offices to enter into "cooperative agreements" with Korean firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed. The third stage, to be implemented by March 15, 2017, will allow foreign-licensed lawyers and firms to establish joint ventures and hire Korean-licensed lawyers. The United States looks forward to consultations and the ability to provide input on new rules implementing these changes.

On August 4, 2015, the Ministry of Justice submitted a bill to amend the Foreign Legal Consultants Act that would allow joint ventures in Korea with law firms from the United States and other countries with similar provisions in their free trade agreements with Korea. However, the United States expressed concern that the bill contains many requirements, unique to Korea that would discourage U.S. companies from starting joint ventures. The bill would limit a foreign law firm's ownership of the joint venture to 49 percent, require the firms comprising the joint venture to have been in operation for three years, and exclude joint ventures from working on litigation, notarization, labor affairs, intellectual property rights, business involving the Korean government, and cases on family relations or inheritance. While the bill would allow foreign law firms to operate joint ventures in Korea for the first time, these provisions would undermine the legislation's purpose of facilitating trade in legal services between the two countries. On February 4, 2016, the bill was passed by the National Assembly. The U.S. Government will continue to urge Korea to review its overall approach to opening the legal services market and to ensure Korea complies with its international obligations.

Insurance and Banking

To implement its commitments related to the transfer of information under KORUS and the Korea-European Union Free Trade Agreement, Korea adopted new regulations in 2013 governing the outsourcing of data and IT facilities to allow financial institutions located in Korea to transfer data to affiliates outside Korea and to allow certain data processing and other functions to be performed by affiliates outside Korea. However, U.S. stakeholders raised concerns that vague guidelines and a lengthy application review period hampered Korea's implementation of these data transfer commitments. To address these concerns, the United States and Korea met on a quarterly basis with industry stakeholders to monitor Korea's implementation of the commitment. Stakeholders also raised concerns about strict new rules and enhanced penalties governing data privacy under the May 2014 Act on Promotion of Information and Communications Network Utilization and Information Protection. In June 2015, the Financial Services Commission, taking into consideration most of industry concerns, revised its Regulations on Financial Institutions' Outsourcing of Data Processing Business and IT Facilities to eliminate the approval process for the outsourcing of IT facilities, lift the restrictions on third-party outsourcing or re-outsourcing, establish a broader application of *post facto* reporting requirements to processing consumer or corporate transaction data, and abolish the Financial Supervisory Service Security review in the application process. The United

States will monitor Korea's implementation of these regulations and continue to work to ensure that KORUS commitments are fully implemented in practice.

Credit and Debit Card Payment Services

U.S. stakeholders have raised concerns that the Financial Services Commission and the Financial Supervisory Service appear to be exerting pressure on financial institutions to steer customers toward domestic brand cards rather than international brands, as well as pursuing other policies that may discriminate against U.S. branded credit and debit card services. The U.S. Government will closely monitor developments in the credit and debit card services area and work with the Korean government to ensure there is no discrimination against U.S. service providers.

Telecommunications

Korea prohibits foreign satellite service providers from selling services (*e.g.*, transmission capacity) directly to end-users without going through a company established in Korea. Given the current investment restrictions and the fact that establishing a local presence may not be economically justified, this prohibition significantly restricts the ability of foreign satellite service suppliers to compete in the Korean market. The United States will raise this issue with Korea in 2016.

Express Delivery Services

While U.S. stakeholders report market access for U.S. express delivery services has increased since KORUS went into force, concern is growing that new clearance infrastructure and associated policies being implemented by Korea Customs Service (KCS) could disadvantage foreign express delivery carriers.

Korea Customs Service (KCS) is building a Common Express Terminal (CET) in Incheon to be completed by the end of 2016. KCS proposes to require foreign but not domestic carriers to send shipments selected for inspection to the CET, rather than continuing the practice of inspecting shipments on premises within each foreign carrier's own clearance facility. U.S. stakeholders have raised the concern that rerouting goods for inspection (an estimated five percent of goods cleared, or over a million packages a year) will create significant service delays and that anticipated user fees will add substantial costs. U.S. stakeholders also report that KCS intends to disallow use of a single manifest in clearing express shipments and the advance submission of customs clearance documents, raising further concerns about potential service delays. The United States has raised this issue with Korea and will continue to monitor the issue in 2016.

In addition, according to KORUS, "under normal circumstances" formal entry documents are not required for express shipments valued at $200 or less. The United States has raised this issue with Korea in the KORUS Committee on Trade in Goods and will continue to urge Korea to adopt more trade facilitative practices in this area.

Franchising Services

U.S. stakeholders have raised concerns for several years about the activities of the National Commission on Corporate Partnership, now renamed the Korea Commission on Corporate Partnership (KCCP), which imposed restrictions on the expansion of some U.S.-owned restaurant franchises and opened proceedings looking into numerous other sectors as well. The KCCP is a partially government-funded organization, created by Korea's National Assembly, with a mandate to mediate complaints of unfair or unequal competition between large and small businesses. KCCP's mission, according to its government-appointed chairman, is to level the playing field between large businesses and SMEs in two ways. First, it annually issues a “win-win scorecard” on how large businesses co-exist with SMEs. Second, and of most concern for U.S. businesses, KCCP can “designate suitable industries for SMEs.”

In 2013, KCCP designated the family restaurant sector as reserved for SMEs, imposing restrictions that affected U.S. franchising companies in the sector by forcing them to choose between significant geographic restrictions on where they could open new stores or a limit of only five new stores a year nationwide for the next three years. KCCP during 2014 also opened proceedings looking into U.S.-based restaurant chains and systems integration businesses, potentially affecting significant U.S. investors in Korea. The United States has raised concerns about KCCP’s activities and has urged Korea to consider carefully the effect that KCCP has on Korea’s business climate and on foreign investors. The United States will continue to monitor KCCP’s activities closely in 2016.

INVESTMENT BARRIERS

Capital market reforms have eliminated or raised ceilings on aggregate foreign equity ownership, individual foreign ownership, and foreign investment in the government, corporate, and special bond markets. These reforms have also liberalized foreign purchases of short-term financial instruments issued by corporate and financial institutions. Some U.S. investors have raised concerns, however, about possible discrimination and lack of transparency in investment-related regulatory decisions, including by tax authorities.

Foreign investment is not permitted in terrestrial broadcast TV operations. For both cable and satellite broadcasting services, foreign participation is limited to 49 percent. As of March 15, 2015, U.S. investors can own channels on a cable or satellite system, but foreign satellite retransmission channels are limited to 20 percent of the total number of operating channels. Although telecommunications services were also limited to 49 percent foreign ownership, in line with its KORUS obligations, Korea now allows U.S. investors to wholly own such service suppliers.

In addition to the investment restrictions in telecommunications and key services sectors described above, Korea maintains other important restrictions on foreign investment. Specifically, Korea prohibits foreign investment in rice and barley farming and imposes a 50 percent foreign equity limitation on meat wholesaling. Moreover, Korea limits foreign investment in electric power generation, distribution, and sales to 50 percent. It also limits foreign investment in news agency services and publishing and printing, where it has foreign equity limitations of 30 percent for enterprises publishing newspapers and 50 percent for enterprises publishing other types of periodicals.

ANTICOMPETITIVE PRACTICES

The Korea Fair Trade Commission (KFTC) has continued to play an active role in enforcing Korea’s competition law and in advocating for regulatory reform and corporate restructuring. The KFTC has a broad mandate that includes promoting competition, strengthening consumers’ rights, creating a competitive environment for SMEs, and restraining the concentration of economic power. In addition to its authority to conduct investigations and to impose penalties, including broad authority over corporate and financial restructuring, the KFTC can levy sizeable administrative fines for violations or for failure to cooperate with investigators. Decisions by the KFTC are appealable to the Korean judiciary. Pursuant to KORUS implementation, the KFTC instituted a consent decree process in 2014, which it continues to refine. The U.S. Department of Justice and the Federal Trade Commission signed a Memorandum of Understanding with the KFTC in September 2015 to promote increased cooperation and communication between the competition agencies in both countries.

On December 17, 2014, the KFTC issued, without a notice and comment period, amended Review Guidelines on Unfair Exercise of Intellectual Property Rights (Guidelines). The Guidelines provide "general principles and specific criteria" to be applied in competition law-based reviews of the exercise of IPR on a range of issues. The U.S. Government and members of industry expressed concern that the amended Guidelines could result in unwarranted antitrust enforcement against the holders of patents that had become widely used in an industry. The KFTC took note of these concerns and, on December 16, 2015, published for comment its proposed revisions to the Guidelines. U.S. Government entities have engaged with Korea on the proposed revisions and have sought further clarification as to the circumstances to which the revised Guidelines would apply.

During the past year, some U.S. firms have raised the concern that the KFTC has more aggressively enforced its competition law against foreign companies and further expressed concern that KFTC procedures limit their ability to defend themselves during KFTC investigatory proceedings. The U.S. Government continues to monitor this situation and will raise concerns with Korea as appropriate.

ELECTRONIC COMMERCE

Restrictions on the export of location-based data (used in conjunction with online maps to provide innovative interactive services such as traffic updates and navigation directions) have led to a competitive disadvantage for international suppliers offering such services, since their locally based competitors typically are not dependent on foreign data processing centers. New legislation passed in 2014 establishes a more inclusive committee process for approving export of cartographic and other location-based data, but Korea has yet to approve any such exports for foreign suppliers. U.S. stakeholders seeking approval to export location-based data (in order to offer competitive mapping and navigation services) report that Korean officials are linking such approval to individual companies' willingness to blur satellite imagery of Korea on their global mapping service sites. Korean officials have expressed an interest in limiting the global availability of high-resolution commercial satellite imagery of Korea, currently available online from numerous sources worldwide, including U.S. mapping service providers. The United States is sensitive to Korea's national security concerns and has offered to consult with Korea to explore avenues for addressing those concerns with regard to the global availability of high-resolution satellite imagery of Korea. The United States believes that access to Korea's mapping service market, however, is a separate issue and will continue to consult with Korea on opening that market to participation by foreign suppliers.

In 2014, the United States and U.S. stakeholders engaged with Korea on proposed legislation submitted to Korea's National Assembly by the Ministry of Science, Information and Communications Technology, and Future Planning (MSIP) that would provide a jurisdictional basis for regulating cloud computing services. Following extensive comments from U.S. and other foreign stakeholder groups, MSIP made changes to its original draft to reflect many stakeholder concerns before submitting the bill to the National Assembly. The National Assembly passed the Act on Promotion of Cloud Computing and Protection of Users in March 2015. The U.S. Government and industry will continue to monitor this issue closely, since the regulations developed to implement the Act could impose additional unique regulations on this global technology in Korea.

The 2011 Personal Information Protection Act imposes stringent requirements on service providers seeking to transfer customer data outside Korea. The law requires data exporters to provide customers with extensive information about the data transfer, including the destination of the data, any third party's planned use for the data, and the duration of retention. For data transferred to third parties within Korea, less stringent requirements apply. These restrictions pose barriers to the provision of Internet-based services that depend on third-party data storage and processing services, and effectively privilege Korean third-party services over foreign services.

Under the Regulation on Supervision of Credit-Specialized Financial Business, electronic commerce firms selling goods in Korean won have been prohibited from storing Korean customers' credit card numbers in company information systems. (U.S. electronic commerce firms continue to sell legally into the Korean market from abroad, setting prices in dollars, but are prevented from accepting Korean branded credit cards.) As a result, U.S. electronic commerce firms that are unwilling to develop Korea-specific payment systems have been prevented from entering the Korean market. The United States has raised the issue with Korea on multiple occasions, urging it to lift what appears to be unreasonable and unnecessary restrictions. In November 2013, the Korean Financial Services Commission amended regulations to partially address this issue, enabling online digital content stores operating in more than five countries and headquartered abroad to receive "payment gateway" registrations, locate IT facilities offshore, store customer credit card numbers, and allow one-click purchases from mobile devices. This amendment is a positive step that incrementally advances Korean regulation in this area toward global norms. But U.S. stakeholders have raised concerns regarding slow and unclear implementation of the changes, and some firms have expressed concern that the changes only partially address the underlying issue of Korea's variance from global norms on electronic payments. The United States will continue to raise this issue with Korea in 2016.

OTHER BARRIERS

Motor Vehicles

Increased access to Korea's automotive market for U.S. automakers remains a key priority for the U.S. Government. Upon entry into force of KORUS, Korea immediately reduced the tariff on passenger vehicles from 8 percent to 4 percent, and Korean tariffs on both passenger vehicles and light trucks were eliminated on January 1, 2016. In addition, KORUS contains provisions designed to address nontariff barriers, including provisions requiring Korea to allow U.S. exporters to market cars in Korea built to U.S. safety standards rather than Korean standards, greatly reducing the cost of supplying U.S.-made cars to the Korean market. Korea also modified its key motor vehicle taxes so that U.S. cars are now in the same tax brackets as their Korean competitors. Finally, transparency provisions in the Agreement ensure that automakers have sufficient opportunity to participate in the setting of new regulations and adequate time to adjust to changes in new regulations. These tariff and nontariff provisions resulted in an increase in automobile exports to Korea of 202 percent by value between 2011 and 2015, more than five times faster than U.S. auto exports to the world (up 26 percent). Korea is now the tenth-largest export market for U.S. automobiles, with annual exports exceeding $1 billion in 2015.

The 2016-2020 update of Korea's CO2/Corporate Average Fuel Economy (CAFE) emissions and fuel efficiency regulations were finalized and promulgated on December 30, 2014, mandating a CAFE emission target of 97 g/km average carbon dioxide emissions by 2020. Korea reflected stakeholder comments related to the small volume manufacturer threshold (sales of 4,500 or fewer vehicles in 2009), but will gradually reduce the 19 percent leniency factor provided to small volume manufacturers to 8 percent by 2020. To help meet Korea's 2020 CAFE emission targets, industry requested that Korea recognize various off-cycle and eco-innovation credits that are recognized in the United States and the European Union. After consultations with the industry, the Ministry of Environment (MOE) revised and expanded its off-cycle and eco-innovation credits, effective December 30, 2015. As MOE continues to clarify its automotive emissions policies, the United States will continue to engage with Korea to ensure that these policies are implemented in a fair, transparent, and predictable manner, consistent with KORUS.

Motorcycles

Korea's longstanding ban on driving motorcycles on expressways continues, which U.S. stakeholders argue constrains potential sales. Korea views this ban as a necessary safety measure, and has pointed to a 2011 study on the safety of motorcycles on highways commissioned by the Korean National Police, which highlighted inadequacies in Korea's regulatory and safety practices surrounding the licensing of motorcycle drivers and the proliferation of young, untrained motorcycle riders driving dangerously on city streets. The

United States maintains that fit-for-purpose heavy motorcycles riding on expressways do not pose the same safety concerns as smaller, lighter motorcycles and continues to urge Korea to allow large motorcycles on expressways.

Pharmaceuticals and Medical Devices

In response to pending KORUS implementation obligations, and pursuant to extensive discussions between the U.S. and Korean governments, the Pharmaceutical Affairs Act was amended in March 2015 to create an administrative procedure for pharmaceutical patent owners to temporarily prevent the sale of products, including biologics, which may infringe a patent, so as to allow for judicial consideration of infringement allegations. While this amendment was welcomed by the innovative pharmaceutical industry, a separate proposed amendment to Korea's National Health Insurance Act (NHIA), which was ultimately not approved by the National Assembly, attracted industry concern. The proposed amendment would have allowed the government to disgorge profits earned by a patent holder during the period that generic products were prevented from being sold, in cases in which the patent holder is ultimately unsuccessful in a judicial proceeding, even absent evidence of bad faith or similar conduct. The proposed amendment could have discouraged innovators from exercising their legal remedies and could have potentially led to adverse impacts on these companies' investment decisions in Korea, undermining the benefits accruing to innovative and generic producers. The United States will continue to monitor the issue.

Under KORUS, any new Korean regulations affecting general pricing and reimbursement of pharmaceuticals and medical devices must be published in advance for notice and comment, and the Korean government is required to respond to public comments in writing and explain any substantive revisions made to proposed regulations. KORUS also contains provisions regarding the appropriate recognition of the value of patented pharmaceuticals and medical devices. The United States has urged Korea to seriously consider stakeholders' concerns and ensure that pharmaceutical reimbursement pricing is conducted in a fair, transparent, and nondiscriminatory manner that recognizes the value of innovation, as set forth in KORUS. Nevertheless, the U.S. innovative pharmaceutical industry continues to report concerns regarding the lack of transparency and predictability of the pricing and reimbursement policies and their underlying methodology. These policies continue to generate considerable uncertainty for stakeholders, which depend on long-term planning for the investment decisions that support research and development. To support the global export of locally developed new drugs, a modified price volume agreement was introduced in May 2015. However, the domestic pharmaceutical industry in Korea is critical of the complex application process for the refund policy, and U.S. companies are concerned that multinational corporations rarely meet the eligibility criteria.

The U.S. medical devices sector continues to cite concerns regarding transparency and the availability of opportunities for meaningful engagement regarding such regulation, including with respect to the October 2013 medical device reimbursement plan based on import pricing or manufacturing cost. The United States has expressed its concern that the reimbursement pricing of medical devices should be determined in a fair, nondiscriminatory, and transparent manner and urged MOHW to engage directly with stakeholders to address their concerns. The United States will continue to monitor these issues closely.

KUWAIT

TRADE SUMMARY

The U.S. goods trade deficit with Kuwait was $1.9 billion in 2015, a 75.2 percent decrease ($5.9 billion) over 2014. U.S. goods exports to Kuwait were $2.8 billion, down 24.6 percent ($898 million) from the previous year. Corresponding U.S. imports from Kuwait were $4.7 billion, down 59.0 percent. Kuwait was the United States' 52nd largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Kuwait (stock) was $315 million in 2014 (latest data available).

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization (GSO), issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials continue to discuss concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States notified WTO Members in June 2014 of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. Due to concerns about implementation of the Guide, Member States have not implemented it but are reviewing the current version. Stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also could impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius Commission and the World Organization for Animal Health. The United States raised concerns about the current version of the Guide in 2014 and 2015, and GCC Member States delayed entry into force until food safety experts have an opportunity to address these concerns. The United States continues to engage in discussions with the GCC and its Member States regarding their import requirements for food and agricultural products.

IMPORT POLICIES

Tariffs

As a member of the GCC, Kuwait applies the GCC common external tariff of five percent with a limited number of GCC-approved country-specific exceptions. Kuwait's exceptions include 417 food and agriculture items that are exempt from customs duties. Tobacco products are currently subject to a 100 percent tariff rate.

Import Prohibitions and Licenses

Kuwait prohibits the importation of alcohol and pork products, and requires a special import license for firearms. Additionally, used medical equipment and automobiles over five years old cannot be imported. The importation of books, periodicals, or movies that insult religion and public morals, and all materials that promote political ideology, is prohibited.

All imported meat requires a health certificate issued by the country of export and a halal food certificate issued by an approved Islamic center in that country. The halal food certificate has to contain detailed information, including the name and identification number of the accreditation body, the country of origin of the goods, sample details, the health certificate number, a halal certificate number, and the name of the producing plant.

GOVERNMENT PROCUREMENT

Kuwait is not a signatory to the WTO Agreement on Government Procurement.

The Public Tenders Law (No. 37 of 1964, modified by Laws No. 13 and 31 of 1970 and 1977, respectively) regulates government procurement in Kuwait and requires that any procurement with a value greater than KD 5,000 (approximately $16,500) be conducted through the Central Tenders Committee. Kuwait's government procurement policies require the purchase of local products, where available, and provide a 10 percent price preference for local firms.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In October 2014, Kuwait was placed on the Special 301 Priority Watch List as a result of its failure to pass amendments to its 1999 copyright law that would help provide adequate and effective protection of copyrights, and due to a lack of consistent enforcement against intellectual property rights (IPR) violations, particularly trademark violations. Kuwait's current copyright law does not appear to provide for sufficient deterrent in the form of criminal penalties, and although the U.S. Government has provided technical assistance on several iterations of draft legislation since 1999 to address these issues, the U.S. Government remains concerned that the proposed legislation does not yet meet international standards.

As the six Member States of the GCC explore further harmonization of their intellectual property rights (IPR) regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

SERVICES BARRIERS

Banking

Foreign banks were granted licenses to operate in Kuwait under the 2001 Direct Foreign Capital Investment Law. Currently, 23 banks operate in Kuwait: five commercial banks, five Islamic banks, the Kuwait Industrial Bank, and 12 branches of foreign banks. In 2008, the Union of Kuwaiti Banks reorganized its membership structure to include all foreign banks operating in Kuwait and renamed itself the Kuwait Banking Association. This change granted foreign banks additional market access via acceptance in a specialized industry association. Foreign banks are still subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank. They are also expressly prohibited from directing clients to borrow from offshore branches of their bank or taking any other measures to facilitate such borrowing.

Telecommunications

Kuwait's telecommunications industry is technically open to private investment, but in practice, the government maintains extensive ownership and control of licensing and infrastructure development. In 2014, the independent Communication and Information Technology Regulatory Authority (CITRA) was created. The seven-member authority took over regulatory oversight responsibilities from the Ministry of Communications and the Central Agency for Information Technology. CITRA's priorities are to establish written guidelines based on new legislation; liberalize the telecommunications market; and in the longer-term, privatize Kuwait's fixed telecommunications network. There are currently three wireless companies, and additional companies may be authorized in the future. While private companies are involved in building cellular towers, the land and permits are often still controlled by the Ministry of Communications or the Municipality of Kuwait. There are a handful of private internet providers in Kuwait that also fall within CITRA's regulatory jurisdiction. Concerns have been raised that Kuwait's telecommunications law gives authorities sweeping power to revoke licenses and to block content, with little judicial oversight.

INVESTMENT BARRIERS

Foreign investment is not allowed in projects involving oil and gas exploration and production. Kuwait does permit foreign firms to participate in some midstream and downstream activities in the oil and gas sector, but foreign investors in this sector have faced numerous challenges.

Other major barriers to foreign investment in Kuwait include: regulations prohibiting foreigners from investing in real estate and publishing; long delays associated with starting new enterprises; difficulty in finding a required local sponsor and agent in certain circumstances; and obstacles created by a business culture heavily influenced by clan and family relationships.

LAOS

TRADE SUMMARY

The U.S. goods trade deficit with Laos was $21 million in 2015, a 363.1 percent increase ($16 million) over 2014. U.S. goods exports to Laos were $25 million, down 13.7 percent ($4 million) from the previous year. Corresponding U.S. imports from Laos were $45 million, up 37.1 percent. Laos was the United States' 183rd largest goods export market in 2015.

Laos ratified its accession to the WTO on December 6, 2012, and became a full member of the WTO on February 2, 2013. Laos submitted its WTO Trade Facilitation Agreement instrument of acceptance on September 29, 2015. The United States and Laos signed a Trade and Investment Framework Agreement on February 17, 2016.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Laos established its current regulations relating to sanitary and phytosanitary standards in 2012. It continues to refine these regulations and related processes to address the uneven implementation at entry-points and the often limited technical knowledge of enforcement officials.

IMPORT POLICIES

Tariffs

Laos' membership in the WTO and its preparations for the entry into force of ASEAN obligations in 2015 spurred trade liberalization, improved the business environment, and enhanced trade facilitation. Laos' average final bound MFN tariff rate (when all WTO accession commitments have been completed) is 18.4 percent and the average applied MFN tariff rate is 10 percent. The average applied rate is 8.3 percent for industrial goods and 20.1 percent for agricultural products.

Nontariff Barriers

All importers must register with the Ministry of Industry and Commerce's Department of Import/Export. Certain products, including motor vehicles, petroleum and gas, timber products, cement, and steel, are subject to import licensing.

Customs Procedures

The Lao Customs Department determines customs value based on transaction value according to the WTO Agreement on Customs Valuation. U.S. businesses complain of irregularities and corruption in the customs clearance process.

Taxation

Laos is transitioning to a value-added tax (VAT) system. The standard VAT rate of 10 percent applies to most domestic and imported goods and services, with some limited exemptions. Laos is also seeking to implement excise taxes on some goods to restore revenue lost from tariffs capped under the WTO and

ASEAN agreements. Many companies have registered complaints about duplicative, arbitrary, or selective enforcement of tax provisions. The United States will continue to engage with Laos regarding these concerns.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Laos took steps in 2013 to consolidate its intellectual property office and to create specialized units in its relevant law enforcement bodies to address IPR issues. It also granted customs officials *ex officio* authority and established a national coordinating committee for IPR in 2014. With U.S. government assistance, Laos continues work to establish an effective system for civil litigation and criminal enforcement of IPR. In 2015, the Lao government took legal action against groups producing trademark counterfeit electronics, foods, and beverages. Although there is increasing public awareness and media coverage of the harm caused by counterfeit goods and the impact of copyright piracy on local content providers, counterfeit goods and pirated entertainment content continue to be available in Lao marketplaces.

The United States will continue to urge Laos to take steps to improve IPR protection and enforcement, including through developing judicial capacity to adjudicate IPR cases and increasing public awareness of the importance of IPR.

SERVICES BARRIERS

It remains difficult for foreign services suppliers to access several service sectors, including medical, postal, and telecommunications services, as well as some leasing, media, and transportation services. However, Laos opened most other service sectors to U.S. service suppliers through the 2005 United States-Laos Bilateral Trade Agreement.

ELECTRONIC COMMERCE

Despite growing Internet usage, electronic commerce is just emerging in Laos and online transactions are limited. The Lao National Assembly passed a law authorizing both electronic commercial and government transactions in 2013; however, Lao technical and regulatory capacity is very low and some implementing regulations are still being drafted. The United States continues to support Laos in the development of regulations and in building regulatory capacity.

Decree 327 on Information Management on the Internet, issued in 2014, creates legal challenges for U.S. Internet services suppliers operating in Laos. Under the decree, “website managers” are required to actively monitor content posted to their site, and are held legally liable for the content on their site, even if that content was created by a third party. For websites that depend on user-generated content—such as social networks, customer review sites, and online forums—this decree creates legal exposure and undermines some business models entirely.

INVESTMENT BARRIERS

Laos has a challenging investment climate due to corruption, an underdeveloped judicial system, overlapping and often contradictory regulations, and limited access to financial services. Domestic ownership and partnership requirements vary by industry. The Lao government requires an annually renewable business license, receipt of which is contingent on a certification that all taxes have been paid. However, taxes are often assessed in an inconsistent manner. The United States will continue to urge the Lao government to address these issues.

OTHER BARRIERS

Corruption remains a major barrier to trade for U.S. businesses seeking to operate in, or trade with, Laos. Informal payments to low-level officials to expedite administrative procedures are common.

Laos is seeking to improve the transparency of its domestic lawmaking process. In accordance with the 2012 Law on Making Legislation, the Ministry of Justice opened the online Official Gazette in October 2013, on which it intends to publish all proposed Lao legislation. Furthermore, the Law on Making Legislation stipulated that existing laws not posted to the Official Gazette by the end of 2014 would be invalidated. However, old laws are still being posted to the online Official Gazette, which has resulted in a legal grey area with respect to the continuing validity of laws promulgated before 2015 but posted to the site after the deadline

MALAYSIA

TRADE SUMMARY

The U.S. goods trade deficit with Malaysia was $21.5 billion in 2015, a 24.1 percent increase ($4.2 billion) over 2014. U.S. goods exports to Malaysia were $12.3 billion, down 5.9 percent ($776 million) from the previous year. Corresponding U.S. imports from Malaysia were $33.8 billion, up 11.2 percent. Malaysia was the United States' 24th largest goods export market in 2015.

U.S. exports of services to Malaysia were an estimated $2.9 billion in 2014 (latest data available), and U.S. imports were $1.8 billion. Sales of services in Malaysia by majority U.S.-owned affiliates were $7.9 billion in 2013 (latest data available), while sales of services in the United States by majority Malaysia-owned firms were $467 million.

U.S. foreign direct investment (FDI) in Malaysia (stock) was $14.4 billion in 2014 (latest data available), a 10.8 percent increase from 2013. U.S. direct investment in Malaysia is led by mining, manufacturing, and finance/insurance.

Trade Agreements

Trans-Pacific Partnership -- Malaysia is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Mexico, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address nontariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes to bring the agreement into force so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Meat and Poultry Products – Halal Standards

Malaysia requires all domestic and imported meat (except pork) to be certified as halal by Malaysian authorities. Foreign producers' halal practices must be inspected and approved for conformity with Malaysian standards before the plant is permitted to export to Malaysia.

In January 2011, Malaysia implemented a food product standard, MS1500: 2009, which establishes guidelines on halal food production, preparation, handling, and storage that go beyond internationally recognized halal standards contained in the Codex Alimentarius. Specifically, the Malaysian standards require slaughter plants to maintain dedicated halal production facilities and ensure segregated storage and transportation facilities for halal and non-halal products. In contrast, the Codex allows for halal food to be prepared, processed, transported, or stored using facilities that have been previously used for non-halal foods, provided that Islamic cleaning procedures have been observed. The United States continues to discuss this issue with Malaysia.

In December 2014, following an audit in October 2014, Malaysia's Department of Veterinary Services approved one U.S. turkey producer and one U.S. beef producer to export specific products to Malaysia.

Infant and Follow-up Formula Products

Malaysia's Ministry of Health has proposed revisions to its existing Code of Ethics for the Marketing of Infant Foods and Related Products, which includes restrictions on the use of trademarked brand names and symbols on product labels or packaging, as well as restrictions on educational, promotional, and marketing activities for infant formula products and products for toddlers and young children. The United States continues to follow the issue, and has raised questions about the evidence Malaysia used in developing the proposed measure.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Although biotech crops are generally not approved for planting in Malaysia, the Malaysian government allowed biotech papaya trials in 2014. However, it has not yet published the results of the trials.

Biotech crops are permitted to be sold in the Malaysian market only if they have been approved for use in food and feed, and for processing. While Malaysia has approved a few corn and soybean biotech events for release on the market, bulk shipments of corn and soybeans face the risk of rejection if a variety that has not yet been approved is detected. In 2013, the Malaysian government published new biotech labeling guidelines, including for processed food, but it has not yet begun enforcing them.

IMPORT POLICIES

Almost all of Malaysia's tariffs are imposed on an *ad valorem* basis, with a simple average applied tariff of 6.1 percent. Duties for tariff lines where there is significant local production are often higher. In general, the level of tariffs is lower for raw materials than for value-added goods. On roughly 80 products, mostly agricultural goods, Malaysia charges specific duties that represent extremely high effective tariff rates. Beverages, alcohol, and wine are subject to an effective tariff of up to 500 percent when import duties and excise taxes are combined.

The Malaysian government maintains tariff-rate quota systems for 20 tariff lines, including live poultry, poultry meat, milk, cream, pork, and round cabbage. These products incur in-quota duties between 10 percent and 25 percent and out-of-quota duties as high as between 40 percent and 168 percent.

A large number of Malaysian tariff lines related to import-sensitive or strategic industries (principally in the construction equipment, agricultural, mineral, and motor vehicle sectors) are subject to import licensing requirements.

Under TPP, Malaysia has committed to eliminate tariffs or substantially improve market access on imports from the United States through tariff reductions and tariff-rate quotas.

Import Restrictions on Motor Vehicles

Malaysian automotive policy makes a fundamental distinction between “national” cars (*e.g.*, domestic producers Proton and Perodua) and “non-national” cars, which include other vehicles assembled in Malaysia. The most recent version of the country’s National Automotive Policy (NAP), issued in January 2014, includes nontariff measures that significantly increase the cost of imported vehicles. The NAP maintains an aspiration of transforming the country into a hub for energy-efficient vehicles. Malaysia, however, continues to apply high tariffs in the automobile sector and has traffic restrictions and noise standards that affect the usage of large motorcycles. There have been no reforms of Malaysia’s non-transparent import permit and gazette pricing system, excise duties continue to disproportionately affect imported vehicles, and Malaysia still maintains special tax reductions for vehicles with Malaysian-manufactured components.

The 2014 NAP includes a system of “approved permits” (APs), which confer to permit holders the right to import and distribute cars and motorcycles. The AP system was initially designed to provide *bumiputera* (ethnic Malay) companies with easier entry into the automobile and motorcycle distribution and service sectors. However, the AP system is administered in a nontransparent manner and effectively operates as a cap on the total number of vehicles that can be imported in a given year. Currently, the cap on imported vehicles is set at 10 percent of the domestic market. Although the previous NAP had included a commitment to phase out the AP system by 2020, the revised NAP replaced this commitment with a proposed six-month, in-depth study to assess the impact of terminating the program on its *bumiputera* beneficiaries. The results of that study have not been released.

Malaysia has committed to address these barriers in TPP, including by committing not to apply any quantitative limit on the importation of originating new motor vehicles from the United States.

EXPORT TAXES

Malaysia taxes exports of palm oil, rubber, and timber products in order to encourage domestic processing. Malaysia is the world’s second largest producer and exporter of palm oil and products made from palm oil. The tax that Malaysia imposes on exports of crude palm oil depends on fluctuations in the market price. Because of the falling price of crude palm oil, Malaysia has not imposed export taxes on the commodity since September 2014 and has not provided a timeline for their resumption. Refined palm oil and refined palm oil products are not subject to export taxes. In TPP, Malaysia has committed not to impose export taxes on some products and not to increase export taxes on others.

GOVERNMENT PROCUREMENT

Malaysia has traditionally used government procurement contracts to support national public policy objectives, including encouraging greater participation of *bumiputera* in the economy, transferring technology to local industries, reducing the outflow of foreign exchange, creating opportunities for local companies in the services sector, and enhancing Malaysia’s export capabilities. As a result, it has generally invited international tenders only when domestic goods and services are not available, and in those cases, foreign companies often find they need to take on a local partner before their tenders will be considered. Procurement also often goes through middlemen rather than directly with the governmental entity or is negotiated rather than tendered.

Under the TPP Agreement, Malaysia will open its government procurement to competitive bidding from U.S. and other TPP suppliers, and extend national treatment to U.S. and other TPP suppliers for covered procurement. Malaysia’s government procurement commitments in TPP cover all its government ministries, and goods and services in contracts above agreed value thresholds. Importantly, TPP also requires Malaysia to institute reforms to ensure complete and timely provision of information on upcoming procurements and fair and transparent procurement procedures for government contracts. TPP contains Malaysia's first binding international commitments on government procurement.

Malaysia is not a signatory to the WTO Agreement on Government Procurement, but is an observer.

EXPORT SUBSIDIES

Malaysia maintains several programs that appear to provide subsidies for exports, which appear distinct from the pioneer status and investment tax allowance programs listed in Malaysia's 2014 subsidies notification to the WTO. In addition, the NAP increased the income tax exemption for high value-added exports of motor vehicles and parts based on the percentage increase in the value added of exports. The United States has raised questions about these and other policies.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Malaysia was not listed in the 2015 Special 301 Report. In recent years, Malaysia has taken a number of steps to enhance its IPR enforcement regime and has acceded to the WIPO Copyright Treaty and the WIPO Performance and Phonogram Treaty, and enacted legislation to define Internet Service Provider liability and to prohibit unauthorized camcording of motion pictures in theaters. Despite Malaysia's improved record of IPR protection, several important issues merit further attention by the Malaysian Government, including the availability of pirated copyright and counterfeit trademark products in Malaysia, high rates of piracy over the Internet, and continued challenges posed by book piracy. In addition, the United States has urged Malaysia to continue its efforts to improve the protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products.

Under the TPP Agreement, which sets strong and balanced standards for IPR protection and enforcement, Malaysia has committed to strengthening its IPR regime on these and other issues. The United States continues to work with Malaysia to address IPR issues through TPP implementation as well as through bilateral engagement.

SERVICES BARRIERS

The services sector has been a driver of Malaysia's economic and job growth in recent years. Since 2009, Malaysia has liberalized 45 services sub-sectors. Malaysia allows 100-percent foreign equity participation in private hospital services, medical specialist clinics, department and specialty stores, incineration services, accounting and taxation services, courier services, private universities, vocational schools, dental specialist services, skills training centers, international schools, vocational schools for special needs, and quantity surveyors services. In November 2014, the Lower House of the Parliament passed amendments to laws governing architectural services, quantity surveying services, and engineering services, which eased restrictions on foreigners working in these professions in Malaysia. The amended legislation on architectural services came into force in June 2015. The Ministry of Works is expected to finalize its review of the amendments affecting quantity surveying and announce the beginning of implementation in early 2016. In TPP, Malaysia made significant improvements to and undertook commitments related to its services markets, including in sectors noted below.

Telecommunications

Malaysia currently allows 100 percent foreign equity participation in applications service providers (suppliers which do not own underlying transmission facilities). However, liberalization of telecommunications services for network facilities providers and network service provider licenses has yet to be implemented; only 70 percent foreign participation is currently permitted, although, in certain instances, Malaysia has allowed greater equity participation. Malaysia made limited GATS commitments on most basic telecommunications services and partially adopted the WTO Reference Paper on regulatory principles.

Under TPP, Malaysia committed to permit 100 percent foreign investment from TPP members in all telecommunications services, and agreed to regulatory commitments significantly beyond those offered by any member in the WTO.

Distribution Services

Malaysia allows 100 percent foreign ownership of department and specialty stores. However, foreign-owned larger retailers ("hypermarkets") and locally-incorporated direct-selling companies must still have 30 percent *bumiputera* equity. Department stores, supermarkets, and hypermarkets are required to reserve at least 30 percent of shelf space in their premises for goods and products manufactured by *bumiputera*-owned SMEs. Malaysia is currently reviewing the guidelines for retailers. The Malaysian government also issues "recommendations" for local content targets, which are, in effect, mandatory. However, under TPP, U.S. retailers and retailers from other TPP Parties will not be required to meet the 30 percent shelf-space requirement.

Legal Services

On June 3, 2014, amendments to the Legal Professions Act came into force to allow foreign law firms and foreign lawyers to practice in peninsular Malaysia.

Licenses may be issued to foreign law firms to operate an international partnership with a Malaysian law firm or as a qualified foreign law firm (QFLF) without partnering with a local firm. Foreign lawyers working in international partnerships or QFLFs must reside in Malaysia for not less than 182 days in any calendar year.

The amendments also authorize "fly-in-fly-out" activities whereby a foreign lawyer advising on non-Malaysian law may enter Malaysia for up to 60 days in a calendar year, subject to immigration approval. A foreign lawyer who has been authorized or registered to practice law in Malaysia is not subject to the 60-day limit.

Malaysia's TPP commitments secure the new access provided through these amendments and are the first binding commitments Malaysia has taken for legal services in peninsular Malaysia, home to the vast majority of Malaysia's legal services market.

Engineering Services

Foreign engineers are not allowed to operate independently of Malaysian partners or to serve as directors or shareholders of an engineering consulting company. A foreign engineering firm may establish a permanent commercial presence if all directors and shareholders are Malaysian. In TPP, Malaysia committed to ensure that any qualified person resident in Malaysia and registered with the relevant professional board may supply engineering services, and that engineering firms may establish with only a majority of the directors being registered professionals.

Accounting and Taxation Services

All accountants seeking to provide auditing and taxation services in Malaysia must register with the Malaysian Institute of Accountants before they may apply for a license from the Ministry of Finance. Citizenship or permanent residency is required for registration with the Malaysian Institute of Accountants. In TPP, no citizenship or permanent residency requirements exist.

Financial Services

The Financial Services Act of 2012 removed the previous foreign equity limits of 70 percent for domestic investment banks, insurance companies, Islamic banks, and Islamic insurance operators. Reinsurance companies are required to conduct more than 50 percent of their reinsurance business in Malaysia and must have 5 percent cession and local retention. Bank Negara currently limits foreign banks to eight branches in Malaysia, subject to restrictions. For example, foreign banks cannot set up new branches within 1.5 km of an existing local bank. In addition, Bank Negara considers ATMs as equivalent to separate branches and it also has conditioned foreign banks' ability to offer some services on commitments to undertake certain back office activities in Malaysia. Implementation of TPP will result in a number of liberalizations. TPP will increase the number of internal branches foreign banks can establish to sixteen and will allow foreign banks to have offsite ATMs. Malaysia also will allow the full range of financial institutions to establish wholly-owned subsidiaries and will eliminate the joint venture requirement. Under TPP, the initial local cession to Malaysian Reinsurance Berhad decreases to 2.5 percent for all insurance classes.

Audiovisual and Broadcasting

Foreign investment in cable and satellite platforms is permitted through joint-ventures with foreign equity capped at 30 percent. No foreign direct investment restrictions apply to the wholesale supply of pay TV programming. Foreign investment in terrestrial broadcast networks is prohibited.

Consumer Data Protection

The Personal Data Protection Act imposes requirements for registration and reporting by companies handling consumer data that ultimately touches most aspects of the economy. The law came into force November 15, 2013. TPP will ensure that this law will not be implemented in a manner that unduly restricts cross-border data flows.

INVESTMENT BARRIERS

Foreign investment in sectors such as retail, telecommunications, financial services, professional services, oil and gas, and mining is subject to certain restrictions. These restrictions include limitations or, in some cases, prohibitions, on foreign equity, and requirements that foreign firms enter into joint ventures with local partners. Pursuant to the National Land Code, foreigners must obtain prior approval from the relevant state authorities for any acquisition of land for agricultural, residential, or commercial purposes. These state authorities may impose conditions on ownership, including maximum thresholds for foreign equity in companies seeking to acquire land. Malaysia also maintains performance requirements that must be met to receive a customs waiver for manufacturing operations in Foreign Trade Zones. In TPP, Malaysia agreed to extensive investment commitments, including with respect to *bumiputera* policy, preventing the imposition of new investment barriers in most sectors.

MEXICO

TRADE SUMMARY

The U.S. goods trade deficit with Mexico was $58.4 billion in 2015, a 8.4 percent increase ($4.5 billion) over 2014. U.S. goods exports to Mexico were $236.4 billion, down 1.6 percent ($3.9 billion) from the previous year. Corresponding U.S. imports from Mexico were $294.7 billion, up 0.2 percent. Mexico was the United States' 2nd largest goods export market in 2015.

U.S. exports of services to Mexico were an estimated $30.0 billion in 2014 (latest data available), and U.S. imports were $19.5 billion. Sales of services in Mexico by majority U.S.-owned affiliates were $43.4 billion in 2013 (latest data available), while sales of services in the United States by majority Mexico-owned firms were $7.5 billion.

U.S. foreign direct investment (FDI) in Mexico (stock) was $107.8 billion in 2014 (latest data available), a 5.3 percent increase from 2013. U.S. direct investment in Mexico is led by nonbank holding companies, manufacturing, and finance/insurance.

Trade Agreements

Trans-Pacific Partnership -- Mexico is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, New Zealand, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promote U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, TPP Parties will cut over 18,000 import taxes imposed on Made-in-America products imported into TPP countries; open new markets for U.S. service suppliers; address nontariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field by fostering fair competition and good governance; enforce high labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force so that their consumers, workers, and businesses can begin benefitting from the agreement as soon as possible.

North American Free Trade Agreement -- The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico (the "Parties"), entered into force on January 1, 1994. Under the NAFTA, the Parties progressively eliminated tariffs and nontariff barriers to trade in goods, provided improved access for services, established strong rules on investment, and strengthened protection of intellectual property rights. After signing NAFTA, the Parties concluded supplemental agreements on labor and the environment.

Trade in Services Agreement -- Mexico is also participating in the Trade in Services Agreement (TiSA) negotiations, which are aimed at promoting fair and open trade in services while taking on new issues arising from the rapid growth of digital trade. The 23 economies participating in TiSA represent 75 percent of the world's $44 trillion services market.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Energy Efficiency Labeling and Standby Power Usage Regulations

On January 23, 2014, Mexico's National Commission on Efficient Energy Use ("CONUEE") published an energy efficiency measure, PROY-NOM-032-ENER-2013 ("NOM-032"), which requires certain testing methods, standby energy consumption limits, and labeling for electronic and electrical equipment. The NOM-032 imposes additional burdensome and costly labeling requirements on products exported to Mexico, including electronic products which operate at a relatively low wattage. NOM-032 requires products to undergo testing and certification in Mexico, even if the product is already subject to testing in the United States. Additionally, there are currently only a limited number of laboratories in Mexico authorized to perform the required laboratory testing and certification. According to U.S. industry, the approved laboratories may not have the requisite capacity to process the large volume of consumer electronic products in the marketplace. In addition, U.S. industry has expressed concern with the short time frame under which they are required to obtain certification under the new regulation and the lack of communication from the approved laboratories related to scheduling product testing.

Industry is also following a project regarding NOM-29-ENER-2015 on proposed energy conservation standards for external power supplies (EPS).

Sanitary and Phytosanitary Barriers

Fresh Potatoes

In 2003, the United States and Mexico signed the Table Stock Potato Access Agreement, allowing U.S. fresh potatoes to be imported into all parts of Mexico over a three-year period. However, for years Mexico refused to move forward with implementation of the Agreement, citing pest detections in shipments. In 2011, the North American Plant Protection Organization (NAPPO) released a report that identified six pests which should be considered quarantine pests by Mexico in "potato[es] for consumption." The NAPPO report and recommendations were agreed to by both the United States and Mexico. On May 19, 2014, Mexico published new import regulations for potatoes in the *Diario Oficial* (the official journal of the Government of Mexico). These new regulations would allow the importation of U.S. potatoes into any part of Mexico. The Mexican Potato Industry Association, CONPAPA, challenged the new import regulations in Mexican courts. Since June 9, 2014, Mexican courts have granted injunctions provisionally suspending the shipment of U.S. potatoes beyond a zone extending 26 kilometers from Mexico's border with the United States. The United States is monitoring the progress of litigation in Mexico on this matter.

Raw Milk

Since May 2012, U.S. dairy exporters have been blocked from shipping raw milk for pasteurization to Mexico. Raw milk for pasteurization represents a substantial export opportunity for several dairy producers who can supply this product to Mexican milk pasteurization plants when the plants are faced with insufficient domestic supplies of raw milk. In 2014, Mexico resumed work on the development of import requirements that would permit the importation of raw milk into Mexico. In 2015, the United States held discussions with Mexico's Services for the National Health for Food Safety and Food Quality (SENASICA) on veterinary import requirements for raw milk intended for pasteurization.

Stone Fruit

California: Under the California Stone Fruit Work Plan, Mexico imposes a high level of direct oversight on the operations of Californian stone fruit producers as a condition for access to Mexico's market. The Mexican government requires numerous inspections by Mexican authorities of the operations of U.S. producers for the presence of oriental fruit moth and other pests. Through ongoing bilateral discussions, the United States and Mexico have sought to reduce this costly and burdensome oversight of U.S. producers. In 2015, both sides agreed to a program whereby full responsibility for export-certification activities would be transferred to the United States over the course of a three-year period. Both countries are on target for stage 2 of the 3 stages of the transfer, scheduled to occur at the start of the 2016 growing season.

Pacific Northwest: Mexico has stated that, due to concerns about the oriental fruit moth, in the absence of a pest risk assessment (PRA), it would accept peaches, nectarines, and plums from this region only with on-site inspection and methyl bromide fumigation. Stone fruit from the Pacific Northwest, however, poses a low risk of transmission of the oriental fruit moth. Mexico is currently in the process of completing a PRA on stone fruit from the Pacific Northwest, and the United States continues to engage with Mexican authorities to reduce burdens associated with the exportation of stone fruit from the Pacific Northwest to Mexico.

Poultry

Since January 2015, Mexico has restricted all fresh and frozen poultry meat and poultry meat products from 15 U.S. states due to the detection of highly pathogenic avian influenza (HPAI) in backyard and commercial flocks. Mexican technical experts visited the United States during the week of February 22, 2016 as part of their review process to lift the restrictions; however Mexico has yet to remove state-wide import restrictions associated with HPAI. The United States will continue to press Mexico to limit import restrictions to poultry and poultry products from specific counties where HPAI has been detected, and not entire states.

IMPORT POLICIES

Tariffs and Market Access

Pursuant to the terms of the NAFTA, on January 1, 2003, Mexico eliminated all remaining tariffs on industrial products and most remaining tariffs on agricultural products imported from the United States. On January 1, 2008, Mexico eliminated its then-remaining tariffs and tariff-rate quotas on U.S. agricultural exports.

Administrative Procedures and Customs Practices

U.S. exporters continue to express concerns about Mexican customs administrative procedures, including insufficient prior notification of procedural changes, inconsistent interpretation of regulatory requirements at different border posts, allegations of under-invoicing of agricultural products, and uneven enforcement of Mexican standards and labeling rules. Since 2012, numerous U.S. companies have reported concerns regarding verifications initiated by Mexico's tax authority, the *Servicio de Administración Tributaria* (SAT), with respect to the NAFTA origin of certain products imported from the United States. SAT adopted new procedures to address complaints, including a "selective sampling" procedure implemented on a case-by-case basis, and modified its notification system to ensure that all parties are aware of an audit and have adequate time to respond. The U.S. Government continues to monitor the situation and urge SAT to resolve all pending audit cases in a timely and transparent manner.

On December 5, 2013, Mexico issued new rules that require parties to obtain a license before certain steel products may be shipped into Mexico; these rules were revised on August 11, 2014. The stated objectives of the import licensing system are to combat customs fraud, improve enforcement of trade remedy measures, and improve statistical monitoring of steel imports. Because of administrative delays and complicated procedures for the processing of applications by the Ministry of Economy, U.S. steel exporters have encountered disruptions in supply chains and additional shipment or demurrage costs, as shipments must often remain at the border until licenses are issued. In July 2015, Mexico added 25 steel products to the list of products subject to import licensing. The U.S. Government is actively engaged with Mexico to address stakeholder concerns and to reduce or eliminate the burdens of this licensing system on U.S. steel exporters and their Mexican customers. U.S. exports of steel mill products to Mexico during the period of January 2015 to November 2015 were 3.2 metric tons, a drop of 7 percent by volume over the same period in 2014. U.S. exports from January 2015 to November 2015 were valued at $3.9 billion, a decrease of 9 percent by value compared to the same period in 2014.

In the second half of 2014, the government of Mexico set out several new regulations governing the importation of footwear and apparel and textile goods, including the creation of reference prices and the establishment of an import licensing system. According to the Mexican government, the measures are designed to enhance the productivity and competitiveness of Mexican footwear and apparel producers and protect Mexico's domestic footwear and apparel industries from damage caused by the importation of undervalued goods. U.S. exporters have expressed a number of concerns with regard to the schemes, noting significant confusion during the early period of their implementation, lack of information regarding how to comply with new requirements, insufficient consultation with the trade community prior to operationalization, a lack of transparency in how reference prices are determined, and uneven enforcement by Mexico's customs and tax authorities. The U.S. Government will continue to monitor the implementation of these schemes and encourage SAT to clarify how their requirements are applied.

Customs procedures for express packages continue to be burdensome. U.S. exporters have highlighted the benefits of harmonizing the hours of customs operation on the U.S. and Mexican sides of the border, but they cite delays stemming from the lack of pre-clearance procedures. On October 15, 2015, the U.S. and Mexican Governments signed an MOU that allows for the launch of three cargo pre-inspection pilot programs.

In 2012, the Mexican government implemented the *Ventanilla Unica de Comercio Exterior Mexicana* (VUCEM), or Single Window for Trade. Mexican importers and U.S. exporters have experienced some delays and difficulties with the process. An upgraded system is scheduled to be launched in 2016.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Mexico was listed on the Watch List in the 2015 Special 301 report. Obstacles to U.S. trade include the wide availability of pirated and counterfeit goods mostly via physical and virtual notorious markets. While there has been progress made on the law enforcement front, overall criminal enforcement of intellectual property rights (IPR) continues to be characterized by weak coordination among federal, state, and municipal officials; limited resources for prosecutions; the lack of long-term sustained investigations targeting high-level suppliers of counterfeit and pirated goods; and the lack of sufficient penalties to deter violations.

There have been some recent positive developments. For example, Mexico formally joined the Madrid Protocol in 2012, which provides a simple streamlined process for rights holders to apply for trademark protection in multiple jurisdictions. Additionally, the Attorney General's Specialized IP Unit formed a new subunit dedicated solely to the investigation and prosecution of Internet-based IP crimes. Moreover, as a result of the North America Competitiveness work plan, the United States, Canada, and Mexico entered into a Trilateral Patent Prosecution Highway (PPH) pilot program. Finally, under the TPP agreement, which sets strong and balanced standards on IP protection and enforcement, Mexico has committed to strengthen its IPR regime. The United States continues to work with Mexico to address IP issues through TPP implementation, as well as through bilateral engagement.

SERVICES BARRIERS

Telecommunications

Some important, longstanding market access barriers were removed by a sweeping reform of the telecommunications sector in 2013 and 2014. These barriers included limitations on foreign investment in telecommunications and broadcasting, a weak regulatory agency, and an uncompetitive market dominated by a near monopolistic player. The telecommunications reform addressed these issues by removing all caps on investment in the telecommunications sector; instituting a new, strengthened, and independent regulator; creating specialized telecommunications courts; and implementing asymmetric regulations to curb the dominance of any company with more than a 49 percent market share.

The removal of these barriers has produced positive results. Due to the improved business climate, AT&T acquired Iusacell and Nextel Mexico to become the country's third largest carrier and announced aggressive investment plans that were matched by competitors. Furthermore, since the reforms, consumer prices in the wireless sector have declined by 20 percent (according to the Mexican government's estimates), and quality of service and carrier accountability have improved. However, despite the improved regulatory framework, new market entrants must still compete with the traditional dominant player who still has maintained more than 70 percent market share. Results through Q4 2015 show that there has been no significant change in the market shares of Mexico's three main carriers.

Some U.S. companies have expressed concern that, contrary to the spirit of the reform, difficulties persist in the efficient deployment of the telecommunications infrastructure necessary to provide comprehensive and quality services. Permits to install infrastructure such as cell sites must be obtained at a municipal level and the criteria to obtain these permits vary greatly among local governments. U.S. companies have reported a lack of transparency in the decision making process. The Mexican Ministry of Communications and Transportation (SCT) and the Mexican Federal Institute of Communications (IFT) are currently developing a voluntary national framework for the issuing of these permits, which will include incentives for municipalities that adopt it. A draft of these guidelines is slated for public consultation in August 2016.

In 2011, Mexico and the United States signed a bilateral mutual recognition agreement (MRA) regarding conformity assessment for telecommunications equipment that will benefit U.S. manufacturers. Although the MRA has not yet been implemented, the Mexican regulator, the Federal Institute of Telecommunications (IFT), took an initial step by publishing draft laboratory accreditation criteria in October 2015. It is uncertain when the MRA will be fully implemented.

Broadcasting

Pay television, which is the primary outlet for foreign programmers, continues to be subject to more stringent advertising restrictions than free-to-air broadcast television, which is supplied by domestic operators. In 2014, Mexico's reformed Telecommunications and Broadcasting Law established advertising guidelines on all media platforms, including radio, broadcast television, and pay television. The new provision in the law with regard to pay television is similar to the prior regulation, permitting pay television programmers to follow the industry's practice since 2001 of inserting up to an average of 12 minutes per hour for advertising without exceeding 144 minutes per day. The new law creates uncertainty for foreign programmers since the inventory per day granted to pay television programmers is described in minutes per hour as opposed to percentages per day (as the new law provides for on the other platforms). Free-to-air broadcasters are not limited to a number of minutes per hour and are permitted to devote as much as 25 percent of air time to advertising each day.

Televisa has a 62.2 percent share of the pay television market in Mexico. The company recently underwent an investigation by the Mexican telecommunications regulator, IFT, to determine whether it had substantial market power, *i.e.*, the ability to set prices and restrict supply, in the pay television market. In October 2015, IFT ruled that Televisa did not have substantial market power in pay television and therefore did not require the application of stronger regulations to the company.

The two national broadcasters, Televisa and TV Azteca, control roughly 90 percent of the national television broadcast market. However, on March 10, 2015, Cadena Tres was announced as the winner of an auction for one of two additional national broadcast networks tendered by the Mexican government to create more competition in the market. The award of the second broadcast network was cancelled and the auction will be re-launched in 2016. Foreign investment in the broadcasting sector was historically prohibited in Mexico, but the 2014 telecommunications reform allowed for foreign investment of up to 49 percent. Actual investment is capped at the rate allowed for the investor's country of origin. To further reduce barriers related to competition, Televisa was declared a preponderant agent in the free-to-air television broadcasting market and is therefore subject to tougher regulation, including the requirement to share its broadcasting infrastructure.

INVESTMENT BARRIERS

In December 2013, Mexico passed the most significant energy reform legislation since the 1938 nationalization of the sector. The reform opens Mexico's oil and gas sector to private sector participation and allows greater private investment in power generation, transmission, and distribution. While the Mexican government retains ownership of subsoil resources, the legislation amends the Mexican constitution to allow private companies to enter into competitive contracts, including profit-sharing, production-sharing, and license contracts independently, with the government, or with the state-owned petroleum company Pemex for the exploration and extraction of hydrocarbons. The reform also allows private companies to participate in downstream operations, such as refining, petrochemicals, transport, retail, and supply. Implementing legislation was passed in August 2014.

The energy reform legislation also establishes a minimum average local content requirement for exploration and production activities of 25 percent through 2015, which will gradually increase to 35 percent by 2025. There may be lower content requirements for deep-water and ultra-deep-water activities, as determined by the Ministry of Economy.

The specific percentage of local content required will be established in the bidding terms of individual exploration and production contracts. The Ministry of Economy is required to establish the measurement methodology for local content requirements in entitlements and exploration and production contracts, taking into account the following factors:

- goods and services to be contracted, considering their place of origin;
- qualified local work;
- investment in local and regional infrastructure; and
- transfer of technology.

The entitlements and exploration and production contracts will include specific penalties for failure to comply with local content requirements.

Mexico’s new hydrocarbons law restricts the ability of foreign investors to utilize international arbitration to resolve certain types of disputes with the government, as under certain other Mexican laws. For investors seeking to resolve such disputes, the only available forum is litigation in the Mexican courts.

Certain other sectors or activities (*e.g.*, forestry) are closed to foreign participation. Mexico also prohibits foreign ownership of residential real estate within 50 kilometers of the nation’s coasts and 100 kilometers of its land borders (although foreigners may acquire use of residential property in these zones through trusts administered by Mexican banks). An interagency National Foreign Investment Commission reviews foreign investment in Mexico’s restricted sectors, as well as investments in unrestricted sectors in which foreign equity exceeds 49 percent and which have a value greater than $165 million (adjusted annually). Under the TPP, U.S. and other foreign investors will be subject to a higher general threshold value that is the equivalent in Mexican pesos of $1 billion, adjusted annually based on the nominal growth rate of the Mexican Gross Domestic Product.

MOROCCO

TRADE SUMMARY

The U.S. goods trade surplus with Morocco was $598 million in 2015, a 46.1 percent decrease ($512 million) over 2014. U.S. goods exports to Morocco were $1.6 billion, down 23.5 percent ($494 million) from the previous year. Corresponding U.S. imports from Morocco were $1.0 billion, up 1.9 percent. Morocco was the United States' 64th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Morocco (stock) was $379 million in 2014 (latest data available), a 8.5 percent decrease from 2013.

The United States-Morocco Free Trade Agreement

The United States-Morocco Free Trade Agreement (FTA) entered into force on January 1, 2006. Duties on 95 percent of bilateral trade in industrial and consumer goods were eliminated upon entry into force of the FTA, with duties on most other such goods phased out in stages over the subsequent 10 years and eliminated as of January 1, 2015. Some sensitive agricultural products have longer periods for duty elimination or are subject to other provisions, such as tariff-rate quotas (TRQs). In addition to provisions that grant key U.S. export sectors duty-free access to the Moroccan market, the FTA includes commitments for increased regulatory transparency and the protection of intellectual property rights as well as the maintenance of labor and environmental laws.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Moroccan automotive market is expected to expand and presents opportunities for U.S. automotive companies. Duty-free importation for American-made vehicles under the FTA gives a distinct competitive advantage to U.S.-made vehicles, yet reduction of technical barriers is needed to ensure U.S. firms can make their goods available to consumers in Morocco.

One of the outstanding problems is that Morocco requires vehicles to meet the United Nations Economic Commission for Europe (UNECE) vehicle standards and does not allow for the importation of vehicles that meet the U.S. Federal Motor Vehicle Safety Standards (FMVSS). Additionally, Morocco requires a third party to certify that the relevant standards are met instead of applying a self-certification process as is done in the United States. These policies have prevented automobiles manufactured in the United States from being able to take advantage of the gradual elimination of tariffs under the FTA.

Morocco is making progress on these related issues. In 2013, Morocco initiated a process to allow vehicles that meet the FMVSS to be sold in Morocco as well as those that meet the UNECE standards. The revised regulations are expected to come into effect in 2016.

Morocco is also pressing forward in parallel to address U.S. concerns about its current policy on third party certification. In particular, Morocco has clarified that it will permit a “Blue Ribbon” letter issued by the National Highway Transportation Safety Administration, along with compliance data from individual manufacturers, to satisfy its requirements for importation and will not require a third party certification to FMVSS standards.

Sanitary and Phytosanitary Barriers

Morocco restricts imports of U.S. poultry and poultry products due to avian influenza and salmonella-related issues. Morocco also restricts imports of U.S. beef and beef products. In 2008, the United States and Morocco began negotiations on sanitary certificates for poultry and for beef, consistent with international standards. In February 2015, at the meeting of the United States-Morocco FTA Joint Committee, there was agreement to increase the frequency of discussions on SPS issues. While work has intensified, these issues have not yet been resolved.

IMPORT POLICIES

Morocco has undertaken reforms as a WTO Member and as a party to several bilateral free trade agreements to liberalize its economy. Under the United States-Morocco FTA, goods of key U.S. sectors, such as information technology, machinery, construction equipment, chemicals, and textiles, enjoy either duty-free or other preferential duty treatment when entering Morocco.

In order to further boost the flow of bilateral trade, the United States and Morocco signed a trade facilitation agreement in November 2013. The agreement includes new commitments reflecting practices developed since the FTA was signed in 2004 that will facilitate the movement of goods. These include provisions on Internet publication, transit, transparency with respect to customs penalties, and other topics that will improve Morocco's environment for trade in goods.

Agriculture

Pursuant to the FTA, Morocco maintains a number of tariff rate quotas (TRQs), including TRQs for U.S. durum and common wheat exports through two separate wheat TRQs. The Moroccan government's administration of these wheat TRQs, however, has led to difficulties for U.S. producers attempting to benefit from the preferential access provided under the FTA. In fact, in 2012 and 2013, no U.S. wheat was shipped under the TRQs. In marketing year 2014/2015, the U.S. shipped 10,000 metric tons of wheat. Morocco has agreed to conduct a review of its wheat import regime in an effort to improve implementation of the TRQ. Discussions with the Moroccan government are ongoing.

GOVERNMENT PROCUREMENT

The FTA requires the use of fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for covered procurement. Under the FTA, U.S. suppliers are permitted to bid on procurements for most Moroccan central-government entities, as well as procurements for the vast majority of Moroccan regional and municipal governments, on the same basis as Moroccan suppliers. Morocco has sought, with some success, to increase the transparency of its public tenders and improve the efficiency of government operations related to business.

Morocco is not a signatory to the WTO Agreement on Government Procurement, though it does participate as an observer in the WTO's Government Procurement Committee.

SERVICES BARRIERS

Morocco's insurance regulation formally treats foreign and Moroccan companies the same. However, U.S. insurance suppliers report that, in practice, the regulatory body (part of the Ministry of Economy and

Finance) applies an authorization process that has impeded U.S. insurance companies from introducing products that compete with Moroccan firms.

Stakeholders report that the regulatory body is only likely to approve applications that bring new products or "added value" to the sector. Applications must first be reviewed by a consultative committee composed principally of other companies active in the sector. While this committee's recommendations are not binding, companies contend that the regulatory authority generally has followed its advice when considering applications.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Morocco was not listed in the 2015 Special 301 Report. In 2014, the Moroccan Parliament approved an IPR law that improves the patent system by streamlining patent processing. The law also consolidates the enforcement of IPR by improving procedures for the destruction of counterfeit goods, enlarging the scope of border investigations, and providing complainants enhanced judicial remedies through civil and criminal courts to defend their rights.

Moroccan officials agreed at the 2015 meeting of the United States-Morocco FTA Joint Committee to work with U.S. experts to address additional gaps in Morocco's IPR protection regime. In particular, Morocco's capacity to detect and address Internet-based IPR violations remains inadequate in some respects, and counterfeiting of consumer goods (including clothing and luggage) is still common. U.S. software firms allege that the use of pirated software is widespread, with up to 80 percent of all software in Morocco being used without a license. The Moroccan government has been active in other areas of enforcement against copyright infringement, including against video and audiotape piracy.

EXPORT RESTRICTIONS

U.S. industry has raised concerns over limitations placed by the Moroccan government on exports of certain seaweed. The Moroccan Ministry of Agriculture and Maritime Fisheries issued an order on July 25, 2014, limiting the harvesting of seaweed. Roughly one month earlier, the Moroccan Ministry of Industry, Commerce, Investment and the Digital Economy issued a notice to exporters limiting the export of Gigartina seaweed to 300 MT (a drop of 900 MT from recent export levels). Both harvesting and exports are limited to the same quantities. The export restrictions may affect the ability of U.S. firms to secure sufficient quantities of Gigartina to meet their industrial needs (chiefly related to food processing). The Ministry of Agriculture and Maritime Fisheries advised that it intends to maintain the restrictions through 2016 to monitor for overharvesting. The United States raised the scientific basis of the export restriction with Morocco at the meeting of the 2015 United States-Morocco FTA Joint Committee and at other times throughout the year.

OTHER BARRIERS

Irregularities in government procedures, including lack of efficient and transparent processes for obtaining government permits, land-use approvals, and other government permissions are cited by U.S. firms as among the greatest obstacles to trade and investment in Morocco. Companies also note the challenges created by the need to follow rigid protocols and navigate excessive bureaucracy, leading to long wait times, particularly when dealing with public-sector entities. Morocco's cumbersome tax and employment regimes and property registration procedures also impede business.

Moroccan restrictions on prepayments of imported orders are often problematic for those U.S. exporters who require 100 percent advance payment. Currently, in an effort to avoid an excessive drain on foreign exchange, Moroccan authorities allow Moroccan companies to prepay only 30 percent of a shipment's total value in advance of import. A Moroccan company can prepay 100 percent only for orders under 200,000 dirhams (about $23,343). Some firms use letters of credit to mitigate the effect of these limitations, but these are costly and many U.S. firms report payment delays or defaults.

NEW ZEALAND

TRADE SUMMARY

The U.S. trade balance with New Zealand shifted from a goods trade surplus of $279 million in 2014 to a goods trade deficit of $648 million in 2015. U.S. goods exports to New Zealand were $3.6 billion, down 14.6 percent ($624 million) from the previous year. Corresponding U.S. imports from New Zealand were $4.3 billion, up 7.6 percent. New Zealand was the United States' 48th largest goods export market in 2015.

U.S. exports of services to New Zealand were an estimated $2.2 billion in 2014 (latest data available), and U.S. imports were $1.5 billion. Sales of services in New Zealand by majority U.S.-owned affiliates were $4.2 billion in 2013 (latest data available), while sales of services in the United States by majority New Zealand-owned firms were $458 million.

U.S. foreign direct investment (FDI) in New Zealand (stock) was $7.8 billion in 2014 (latest data available), a 1.5 percent increase from 2013. U.S. direct investment in New Zealand is led by manufacturing, finance/insurance, and nonbank holding companies.

Trade Agreements

Trans-Pacific Partnership -- New Zealand is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address nontariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America’s globally competitive intellectual property (IP)-intensive industries; level the playing field for U.S. exporters by fostering fair competition and good governance; establish high, enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses and consumers can begin benefitting from the agreement as soon as possible.

New Zealand’s free trade agreement with South Korea was signed on March 23, 2015, and entered into force on December 20, 2015. The agreement will eliminate tariffs on around 98 percent of New Zealand’s current exports to South Korea over 15 years. New Zealand also has free trade agreements in force with China, Hong Kong, Taiwan, Malaysia, ASEAN, Thailand, Singapore, and Australia.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Turkey Meat and Turkey Meat Products

In March 2011, New Zealand published a final import health standard for the importation of turkey meat and turkey meat products. Since then, the United States has been working with New Zealand's Ministry of Primary Industries (MPI) to reach agreement on an export certificate that will allow the exportation to New Zealand of U.S. turkey meat and turkey meat products.

IMPORT POLICIES

Tariff rates in New Zealand are generally low as a result of several rounds of unilateral tariff cuts that began in the mid-1980s. At 2.0 percent, New Zealand has one of the lowest average most-favored-nation (MFN) applied tariff rates among industrialized countries. In 2014, New Zealand's average applied MFN tariff rate was 1.4 percent for agricultural products and 2.2 percent for industrial goods. In the WTO, New Zealand applies zero duty on 49.6 percent of its tariff lines in agricultural goods, and it applies zero duty on 67.2 percent of its tariff lines in industrial goods. In October 2013, New Zealand announced that except where they are reduced through trade agreements (including TPP), New Zealand tariffs will remain unchanged until at least June 30, 2017.

GOVERNMENT PROCUREMENT

New Zealand's negotiations to join the WTO Agreement on Government Procurement (GPA) concluded in October 2014, and its accession to the GPA came into effect on August 13, 2015. Through its GPA commitments, New Zealand has committed to open to U.S. suppliers and suppliers from other GPA members its covered government procurement, and to follow procedures designed to ensure transparency and fairness in procurement. New Zealand has made similar government procurement commitments in the TPP Agreement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

New Zealand generally provides strong IPR protection and enforcement. The United States continues to monitor implementation of the New Zealand Patent Act reforms that came into force in September 2014, including provisions related to software.

The United States has encouraged the New Zealand government to accede to and implement the World Intellectual Property Organization (WIPO) Performance and Phonograms Treaty and the WIPO Copyright Treaty. Under the TPP Agreement, New Zealand has committed, like all TPP Parties, to accede to both treaties.

Under the TPP agreement, which sets strong and balanced standards on IP protection and enforcement, New Zealand has committed to strengthening its IPR regime. The United States continues to work with New Zealand to address IP issues through TPP implementation as well as through bilateral engagement.

INVESTMENT BARRIERS

Investment Screening

New Zealand screens any foreign investment that would result in the acquisition of 25 percent or more of ownership in, or of a controlling interest in, "significant business assets," which are defined as assets valued at more than NZ$100 million (approximately US$67 million). In addition, New Zealand screens any foreign investment that would result in the acquisition of 25 percent or more of a fishing quota, either directly or through the acquisition of a company that already possesses a quota, as well as acquisitions of land defined as "sensitive" by the Overseas Investment Act 2005, which included farmland greater than five hectares, land adjoining the foreshore, and conservation land. With respect to acquisitions of sensitive land, New Zealand may assess a number of factors, including an "economic interests" factor (whether New Zealand's economic interests are "safeguarded") and a "mitigating" factor (whether an overseas investment provides adequate opportunities for New Zealand oversight or involvement).

In the TPP Agreement, New Zealand agreed that, for investors from the United States and other TPP partners, its screening regime would only apply to investments above the higher negotiated threshold value of NZ$200 million (approximately US$129 million). Furthermore, this threshold would increase should New Zealand agree to a higher threshold value in any separate subsequent negotiation (with a TPP partner or with a non-TPP partner).

OTHER BARRIERS

Pharmaceuticals

The Pharmaceutical Management Agency (PHARMAC), created in 1993, determines which medicines to fund for use in community and public hospitals, negotiates prices with pharmaceutical companies, and sets subsidy levels and reimbursement criteria. In 2013, PHARMAC's role was expanded to include the management of community medicines, pharmaceutical cancer treatments, the National Immunization Schedule, management of all medicines used in DHB hospitals, and the national contracting of hospital medical devices. Some firms have expressed concern about aspects of PHARMAC's regulatory process, including lack of transparency, timeliness, and predictability in the funding process and lengthy delays in reimbursing new products.

In the TPP Agreement, New Zealand has agreed to obligations to promote transparency and procedural fairness in national health systems such as PHARMAC, in the "Annex on Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices." This Annex sets out New Zealand's first international commitments in this area.

NICARAGUA

TRADE SUMMARY

The U.S. goods trade deficit with Nicaragua was $1.9 billion in 2015, a 7.9 percent decrease ($165 million) over 2014. U.S. goods exports to Nicaragua were $1.3 billion, up 24.6 percent ($248 million) from the previous year. Corresponding U.S. imports from Nicaragua were $3.2 billion, up 2.7 percent. Nicaragua was the United States' 72nd largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Nicaragua (stock) was $201 million in 2014 (latest data available), a 4.7 percent decrease from 2013.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services as well as includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, labor, and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Goods can be delayed due to Nicaragua's labeling requirements, which require product descriptions in Spanish. Translation errors and inaccurate product descriptions can add to delays in getting goods through the customs process.

Law 891 of December 2014, which is an amendment to Nicaragua's Harmonized Tax Code, prohibits the importation of vehicles that are seven years or older and came into effect in 2015. There are several exceptions to this prohibition, such as for classic or historic vehicles, certain donated vehicles, and certain vehicles used for cargo or public transportation.

Concerns have also been raised with Law 842, passed in November 2013, that requiring that all food products must be marked with an expiration date and Nicaraguan importers of U.S. products have complained that the law as implemented imposes significant costs on food importers.

Sanitary and Phytosanitary Barriers

The Nicaraguan Institute of Agricultural Protection and Safety (IPSA) requires the inspection of U.S. packing plants by Nicaraguan authorities prior to the exportation of any shipment to Nicaragua from such plants. This import requirement, which is also being enforced in other Central American countries, comes from the 2011 Central American Technical Regulation on SPS Measures and Procedures (COMIECO Resolution No.271-2011). This regulation was not notified to the WTO by any of the Central American countries, including Nicaragua. U.S. exporters have complained that this import requirement increases trade costs significantly since the exporters must incur all costs associated with plants inspections, including the travel expenses of Nicaraguan technicians to the United States.

IPSA also requires issuance of import licenses for agricultural imports, and the process can be arbitrary. In 2014 and 2015, IPSA did not distribute import licenses for potatoes and onions in a timely manner during Nicaragua's peak production seasons. The United States has requested clarification on the Nicaraguan import requirements for agricultural products and the criteria for the issuance of import licenses.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Nicaragua applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions. Approximately 95 percent of tariff lines are harmonized at this rate or lower. In 2007, in response to rising prices, Nicaragua's Ministry of Industry Commerce and Development (MIFIC) issued a series of ministerial regulations (073-2008) to eliminate or reduce to 5 percent tariffs on many basic foodstuffs and consumer goods. These ministerial regulations were extended every six months through December 31, 2015. MIFIC has not informed the public about further extensions through 2016.

Under the CAFTA-DR, as of January 1, 2015, all originating U.S. consumer and industrial goods enter Nicaragua duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Nicaragua duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

More than half of U.S. agricultural product exports now enter Nicaragua duty free under the CAFTA-DR. Nicaragua will eliminate its remaining tariffs on virtually all U.S. agricultural goods by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain products, tariff-rate quotas (TRQs) will permit immediate duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period. Nicaragua will liberalize trade in white corn through continual expansion of a TRQ rather than the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all of the Parties, including Nicaragua, committed to improve transparency and efficiency in administering customs procedures.

However, companies report that difficulties with the Nicaraguan Customs Administration – including delays, arbitrary valuation of goods, technical difficulties, and corruption – are a significant impediment to trade. U.S. exporters and Nicaraguan importers of U.S. goods have also raised concerns about the tariff classification of their goods by the Nicaraguan Customs Administration and the lack of transparency in customs release procedures.

There are also significant delays at the borders; six government institutions process paperwork to import. Additionally many services, such as lab testing for food safety, are available only in Managua, meaning importers often experience delays if goods have to be stored in Managua while testing is completed.

The Nicaraguan government levies a "selective consumption tax" of 15 percent or less on some luxury items, with a few exceptions such as yachts and helicopters, for which the tax is zero. Domestic goods are taxed on the manufacturer's price, while imports are taxed on a cost, insurance, and freight (CIF) value. Alcoholic beverages and tobacco products are taxed on the price billed to the retailer.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Nicaraguan government entities, including government ministries and sub-central and state-owned entities, on the same basis as local suppliers. The anticorruption provisions in the CAFTA-DR apply *inter alia* to government procurement.

Despite these protections, in 2012 there were allegations of irregularities in the procurement process, in particular involving procuring entities splitting procurements into smaller lots, to avoid being subject to CAFTA-DR procurement obligations. The CAFTA-DR requires procurements that reach a threshold amount to follow certain competitive bidding processes. The United States has raised this issue during discussions with the CAFTA-DR countries. The United States will continue to monitor Nicaragua's government procurement practices to ensure they are applied in a manner that is consistent with CAFTA-DR obligations.

The government has established a portal for public contracts, NicaraguaCompra.gob.ni, for firms to obtain information and bid on public contracts

Nicaragua is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

ALBANISA, the state-owned company that imports and distributes Venezuelan petroleum, provides preferential financing to parties that agree to export their products to Venezuela.

All exporters receive tax benefit certificates equivalent to 1.5 percent of the free-on-board value of the exported goods. Under the CAFTA-DR, Nicaragua may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). However, Nicaragua may maintain such duty waiver measures for such time as it is an Annex VII country for the purposes of the WTO Agreement on Subsidies and Countervailing Measures. The United States will continue to work with the Nicaraguan government to ensure compliance with Nicaragua's CAFTA-DR obligations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

To implement its CAFTA-DR intellectual property rights (IPR) obligations, Nicaragua undertook legislative reforms providing for stronger IPR protection and enforcement. Despite these reforms, the United States continues to be concerned about the piracy of optical media and trademark infringement in Nicaragua. The United States has expressed concern to the Nicaraguan government about inadequate IPR enforcement, as well as a lack of transparency about its legislative and regulatory processes. Nicaragua amended its laws governing protections for geographical indications (GIs) in anticipation of the European Union Central American Association Agreement's trade pillar that came into effect on August 1, 2013. The United States has stressed the need for use of CAFTA-DR-consistent protections and processes, including providing public notice and an opportunity for opposition and cancellation, and transparency and impartiality in decision making. The United States will continue to monitor Nicaragua's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

Under the CAFTA-DR, Nicaragua committed to opening its telecommunications sector to U.S. investors and services suppliers. The Nicaraguan executive branch has indicated that it is considering legislation to improve competitive conditions in Nicaragua's telecommunication market and strengthen the enforcement capacity of the telecommunications regulator (TELCOR), but no draft legislation has been put forth. The United States is monitoring this process.

INVESTMENT BARRIERS

During the 1980s, the Nicaraguan government confiscated some 28,000 properties in Nicaragua. Since 1990, thousands of individuals, including U.S. citizens, have filed claims for the return of their property or to receive compensation through low interest bonds issued by the government. In August 2015, the U.S. Government recognized that Nicaragua had resolved all outstanding U.S. citizen claims that fell under Section 527 of the Foreign Relations Authorization Act of 1994-1995. Other U.S. citizen claims regarding expropriated property remain unresolved. The United States continues to press the Nicaraguan government to resolve all outstanding expropriation claims and improve the investment climate, which suffers from issues including corruption, a weak judicial system, and difficulties with land titling.

Investors have raised concern with Law 840 (2013), which specifies that property holders whose land was expropriated or nationalized will receive compensation based on cadastral value (the tax-assessed value of a property established by the national government) rather than on the value determined by the market. The United States will continue to work with the Nicaraguan government to ensure it fulfills its CAFTA-DR obligations.

OTHER BARRIERS

Some U.S. firms and citizens report corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in Nicaragua. Administrative and judicial decision-making at times appear to be inconsistent, nontransparent, and very time-consuming. Courts have frequently granted orders (called "amparos") that enjoin official investigatory and enforcement actions indefinitely. Such delays appear to protect individuals suspected of white collar crime.

Investors have raised concerns that regulatory authorities are slow to apply existing laws, act arbitrarily, and often favor one competitor over another. Investors cite arbitrariness in taxation procedures. There is concern that the frequency and duration of tax audits of foreign investors could interfere with normal business operations.

NIGERIA

TRADE SUMMARY

The U.S. goods trade surplus with Nigeria was $1.5 billion in 2015, a 29.8 percent decrease ($634 million) over 2014. U.S. goods exports to Nigeria were $3.4 billion, down 42.9 percent ($2.6 billion) from the previous year. Corresponding U.S. imports from Nigeria were $1.9 billion, down 50.1 percent. Nigeria was the United States' 50th largest goods export market in 2015.

Sales of services in Nigeria by majority U.S.-owned affiliates were $1.2 billion in 2013 (latest data available), while sales of services in the United States by majority Nigeria-owned firms were $3 million.

U.S. foreign direct investment (FDI) in Nigeria (stock) was $5.2 billion in 2014 (latest data available), a 2.9 percent increase from 2013. U.S. direct investment in Nigeria is led by mining, and professional, scientific, and technical services.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Meat and Meat Products

Nigeria continues to ban imports from any country of all bovine animal meat and edible offal (fresh, chilled, frozen) as well as pork, sheep, goats, and edible offal of horses, asses, and mules. While the prevention of bovine spongiform encephalopathy (BSE) is the stated rationale, these bans apply to all countries, even those without reported BSE cases. Nigeria also bans the import of live and dead poultry (with the exception of day-old chicks) and poultry meat, including fresh, frozen, and cooked poultry meat due to alleged concerns about avian influenza (AI). These bans are not consistent with international standards, and have led to the import of at least some of these items, most notably poultry, in the informal sector.

Import Certificates

Nigeria requires that all food, drug, cosmetic, and pesticide imports be accompanied by certificates from manufacturers and certain national authorities, regardless of origin. These certificates attest that the product is safe for human consumption (*e.g.*, does not contain aflatoxin). However, Nigeria's limited capacity to review certificates, carry out inspections, and conduct testing has resulted in delays in the clearance of food imports. This lack of capacity has also contributed to Nigeria's informal import sector.

IMPORT POLICIES

Tariffs

Nigeria's January 2015-January 2019 Common External Tariff (CET) Handbook of customs duties is in effect, replacing the 2008-2012 CET Handbook. The Economic Community of West African States (ECOWAS) CET, which was formally adopted by ECOWAS in 2013, entered into force on January 1, 2015, but with actual implementation gradually occurring during the year. Consistent with the ECOWAS CET, Nigeria's 2015-2019 CET Handbook has five tariff bands: zero duty on capital goods, machinery, and essential drugs not produced locally; 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the Nigerian government seeks to protect. Under the CET, ECOWAS member governments are permitted to assess duties on imports higher than the maximum allowed in the tariff bands (but not to exceed a total effective duty of 70 percent) for up to 3 percent of the 5,899 tariff lines included in the ECOWAS CET.

Nigeria maintains a number of supplemental levies and duties on selected imports that significantly raise the effective tariff rate paid by importers. For example, Nigeria maintains a combined effective duty (tariff plus levy) of 50 percent or more on 156 tariff lines. These include 15 tariff lines, the combined duty of which exceeds the 70 percent limit set by ECOWAS, covering tobacco (135 percent for cigars and cigarettes; 85 percent for tobacco and other tobacco products), rice (120 percent), wheat flour (100 percent), and sugar (80 percent).

In October 2013, the Nigerian government announced an Automotive Industry Development Plan (NAIDP), which seeks to expand domestic vehicle manufacturing. The NAIDP imposes a 35 percent levy on automobile imports, over and above the 35 percent tariff that was already levied, for an effective total ad valorem duty of 70 percent. The NAIDP allows companies that manufacture or assemble cars in Nigeria to continue to import two vehicles at the old rate (35 percent tariff with no additional levy) for every one vehicle produced in Nigeria. A U.S. company announced in August 2015 that it would begin assembly in Nigeria of its most popular model in order to take advantage of this allowance and to assemble the vehicle from semi-knocked down kits sourced from South Africa.

Customs Procedures

Nigerian port practices continue to present major obstacles to trade. Importers report erratic application of customs regulations, lengthy clearance procedures, and corruption. These factors can sometimes contribute to product deterioration and result in significant losses for importers of perishable goods. Disputes between Nigerian government agencies over the interpretation of regulations often cause delays, and frequent changes in customs guidelines slow the movement of goods through Nigerian ports.

However, some companies have reported reductions in processing times as a result of reduced port traffic due to the slowing Nigerian economy in 2015, as well as the following improvements in the Nigerian Customs Service (NCS) clearance process and port infrastructure:

- In December 2014, Nigeria migrated from an outsourced destination inspection system to a Pre-Arrival Assessment Report system, which allows for pre-arrival clearance. This has helped in reducing clearance times at Lagos Ports, according to findings from a recent USAID-sponsored study on time and cost to trade along the Lagos-Kano-Jibiya Corridor.

- In 2013, Nigeria's Ministry of Finance launched a Single Window Portal, which allows traders to access customs regulations online, submit customs documents electronically, track transaction statuses online, and submit electronic payments for the 12 different Nigerian government agencies involved in the customs clearance process in one location.

- In 2012, the NCS launched the Nigeria Trade Hub as a customs informational portal for traders. The NCS Nigeria Import, Export and Transit Process Manual has reportedly also contributed to increased efficiency.

- NCS has implemented an Authorized Economic Operator (AEO) scheme in an effort to fast track cargo clearance for trusted traders and give incentives for traders to comply with clearance procedures.

- The Nigerian Port Authority, through public-private partnership arrangements, has undertaken rehabilitation of port terminals in Lagos and Port Harcourt, deepened water channels, upgraded common user facilities, and removed wrecks from water channels.

Despite these improvements, traders report that infrastructural limitations in and around Nigeria's ports continue to contribute to long queues by both trucks and ships as well as delays (*See the section on Other Barriers for more information*).

Nontariff Measures

Nigeria uses nontariff measures in an effort to achieve "self-sufficiency" in certain commodities. For example, the Central Bank of Nigeria (CBN) imposed a series of restrictions in June 2015 that prohibited official foreign exchange to be used to import 41 product categories, such as rice, meat, poultry, vegetable oil, and a number of steel products. The CBN admitted that this action was meant to serve as trade protections that support domestic production, and not solely to maintain the value of its currency and to preserve foreign exchange reserves. These measures have made it difficult for U.S. businesses to export the covered items to Nigeria and for Nigerian companies to source inputs needed for production. The U.S. Government has raised its concerns regarding this measure both bilaterally and in the World Trade Organization.

In 2014, the Nigerian government introduced a frozen fish import quota regime. The government also banned imports of catfish and tilapia species as part of the quota system. The ban does not appear to cover the Pacific Hake (*Merluccius productus*) species, and the Ministry of Agriculture issued an agreement for a U.S. firm to start exporting Pacific Hake to Nigeria; nevertheless, the CBN's foreign exchange restrictions included fish and has stalled U.S. exports of Pacific Hake to Nigeria as well.

The Nigerian government continues to ban the import of nearly 50 different product categories, citing the need to protect local industries or promote health and safety. The list of prohibited imports currently includes bird eggs; cocoa butter, powder, and cakes; pork; beef; live birds; frozen poultry; refined vegetable oil and fats; cassava; bottled water; spaghetti and other noodles; fruit juice in retail packs; nonalcoholic beverages (excluding energy drinks); bagged cement; all medicaments falling under HST headings 3003 and 3004; waste pharmaceuticals; soaps and detergents; mosquito repellant coils; sanitary plastic wares; toothpicks; rethreaded or used tires; corrugated paper; paper board; telephone recharge cards and vouchers; textile fabrics and yarn; certain printed fabrics, lace and embroidered fabrics; carpets and rugs; made-up garments and certain other textile articles; footwear; bags and leather and plastic suitcases; glass beverage bottles; used compressors; used motor vehicles more than ten years old; most types of furniture; ball point pens; pistols and air pistols; airmail photographic printing paper; beads; blank invoices; cowries; used or inferior tea; cartridge reloading implements; indecent or obscene articles; manilas; matches; materials likely to offend religious views or breach the peace; meat and vegetables determined unfit for human consumption; materials or products bearing inscriptions of the Koran; used clothing; silver or metal alloy coins not legal tender in Nigeria; nuclear industrial waste; toxic waste; certain spirits and alcohols; and weapons and ammunition that contain or are designed to contain noxious liquid or gas.

SERVICE BARRIERS

Telecommunications

The development of local content has become a top priority of the Nigerian government, which views the quantifiable, mandated local content requirements pioneered in the oil and gas sector as a model for the development of other sectors. On December 3, 2013, the National Information Technology Development Agency (NITDA), under the auspices of the Federal Ministry of Communication Technology (MCT), issued the "Guidelines for Nigerian Content Development in Information and Communications Technology" ("the Guidelines"). The Guidelines include requirements that multinational companies operating in Nigeria source all hardware products locally and that all government agencies source and procure all computer hardware only from NITDA-approved original equipment manufacturers. In addition, the Guidelines require companies to use only locally manufactured SIM cards for telephone services and data and to use indigenous companies to build cell towers and base stations.

The Guidelines also contain problematic provisions that may undermine the ability of U.S. companies to compete in Nigeria's telecommunications sector, as well as other sectors of the economy that rely on telecommunications services. One area of concern is a requirement to host all subscriber and consumer data in Nigeria; this requirement would impose significant costs on any data-dependent U.S. company seeking to enter the Nigerian market. Another concern is a provision that requires foreign-invested companies to use the networks of Nigerian companies for at least 60 percent of all value-added services, which increases to an 80 percent requirement after three years. This concern is exacerbated by the vague and broad definition of "value-added services" in the Guidelines. On November 5, 2015, NITDA informed U.S. Information and Communications Technology (ICT) companies that it would not require in-country product manufacturing due to the difficult business environment in Nigeria but noted that it would continue to press for local ICT capacity building programs.

GOVERNMENT PROCUREMENT

Foreign companies, whether incorporated in Nigeria or not, may bid on government projects. While foreign companies may receive national treatment in government procurement there is no certainty. As such foreign companies may be subject to a local content vehicle (*e.g.*, partnership with a local partner firm or the inclusion of one in a consortium) or other prerequisites which are likely to vary from tender to tender. Corruption and lack of transparency in tender processes has been a far greater concern to U.S. companies than any discriminatory policies based on foreign status. Government tenders are published in local newspapers, in "tenders" journal sold at local newspaper outlets, and on occasion in foreign journals and magazines. The Nigerian government has made modest progress on its pledge to conduct open and competitive bidding processes for government procurement. Reforms have also improved transparency in procurement by the state-owned Nigerian National Petroleum Company (NPPC). Although U.S. companies have won contracts in a number of sectors, difficulties in receiving payment are not uncommon and can inhibit firms from bidding. Supplier or foreign government subsidized financing arrangements appear in some cases to be a crucial factor in the award of government procurements.

Nigeria is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The Nigerian government's lack of institutional capacity to address intellectual property rights (IPR) issues continues to present challenges to enforcement. Relevant Nigerian government institutions lack sufficient resources to enforce IPR, and the National Assembly has not passed legislation intended to implement Nigeria's WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights. Piracy remains a problem despite Nigeria's active participation in the World Intellectual Property Organization and other international fora and the growing interest among Nigerians to protect their IPR. Counterfeit automotive parts, pharmaceuticals, business and entertainment software, music and video recordings, and other consumer goods are sold openly. Piracy of software, books, and optical disc products continues to be an ongoing concern. According to reports from industry observers, the government of Nigeria remains one of the biggest users of pirate software. Also, judicial procedures are slow and reportedly compromised by corruption.

However, the Nigerian government has taken steps to improve enforcement. Efforts to combat the sale of counterfeit pharmaceuticals, for example, have yielded some results. The Nigerian Copyright Commission (NCC) continues to carry out raids and seizures of pirated works, but the effectiveness of such enforcement efforts is constrained by the NCC's lack of resources and by the number and persistence of producers of pirated works. The Trademarks, Patents, and Designs Registry is making efforts to modernize its processes and systems but is experiencing chronic underfunding.

INVESTMENT BARRIERS

Nigeria maintains a weak position in global competitiveness rankings, moving from 170 to 169 (out of 189 countries) in the World Bank's 2016 Ease of Doing Business ranking, a statistically insignificant change that reflects other countries' fall in the rankings as much as conditions intrinsic to Nigeria. In the World Bank report, Nigeria notably improved from 33 to 20 in protecting minority investors and improved slightly to 181 from 185 in registering property. Nigeria dropped eight places (131 to 139) on Ease of Starting a Business and fell seven places (52 to 59) on Getting Credit. In the World Economic Forum's 2015-2016 Global Competitiveness Index, Nigeria moved from 127 to 124 (out of 140 countries). Reasons cited for the modest improvement include: lower government deficit and debt; improvements in property rights and the efficiency of the legal framework for resolving disputes; and greater private sector accountability. Persistent low rankings reflect weak governmental institutions, corruption, inadequate infrastructure, security challenges, inadequate health care, poor education systems, barriers to starting businesses, and inadequate access to finance for small- and medium-sized enterprises (SMEs) and consumers. These barriers impede potential U.S. investment in Nigeria. Investors must also contend with complex tax procedures, confusing land ownership laws, arbitrary application of regulations, and crime.

Companies report that contracts are often violated and that Nigeria's system for settling commercial disputes is weak and often biased. Frequent power outages, as well as poor road, port, rail, and aviation transportation infrastructure pose a major challenge to doing business in Nigeria and also hinder Nigeria's ability to compete in regional and international markets. Restrictions on foreign exchange purchases put in place in November 2014 have hampered U.S. companies' ability to import finished or semi-finished goods for use in their Nigeria operations.

OTHER BARRIERS

Port congestion and inefficiency

Due to lack of space at Lagos ports, ships queue up for days, and in some cases weeks and months, before being able to berth and discharge their contents. Delays caused by congestion, the poor condition of port access roads, and corruption issues, make operations at Nigerian ports among the most expensive in the world. In a December 2015 report on the causes and implications of Nigeria's large informal economy and unrecorded trade, UK-based think tank Chatham House cited port congestion, trucking traffic congestion, and long cargo clearance times of up to several days as disincentives to moving cargo through Nigerian ports as opposed to others in the region.

Oil and Gas Sector

In 2010, Nigeria enacted a highly trade restrictive law in the oil and gas sector called the Oil and Gas Content Development Act (the Act). The Act puts in place legally-mandated local content requirements for projects in Nigeria's oil and gas sector, giving preferential treatment to Nigerian goods and services and requiring that positions in the oil and gas sector be first filled by Nigerian nationals if possible. The Act's scope is broad, covering any activity or transaction carried out in, or connected with, the oil and gas industry, a sector that accounts for roughly 16 percent of Nigeria's GDP. The Act's local sourcing mandate, which applies to an extensive list of goods and services supplied to the oil and gas industry, has been a particular concern of U.S. oil and gas service suppliers.

Companies must also create and seek approval for a “Nigerian Content Plan” to demonstrate how they will increase local content in oil and gas operations. Companies that do not follow a Nigerian Content Plan can face fines of 4 percent of the contract value or cancelation of the contract. Also, international companies must deposit 10 percent of their annual profit in a Nigerian bank.

Restrictions also apply with respect to the movement of personnel. Nigeria imposes general quotas on foreign personnel, but the quotas are especially strict in the oil and gas sectors and may apply to both production and services companies. Oil and gas companies must hire Nigerian workers, unless they can demonstrate that particular positions require expertise not found in the local workforce. Positions in finance and human resources are almost exclusively reserved for Nigerians.

Certain geosciences and management positions may be filled by foreign workers with the approval of the National Petroleum Investment and Management Services (NAPIMS). Each oil company must negotiate its foreign worker allotment with NAPIMS. Significant delays in this process, and in the approval of visas for foreign personnel, present serious challenges to the oil and gas industry According to stakeholders, the Act is adversely affecting a diverse range of companies, including operators, contractors, subcontractors, and service suppliers.

Corruption

Corruption remains a substantial trade barrier in Nigeria. Transparency International’s 2014 Corruption Perception Index ranked Nigeria number 136 out of 174 indexed countries. U.S. firms are sometimes disadvantaged in competing with some companies that are willing to engage in corruption to secure contracts and other business opportunities. U.S. firms may also experience difficulties in day-to-day operations as some Nigerian officials demand inappropriate “facilitative” payments. President Buhari, who was inaugurated in May 2015, has made countering Nigeria’s endemic corruption a centerpiece of his administration. Given the history of officials often engaging in corrupt practices with impunity, whether the new government will allocate sufficient resources to anti-corruption efforts and enforce anti-corruption laws effectively remains to be seen.

NORWAY

TRADE SUMMARY

The U.S. goods trade deficit with Norway was $1.1 billion in 2015, a 21.5 percent increase ($202 million) over 2014. U.S. goods exports to Norway were $3.6 billion, down 18.6 percent ($823 million) from the previous year. Corresponding U.S. imports from Norway were $4.7 billion, down 11.6 percent. Norway was the United States' 49th largest goods export market in 2015.

U.S. exports of services to Norway were an estimated $4.3 billion in 2014 (latest data available), and U.S. imports were $2.8 billion. Sales of services in Norway by majority U.S.-owned affiliates were $8.7 billion in 2013 (latest data available), while sales of services in the United States by majority Norway-owned firms were $1.7 billion.

U.S. foreign direct investment (FDI) in Norway (stock) was $39.5 billion in 2014 (latest data available), a 5.5 percent decrease from 2013. U.S. direct investment in Norway is led by nonbank holding companies, mining, and manufacturing.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

With limited exceptions, Norway has effectively banned the importation of agricultural biotechnology products by implementing extremely restrictive policies for crops derived from such technology. The United States continues to press Norway to open its market to U.S. exports of those products.

Beef and Beef Products

Norway applies EU regulations that ban imports of beef from animals treated with hormonal growth promotants, despite the absence of scientific evidence demonstrating that this practice poses any risk to human health.

IMPORT POLICIES

Norway, along with Switzerland, Iceland, and Liechtenstein, is a member of the European Free Trade Association (EFTA). EFTA members, with the exception of Switzerland, participate in the EU single market through the European Economic Area (EEA) accord. Norway grants preferential tariff rates to EEA members. As an EEA signatory, Norway assumes most of the rights and obligations of EU Member States, except in the agricultural and fishery sectors.

Norway has implemented, or is in the process of implementing, most EU trade policies and regulations. Except for agricultural products, Norway’s market is generally open. Norway has continued to dismantle tariffs on industrial products on a unilateral basis. The average MFN tariff on nonagricultural products has fallen from 2.3 percent in 2000 to 0.5 percent in 2013. More than 95 percent of industrial tariff lines are currently duty free.

Agricultural Tariffs and Tariff-Rate Quotas

Norway bound its tariffs for agricultural products in 1995 as part of its WTO commitments. Tariffication of agricultural nontariff barriers as a result of the Uruguay Round led to the replacement of several quotas on agricultural products with high *ad valorem* or specific tariffs. According to the WTO, Norway's simple average applied tariff in 2013 was 51.2 percent for agricultural goods and 0.5 percent for nonagricultural goods.

Although the EEA accord does not generally apply to agricultural products, it includes provisions on raw material price compensation that are meant to increase trade in processed food. Norway has a special agreement within the EEA framework that results in Norway applying a preferential duty on EU processed food products. The agreement covers a wide range of products, including bread and baked goods, breakfast cereals, chocolate and sweets, ice cream, pasta, pizza, soups, and sauces. Such preferential access for EU suppliers disadvantages U.S. exporters of these processed foods.

Although Norway is less than 50 percent self-sufficient in agricultural production, it maintains tariff rates on agricultural products as high as several hundred percent to protect domestic agricultural interests. Domestic agricultural shortages and price surges are offset by temporary tariff reductions. However, a lack of predictability in tariff adjustments and insufficient advance notification of these adjustments – generally only two to five days before implementation – favor nearby European suppliers and make products from the United States, especially fruits, vegetables and other perishable horticultural products, very difficult to import. For a number of processed food products, tariffs are applied based on a product's ingredients, requiring the Norwegian importer to provide a detailed disclosure of product contents. Many exporters to the Norwegian market refuse to provide all requested details and, as a result, their products are subject to maximum tariffs.

Although Norway has 232 tariff-rate quota (TRQ) commitments in its WTO tariff schedule (16 percent of total WTO Member TRQs), most of these are not active as current applied rates are either equal to or lower than the in-quota bound rate. Norway has TRQs for 64 agricultural and horticultural products, and the Norwegian Agricultural Authority holds online auctions for the allocation of quotas for 54 of these products. Norwegian importers are primarily interested in TRQs for grains and niche products. However, participating in the auctions is inexpensive, and importers that secure a quota allocation are not actually required to import any products. The Agricultural Authority does not have a system to reallocate any unused quota.

Agricultural Subsidies

Although agriculture accounts for only 1.54 percent of gross domestic product (based on 2014 data), support provided by Norway to its agricultural producers as a percentage of total farm receipts is, at 58.3 percent in 2014, the highest in the world according to the OECD. Norway emphasizes the importance of "nontrade concerns," which include food security, environmental protection, rural employment, and the maintenance of human settlement in sparsely populated areas, as justification for high domestic support levels.

Raw Material Price Compensation

Norway maintains a price reduction regime that includes subsidies for using certain domestically-produced raw materials in processed foods. Products for which such subsidies are paid include chocolate, sweets, and ice cream (for milk and glucose), and pizza (for cheese and meat). The purpose of the system is to help compensate the domestic food processing industry for the high costs of domestically produced raw materials.

Wines and Spirits

It is difficult for U.S. wine exporters to sell in the Norwegian market. The wine and spirits retail market in Norway is controlled by the government monopoly, Vinmonopolet. Obtaining approval to include wines and other alcoholic beverages on Vinmonopolet's retail list is cumbersome, and Vinmonopolet's six-month marketing and product plans for selecting and purchasing wines significantly constrain competitive supply. Products chosen for sale through Vinmonopolet must meet annual minimum sales quotas or they are dropped from the basic inventory list. Existing wine suppliers benefit from exposure in Vinmonopolet stores, and the situation for U.S. wines is exacerbated by the strict ban on advertising alcoholic beverages.

GOVERNMENT PROCUREMENT

Norway is party to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Norway was not listed in the 2015 Special 301 Report. Private sector stakeholders continue to raise concerns about Norway's efforts to combat online piracy although the availability of legal, user-friendly alternatives to illegal downloads has had a dramatic effect on reducing online music piracy.

SERVICES BARRIERS

Financial Services

For certain types of financial institutions, Norway requires that at least half the members of the board and half the members of the corporate assembly be nationals or permanent residents of Norway or another EEA country.

INVESTMENT BARRIERS

Foreign companies wishing to own or use various kinds of real property must seek prior approval from the government. In the petroleum sector, Norway's concession process continues to be operated on a discretionary basis –in addition to cost competitiveness, the government awards licenses case on factors such as technical expertise, financial strength, geological knowledge and experience. While the process applies equally to Norwegian and foreign operators, Norwegian interests appear to have been favored historically.

Direct foreign ownership of hydropower resources is prohibited, except in rare instances when the government may permit foreign investment limited to 20 percent equity.

Foreign investment is also subject to limitations in the following sectors: fisheries (quotas are generally reserved for Norwegian owned vessels and those from countries that geographically share fish stocks); maritime (vessels operating within Norwegian territorial waters must be owned by entities within the European Economic Area); and air transport (European Economic Area regulations limited non-EEA ownership to 49%).

OMAN

TRADE SUMMARY

The U.S. goods trade surplus with Oman was $1.5 billion in 2015, a 40.2 percent increase ($419 million) over 2014. U.S. goods exports to Oman were $2.4 billion, up 17.3 percent ($348 million) from the previous year. Corresponding U.S. imports from Oman were $906 million, down 7.2 percent. Oman was the United States' 55th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Oman (stock) was $3.0 billion in 2014 (latest data available).

The United States-Oman Free Trade Agreement

Upon entry into force of the United States-Oman Free Trade Agreement (FTA) in January 2009, Oman provided immediate duty-free access on virtually all industrial and consumer products, and will phase out tariffs on the remaining handful of products by 2019. In addition, Oman provided immediate duty-free access for U.S. agricultural products in 87 percent of its agricultural tariff lines. Oman will phase out tariffs on the remaining agricultural products by 2019. Textiles and apparel are duty free, providing opportunities for U.S. and Omani fiber, yarn, fabric and apparel manufacturing. Generally, to benefit from preferential tariffs under the FTA, textiles and apparel must be made from either U.S. or Omani yarn and fabric. The FTA provides a 10-year transitional period for textiles and apparel that do not meet these requirements in order to assist U.S. and Omani producers in developing and expanding business contacts. This provision will expire on December 31, 2018.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization (GSO), issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials continue to discuss concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding inconsistencies or unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States notified WTO Members in June 2014 of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. Due to concerns about implementation of the Guide, Member States have not implemented it but are reviewing the current version. Stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also could impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius Commission and the World Organization for Animal Health. The United States raised concerns about the current version of the Guide in 2014 and 2015, and GCC Member States delayed entry into force until food safety experts have an opportunity to address these concerns. The

United States continues to engage in discussions with the GCC and its Member States regarding their import requirements for food and agricultural products.

IMPORT POLICIES

Import Licenses

Companies that import goods into Oman register with the Ministry of Commerce and Industry. Importation of certain classes of goods, such as poultry, livestock and alcohol, as well as firearms, narcotics and explosives, requires a special license. Media imports are subject to review for potentially offensive content and may be subject to censorship.

Customs

Companies importing U.S. goods continue to report difficulties in receiving preferential tariff treatment under the FTA for goods that enter Oman over land via the United Arab Emirates, as well as inconsistent application of requirements by the Royal Oman Police Customs Directorate (ROP Customs) for origin marking, segregation and other documentation, and the lack of any published official guidance in these areas. The United States has officially requested that ROP Customs issue official documentation clearly outlining the procedures and information necessary to receive preferential tariff treatment under the FTA.

GOVERNMENT PROCUREMENT

The FTA requires covered entities in Oman to conduct procurements covered by the agreement in a fair, transparent, and nondiscriminatory manner.

Oman provides a 10 percent price preference to tenders that contain a high content of local goods or services, including direct employment of Omani nationals. However, Oman may not apply such price preferences to tenders offering goods and services from the United States in procurement covered by the FTA. For most major tenders, Oman invites bids from international firms or firms pre-selected by project consultants. Suppliers are requested to be present at the opening of tenders, and interested persons may view the process on the Tender Board's website. Some U.S. companies report that tenders' costs can sometimes increase dramatically when award decisions are delayed, sometimes for years, or the tendering is reopened with modified specifications and, typically, short deadlines.

Oman is an observer to the WTO Committee on Government Procurement. In accordance with the commitment in its WTO accession, Oman began negotiations to accede to the WTO Agreement on Government Procurement in 2001, but it has not completed the accession process.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Oman committed in the FTA to provide strong intellectual property rights (IPR) protection and enforcement. Oman revised its IPR laws and regulations to implement its FTA commitments, and it acceded to several international IPR treaties. While IPR laws in Oman are generally enforced, cases of online piracy, which can be difficult to detect, remain common. In recent years, U.S. stakeholders have brought complaints of counterfeit auto parts, apparel, and other consumer products affecting health and safety, as well as pirated software, to the relevant authorities. However, stakeholders have experienced difficulty getting the responsible agencies, including the Public Authority for Consumer Protection, the Public Prosecution, the Ministry of Commerce, and the Royal Oman Police, to take enforcement action. Adding to the lack of efficiency in IPR enforcement is the continued confusion as to which government agencies are responsible for investigating different types of IPR violations.

As the six GCC Member States explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation and capacity building programs on IPR policy and practice.

SERVICES BARRIERS

Banking

Oman does not permit representative offices or offshore banking.

Legal Services

Non-Omani attorneys, including U.S. attorneys practicing in Oman, are prohibited from appearing in courts of first instance. The United States has raised concerns about the consistency of this limitation with provisions of the FTA.

INVESTMENT BARRIERS

Ministerial Decision 5/2010 and ROP Customs announcements limit customs brokerage activities to Omani nationals. The United States has raised concerns about the consistency of this limitation with provisions of the FTA.

U.S. companies remain concerned about rules governing the acquisition of property. Although U.S. investors are permitted to purchase freehold property in designated residential developments, businesses must adhere to more restrictive guidelines when acquiring real estate for commercial purposes. With the exception of certain tourism-related property agreements, only companies or enterprises with at least 51 percent Omani shareholding are permitted to own real estate for the purpose of establishing a warehouse or show room, administrative office, staff accommodation, or other building with a similar purpose. Other enterprises, including foreign majority-owned businesses, must seek “usufruct” rights that enable them to exploit, develop, and use land granted by Omani or GCC companies or nationals.

PAKISTAN

TRADE SUMMARY

The U.S. goods trade deficit with Pakistan was $1.9 billion in 2015, a 14.0 percent decrease ($301 million) over 2014. U.S. goods exports to Pakistan were $1.8 billion, up 21.5 percent ($326 million) from the previous year. Corresponding U.S. imports from Pakistan were $3.7 billion, up 0.7 percent. Pakistan was the United States' 61st largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Pakistan (stock) was $272 million in 2014 (latest data available), a 16.7 percent increase from 2013.

IMPORT POLICIES

In 2014, Pakistan’s average applied MFN tariff rate was 13.4 percent, while its average bound rate was 60 percent. The highest average applied tariff rates were imposed on number of product categories, including tobacco and alcoholic beverages, dairy products, and clothing.

Pakistan grants sector- or product-specific duty exemptions, concessions, and other protections through the promulgation of statutory regulatory orders (SROs). A list of SROs and other trade policy and regulatory documents can be found on the Federal Board of Revenue’s (FBR) website: http://www.fbr.gov.pk. The government had pledged to eliminate the use of SROs by June 2014 under the terms of its International Monetary Fund (IMF) program, approved in September 2013. Despite this pledge, nearly 30 SROs remain. One notable development was that the government withdrew the power to issue new SROs from the FBR. This action was taken in conjunction with the finalization of Pakistan’s national budget in July 2015 when the power to issue SRO’s was transferred from the FBR to Pakistan’s parliament.

Pakistan imposes higher tariff rates (35 percent) on imports of automobile parts that compete with domestically manufactured products than on imports of parts with no domestic competition (20 percent).

Certain goods may be imported only by the public sector or industrial consumers (*e.g.*, active ingredients for formulation/manufacturing pesticides). Imports of waste, parings, and scrap of polyethylene and polypropylene must receive official certification by the exporting country or by a specialized pre-shipment inspection company.

Pakistan restricts the import of second-hand specialized vehicles, watercraft, trawlers, aircraft, and related parts and equipment unless they meet specified conditions, such as prior approval or clearance, certain testing arrangements, or other procedural requirements. While Pakistan maintains that these requirements are for health, safety, security, and environmental reasons, these requirements effectively limit the supply of product into the country.

U.S. food and consumer product exporters have expressed concerns regarding a lack of uniformity in customs valuation in Pakistan. This inconsistency has impacted both U.S. and other foreign companies. Similarly, in the machinery and materials sectors, there are reports that customs officials have erroneously assessed goods based on a set of minimum values rather than the declared transaction value.

An importer for a large U.S. firm has raised concerns about two SROs (420 and 575) that raised the sales tax on imported “finished footwear and apparel” from 5 percent to 17 percent, while domestically produced products continue to be taxed at 5 percent. FBR officials have explained that the tax on domestically produced products will increase to 17 percent in the future, but no timeline has been set.

In October 2015, after considerable domestic industry pressure, the government announced a new 10 percent regulatory duty on the import of cotton yarn.

In December 2015, the government announced a new "mini-budget" that increased duties across hundreds of imported products. Examples of the imports impacted include: maize (30 percent regulatory duty), "luxury items" such as baby garments, cheeses, and disposable diapers (5-10 percent increases), and imported used cars. In announcing the move, the government indicated that the increases were necessary given the revenue targets laid out by Pakistan as part of its current IMF program and an expected 40 billion rupee shortfall in the fourth quarter of 2015. The government gave no timeframe for reversing the duty increases.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The country's packaging requirements normally follow Codex Alimentarius Commission (Codex) rules. Pakistan generally accepts packaging material if allowed in the exporting country. A notable exception, however, is vegetable oil. Pakistan requires that refined vegetable oil be imported in bulk for re-packaging, a requirement aimed at encouraging local packaging and saving foreign exchange.

Pakistan requires that all imported meat be certified as halal (produced in accordance with Islamic practices). Pakistan may require other specific certificates on an as-needed basis. These requirements are most often based on worldwide alerts or other emergency situations. In order to encourage new investments in the halal meat production sector and to increase the use of modern and state-of the-art machinery and equipment in this sector, companies that establish "halal" meat production plants and obtain "halal" certification by December 31, 2016, are allowed income tax exemptions for four years from the date of establishment.

Pakistan requires that all imported packaged medicines or drugs display the product name and pharmaceutical raw materials on the labels in accordance with the "Drugs (Labeling and Packaging) Rules" published in 1986 by the Ministry of Health. In accordance with the provisions of "Drugs (Imports and Exports) Rules 1986," exporters must certify that pharmaceutical materials are of pharmaceutical grade and shall have at least 75 percent of the shelf life calculated from the date of filling of "Import General Manifest.". Exceptions to this requirement may be granted by the Ministry of Health's Director General.

Quality certification, as defined by the Pakistan Standards and Quality Control Authority, is required for certain products, including mineral water, carbonated beverages, edible oils including cooking oil, Portland cements, construction materials containing asbestos, and oil stoves.

Semen

The Government of Punjab has established trait-based semen import requirements that would limit market access to imported semen for dairy and beef producers. The federal and provincial governments are reviewing the matter.

Sanitary and Phytosanitary Barriers

Live Cattle, Beef, and Beef Products

In February of 2015, the Government of Pakistan established import requirements for the import of live cattle from the United States, which received in 2013 a negligible risk status for Bovine Spongiform Encephalopathy (BSE) in accordance with World Animal Health Organization (OIE) guidelines. On March 2, 2016, more than 300 Holstein heifers arrived in Punjab Province from the United States, representing the first shipment since 1999. Most of the dairy cows were purchased by commercial dairy farms, but 73 Holsteins in the shipment will be delivered to a new model dairy farm that the Foreign Agricultural Service has established to support the rapidly growing Pakistani dairy industry and create new opportunities for U.S. cattle exporters.

Pakistan continues to maintain unclear import requirements for U.S. beef and beef products. Consequently, U.S. beef and beef products remain effectively banned.

GOVERNMENT PROCUREMENT

The Public Procurement Regulatory Authority (PPRA) is an autonomous body responsible for prescribing and monitoring public sector procurement regulations and procedures. International tender notices must be publicly advertised and sole source contracting tailored to company-specific qualifications is prohibited.

There are no documented "buy national" policies in place in Pakistan. Political influence on procurement awards, charges of official corruption, lack of transparency, judicial intervention, and long delays in bureaucratic decision making are commonly cited as impediments to government procurement. Suppliers have reported instances in which the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid as required by regulation. Pakistan is not a signatory to the WTO Agreement on Government Procurement, but has obtained observer status.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Pakistan remained on the Priority Watch List in the 2015 Special 301 Report. The report cites some advances in IPR enforcement through raids, seizures, and arrests, but little improvement in overall IPR protection. Counterfeiting and piracy, particularly with respect to books, software, optical discs, and agricultural products, remain widespread. U.S. concerns cited in the Special 301 Report remain unaddressed, including Pakistan's failure to establish IPR tribunals and an operational IPO Policy Board in accordance with the Intellectual Property Organization of Pakistan Act of 2012. The United States also maintains longstanding concerns related to copyright, customs enforcement, and protection against the unfair commercial use and disclosure of test and other data generated to obtain marketing approval for pharmaceutical products. The United States also continues to urge Pakistan to provide *ex officio* enforcement authority for its customs officials.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services. Except in certain sectors such as aviation, banking, agriculture, and media, there is no upper limit on the share of equity that foreign investors can hold. Foreign investors in Pakistan are limited in the remittance of royalty payments to a maximum of $100,000 for the first payment. Royalty payments are then capped at five percent of net sales for the subsequent five years.

Financial Services

Foreign banks that do not have global Tier-1 paid up capital (*e.g.*, equity and retained earnings of $5 billion or more) or are not from countries that are part of regional groups and associations of which Pakistan is a member (*e.g.*, the Economic Cooperation Organization and the South Asian Association for Regional Cooperation) and that wish to conduct banking business in Pakistan must incorporate a local company. Foreign ownership in the banking sector is limited to 49 percent. The National Insurance Company, a majority state-owned enterprise, has the exclusive authority to underwrite and insure public sector firms, assets, and properties. The government has discretion to grant exemptions to this requirement. Private sector firms may seek foreign reinsurance facilities to meet up to 65 percent of their re-insurance needs.

Telecommunications

In the last three years, USTR has expressed significant concerns in the Section 1377 Report about a directive of the Ministry of Information and Technology (MIT) that ordered all carriers in Pakistan that are licensed to terminate international traffic to assign their rights to terminate inbound international calls to the incumbent carrier, the Pakistan Telecommunications Company Limited (PTCL). This directive resulted in the PTCL charting termination rates that were an increase of 400 percent over rates charged when the market for these services was competitive.

On February 24, 2015, the Supreme Court of Pakistan affirmed the decision of the MIT to withdraw this directive, and the Pakistan Telecommunications Authority issued an order directing operators to ensure "fair competition while negotiating with the foreign operators for terminating international traffic." The United States will continue to work with Pakistan to ensure that it fulfils its obligations to maintain an open and competitive telecommunications sector.

ELECTRONIC COMMERCE

Pakistan has blocked access to websites deemed to be blasphemous or immoral, including YouTube, which has been blocked since September 2012, and WordPress, which was temporarily blocked for several days in 2015 with little explanation from the authorities. YouTube reopened in January 2016 after Google created a country specific site which allows the government of Pakistan to request the removal or blockage of content. Pakistan has also intermittently blocked both Facebook and Twitter, while Facebook is routinely asked by the government to censor material deemed to be blasphemous.

OTHER BARRIERS

Corruption and a weak judicial system have been cited as further substantial disincentives for investors. In 2002, Pakistan's Cabinet approved the National Anti-Corruption Strategy (NACS) that identified areas of pervasive corruption and recommended the implementation of reforms to combat corruption. The NACS recognized the National Accountability Bureau (NAB) as the sole federal anticorruption agency. In mid-2009, the Supreme Court directed the National Assembly to pass new legislation to update the executive ordinance establishing the NAB, but the National Assembly has yet to pass such legislation.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan. Parties pursuing legal remedies in the Pakistani judicial system may face years of delays and unpredictable outcomes in the country's overloaded courts. Lack of enforcement of the court's rulings is also a significant problem.

Pakistan has been under significant pressure from the IMF to increase tax revenue. Unwilling to broaden the country's tax base, the government has leaned on large companies, especially multinational firms, to increase revenues. In 2015, U.S. companies experienced increased pressure from the Federal Board of Revenue to pre-pay anticipated tax liabilities. In at least one case, the Pakistan government assessed prospective tax rates significantly above historical rates. Although small and medium-sized U.S. companies have not seen their tax burden increase substantially, they have expressed concern that many of their local competitors do not pay taxes at all. The U.S. Government has engaged Pakistan at the highest levels on issues of unfair or subjective taxation, and continues to reinforce the importance of Pakistan broadening its tax base.

There have been reports of U.S. and other companies having difficulty repatriating profits and assets from Pakistan, coinciding with the government's focus on maintaining strong foreign currency reserves.

Pakistan's 18th Amendment to their constitution, passed in 2010, gives the country's provinces the authority to levy taxes and regulate some sectors of the economy. While intended to provide provinces with greater autonomy, the move has also complicated Pakistan's investment climate as the delineation of federal and provincial responsibilities is often unclear.

In 2010, the Government of Pakistan decentralized its biotech regulatory system. Since then, the provinces have been unable to agree on a consensus moving forward. The matter is now before the courts, and new approvals have stopped. The federal government is currently reviewing the Biosafety Act, which would return regulation back to federal authorities. The lack of regulatory certainly has dampened innovation and has discouraged foreign, domestic, and government organizations from introducing new technologies that would boost yields and improve farmer livelihoods.

PANAMA

TRADE SUMMARY

The U.S. goods trade surplus with Panama was $7.4 billion in 2015, a 26.0 percent decrease ($2.6 billion) over 2014. U.S. goods exports to Panama were $7.8 billion, down 25.1 percent ($2.6 billion) from the previous year. Corresponding U.S. imports from Panama were $408 million, down 5.3 percent. Panama was the United States' 33rd largest goods export market in 2015.

Sales of services in Panama by majority U.S.-owned affiliates were $1.9 billion in 2013 (latest data available), while sales of services in the United States by majority Panama-owned firms were $185 million.

U.S. foreign direct investment (FDI) in Panama (stock) was $4.7 billion in 2014 (latest data available), a 1.1 percent increase from 2013. U.S. direct investment in Panama is led by nonbank holding companies, wholesale trade, and manufacturing.

Trade Promotion Agreement

The United States-Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. The TPA includes important disciplines relating to market access, customs administration and trade facilitation, technical barriers to trade, government procurement, services, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

The Panamanian Food Safety Authority (AUPSA) was established by Decree Law 11 in 2006 to issue science-based sanitary and phytosanitary (SPS) import policies for agricultural and food products entering Panama. In April 2015, Panama’s National Assembly approved draft Bill 188 which would have modified provisions in the law that established AUPSA and would have assigned AUPSA a number of functions, which appeared to intend to manage the flow of imports for market and commercial reasons and raised a number of concerns for the United States. The United States expressed concerns about a number of the provisions of the bill to the government of Panama, and in May 2015, President Varela partially vetoed the bill, addressing the provisions of greatest concern. Local producers, however, continue to maintain pressure on the government of Panama to restrict or control the flow of agriculture and food imports, especially during local harvest periods. The United States will continue to monitor the situation and will engage with the government of Panama to ensure continued access to Panama’s market.

On July 16, 2015, Panama’s Ministry of Agricultural Development (MIDA) issued Resolution No. OAL-135-DM-2015 to ban the entry or movement of imported potatoes and onions for human consumption into areas, sites and locations of domestic production of potatoes and onions in Panama. The United States continues to raise concerns about the scientific basis for this measure with the government of Panama.

IMPORT POLICIES

Tariffs

The first tariff reduction under the TPA took place on October 31, 2012, and subsequent tariff reductions occur on January 1 of each year; the fifth round of tariff reductions took place on January 1, 2016. Over

87 percent of U.S. exports of consumer and industrial products to Panama became duty free immediately upon entry into force of the TPA. The remaining tariffs on consumer and industrial products will be phased out over the course of 10 years. The TPA provides for immediate duty-free treatment for over half of U.S. agricultural exports to Panama (by value). Duties on most other agricultural goods will be phased out over the course of 5 years to 12 years, with duties on the most sensitive products phased out over 15 years to 20 years. The TPA also creates expanded market access opportunities for some of the most sensitive agricultural products through tariff-rate quotas (TRQs), which provide immediate duty-free access for specific quantities of certain agricultural products. This access will rise as quotas are increased and over-quota duties are phased out over the course of the applicable implementation period.

Under the previous administration, Panama had applied tariff rates lower than its WTO bound rates for bovine livers, pork skins, turkeys, goat milk and cream, infant formula, evaporated milk, condensed milk, butter, cheddar cheese, onions, red or pinto beans, red kidney beans, other beans, and parboiled rice. In some cases these applied rates were lower than those required under the TPA for U.S. products. In April 2015, the Varela Administration increased the tariff rates on those agricultural products to the WTO bound rates. However, the TPA rates are applied to U.S. products.

Panama's average MFN tariff on industrial and consumer goods is relatively low, at about 7.6 percent, although tariffs on some products are as high as 81 percent. Panama's average MFN tariff on agricultural goods is 12.2 percent, but some agricultural imports face tariffs as high as 260 percent.

Nontariff Measures

In addition to tariffs, all goods and most services sold in Panama, except for foods and feeds, are subject to a seven percent ITBMS (value-added tax). In the case of imported goods, the ITBMS is levied both on the cost, insurance, and freight value, as well as on import duties and other handling charges, which artificially inflates the tax compared to domestic products. The ITBMS is higher for cigarettes and alcohol. Pharmaceuticals, foods, school supplies, goods that will be re-exported, and all products related to transactions occurring in any free zone when using endorsable documents are exempt from the ITBMS. In 2012, the government introduced an excise tax on vehicle sales, which varies from 5 percent to 25 percent based on the value of the vehicle.

On May 25, 2015, Panama's National Customs Authority (ANA) issued Resolution No. 219 establishing that imports of a number of products will be subject to a mandatory consultation with the Department of Valuation if there is a justified risk based on country of origin, value, or condition. These products are as follows: potatoes and onions; new and used automobiles; new and used ships and planes; new and used heavy equipment and machinery; new and used mining equipment and self-propelled machinery; and other products as determined by the General Director of ANA. The resolution also authorizes *posteriori* verifications of importers of potatoes and onions by the ANA Auditor. The United States continues to seek clarification regarding the Resolution and monitor its implementation to help ensure trade is not unjustifiably disrupted.

Importing entities are required to hold a license to operate in Panama in order to import manufactured goods into the country. The license may be obtained through Panama's online business registration service, "Panama Emprende." Importing entities holding such a license are not required to have a separate import license for individual shipments, except for imports of certain controlled products such as weapons, medicine, pharmaceutical products, and certain chemicals.

GOVERNMENT PROCUREMENT

Panamanian Law 22 of 2006, as amended, regulates government procurement and other related issues. Law 22 requires publication of all proposed government purchases, and established "Panama Compra," an Internet-based procurement system.

In December 2015, Panamanian Government officials indicated that, in an effort to increase participation by U.S. and other international companies, it is examining how to improve the delivery method for information on public tenders. This would include improving the Panama Compra online portal and increasing the lead times to announce upcoming major tenders. The planned improvements will be implemented over the next year and will solicit feedback from the public and private sector.

Panama has an administrative court to handle all public contracting disputes. The rulings of this administrative court are subject to review by Panama's Supreme Court. Despite the oversight of the administrative court, political interests often appear to influence procurement decisions. Panamanian business leaders have expressed concerns regarding what they believe is excessive use of sole-source contracting, and U.S. firms have expressed concern about how the government of Panama establishes and evaluates the criteria used to select a procurement winner.

The TPA introduced new disciplines on covered government procurements. The goal of the disciplines is to ensure the integrity and fairness of the procurement process. The TPA applies to procurements by covered entities for procurements that are above the value thresholds. Not all Panamanian governmental entities are covered under the TPA. The thresholds vary, but for covered central government entities, the threshold for procurements of goods and services in 2016 and 2017 is a minimum $191,000 while the threshold for construction procurements is $7,358,000. Higher thresholds apply to sub-central and other government entities.

When Panama became a WTO Member, it committed to accede to the WTO Agreement on Government Procurement (GPA). However, on July 30, 2013, Panama withdrew its application for accession to the GPA. Panama remains only an observer and not a full member of the GPA.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The government of Panama is making efforts to strengthen the enforcement of intellectual property rights (IPR). A Committee for Intellectual Property (CIPI), comprised of representatives from five government agencies (Colon Free Zone, Offices of Intellectual Property Registry and Copyright under the Ministry of Commerce and Industry, Customs, and the Attorney General), under the leadership of the Ministry of Commerce and Industry, is responsible for development of intellectual property policy in Panama.

In 2012, Panama updated its legislative framework in order to implement the requirements of the TPA, which called for improved standards for the protection and enforcement of a broad range of IPR. These include enhanced protections for patents, trademarks, undisclosed test or other data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals, and digital copyrighted products such as software, music, text, and videos, and further deterrence of piracy and counterfeiting.

In 2013, Panama began implementing a system identifying geographical indications (GIs) in response to European Union applications to register a range of GIs in Panama. The United States has engaged extensively with Panama to ensure that market access for U.S. agricultural producers is preserved and will continue to engage on this issue.

INVESTMENT BARRIERS

While Panama maintains an open investment regime and is generally receptive to foreign investment, U.S. investors and individual property holders continue to raise concerns about property disputes. Many of these disputes appear to stem from the general lack of titled land in Panama and inadequate government administration of the property system. Although Panama enacted a law in 2009 (Law 80) that attempted to address the lack of titled land in certain parts of the country, decisions taken by the National Land Authority established by the law have reinforced investors' concerns regarding government administration, corruption, and the ability of the judicial system to resolve these types of disputes.

OTHER BARRIERS

Corruption

While Panama has domestic anticorruption mechanisms, such as asset forfeiture, protection for witnesses and whistleblowers, and conflict-of-interest rules, the general perception is that anticorruption laws are not applied rigorously, and that government enforcement bodies and the courts have been ineffective in pursuing and prosecuting those accused of corruption, particularly in high profile cases. Panama ratified the United Nations Convention against Corruption in 2005 and the Organization of American States Inter-American Convention against Corruption in 1998, but there is also a perception that Panama could do more to implement the conventions and respond to official recommendations.

Confidence in the competence and independence of the judicial system remains low, based on decisions that call into question its susceptibility to influence. Examples range from the previously-cited disputes on property titling, to reports of significant punitive damages being imposed on the owner of a trademark registered in Panama after attempting to enforce the trademark. The United States continues to stress the need to increase transparency and accountability in both government procurement and judicial processes.

President Juan Carlos Varela, inaugurated on July 1, 2014, has pledged to pursue reports of corruption, for example, by increasing transparency in tendering for government procurement and ensuring that government tenders are awarded transparently and fairly. In December 2014, the government cancelled the contract in the energy sector that was awarded by the previous administration on the grounds that the tendering had not been transparent. The Varela Administration has also pursued legal cases against former government officials for embezzlement and misappropriation.

PARAGUAY

TRADE SUMMARY

The U.S. goods trade surplus with Paraguay was $1.3 billion in 2015, a 30.1 percent decrease ($578 million) over 2014. U.S. goods exports to Paraguay were $1.5 billion, down 28.9 percent ($612 million) from the previous year. Corresponding U.S. imports from Paraguay were $162 million, down 17.4 percent. Paraguay was the United States' 67th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Paraguay (stock) was $144 million in 2014 (latest data available).

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Paraguay has banned all U.S. live cattle, beef, and beef products since 2003 due to the detection of a case of bovine spongiform encephalopathy (BSE) in the United States. In March 2015, Paraguay's National Animal Health and Quality Service (SENACSA) recognized the status of the United States as a country with a "negligible risk for BSE" according to the World Organization for Animal Health (OIE). In November 2015, USDA proposed to SENACSA a Food Safety and Inspection Service (FSIS) export certificate for U.S. fresh/frozen and processed beef and beef products, which would allow full market access for all U.S. beef and beef products. SENACSA has not yet responded to the U.S. proposal. The United States will continue to engage with SENACSA to open the Paraguayan market to U.S. exports of these products.

IMPORT POLICIES

Tariffs

Paraguay is a founding member of the MERCOSUR common market, formed in 1991. MERCOSUR's full members are Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR's Common External Tariff (CET) averages 11.5 percent and ranges from zero percent to 35 percent *ad valorem*. Paraguay's average bound tariff rate in the WTO is significantly higher at 33.5 percent. Paraguay's applied import tariffs tend to be much lower than the CET, ranging from zero percent to 30 percent, with an average applied tariff rate of 10 percent in 2014. Paraguay is permitted to maintain a list of 649 exceptions to the CET until December 31, 2019.

According to current MERCOSUR procedures, any good imported into any member country must pay the CET to that country's customs authorities. If the product is re-exported to any other MERCOSUR country, the CET must be paid again to the second country upon importation there. Thus, for any U.S. good imported into landlocked Paraguay via any other MERCOSUR country, all of which have ocean ports, the CET is effectively doubled.

The MERCOSUR Common Market Council moved toward the establishment of a Customs Union with its approval of a Common Customs Code (CCC) in August 2010 and its Decision 5610 in December 2010 to adopt a plan to eliminate the double application of the CET within MERCOSUR. Thus far, only Argentina has ratified the CCC. The CCC is still pending approval by the Paraguayan congress.

Nontariff Barriers

Paraguay requires import licenses on personal hygiene products, cosmetics, perfumes and toiletries, textiles and clothing, shoes, insecticides, agrochemicals, soy grains, barbed wire, wire rods, and steel and iron bars. Licensing is non-automatic and requires review by the Ministry of Industry and Commerce. Imports of personal hygiene products, cosmetics, and perfumes and toiletries also require a health certification and therefore must undergo a review by the Ministry of Health. The import license process usually takes 10 days, but for goods that require a health certification, it can take up to 30 days. Once issued, the health certifications are valid for 30 days.

Paraguay prohibits the importation of used cars over 10 years old and used clothing. Also, seasonal restrictions on some vegetables (*e.g.*, tomatoes, bell peppers, and onions) are sometimes implemented to protect local producers.

Customs Procedures

Paraguay requires that specific documentation for each import shipment (*e.g.*, commercial receipt, certificate of origin, and cargo manifest) be certified by either the Paraguayan consulate in the country of origin or, subject to payment of a fee, at the Ministry of Foreign Affairs in Paraguay.

Paraguay also requires all companies operating in the country to contract the services of a customs broker. Customs broker fees are standardized by Paraguayan law.

GOVERNMENT PROCUREMENT

Paraguay's Public Contracting Law stipulates that all public contracting at the national and local levels with a value in excess of approximately $6,000 must be done via the National Directorate for Public Contracts. Foreign firms can bid on tenders deemed "international" and on "national" tenders through the foreign firms' local legal agents or representatives. Paraguayan law gives preference to locally produced goods in public procurements open to foreign suppliers, even if the domestic good is up to 20 percent more expensive than the imported good. Paraguay's public procurements have historically been associated with alleged corruption, although the government is making efforts to enhance transparency and accountability, including through the creation of an internet-based government procurement system.

In 2013, the Paraguayan Congress passed a law to promote Public-Private Partnerships (PPPs) in public infrastructure and allow for private sector entities to participate in the provision of basic services such as water and sanitation. Implementing regulations for the PPP law were signed in 2014. As a result, the Executive Branch can now enter into agreements directly with the private sector without the need for Congressional approval. In 2015, the Government of Paraguay implemented its first contracts under the new law, with more expected in 2016.

Paraguay is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Paraguay was removed from the Special 301 Watch List in 2015 pursuant to an Out-of-Cycle Review. The United States and Paraguay signed a Memorandum of Understanding on Intellectual Property Rights in June 2015, under which Paraguay committed to take specific steps to improve its intellectual property rights (IPR) protection and enforcement environment. Additionally, the MOU solidifies bilateral cooperation in which the United States supports Paraguay's efforts to strengthen the legal protection and enforcement of IPR. As a result of the MOU's signing and the commitments Paraguay assumed under the MOU, USTR removed Paraguay from the Special 301 Watch List. The United States is encouraged by the work of the National Directorate of Intellectual Property and the enhanced administrative and border enforcement activity occurring in Paraguay. Nevertheless, issues remain that affect market access for U.S. firms, including the level of enforcement against rampant, willful piracy and counterfeiting, particularly under the criminal laws, in areas such as Ciudad del Este (which has been named to USTR's Notorious Markets List for several years including in the 2015 Notorious Markets List); judicial inefficiency in IPR cases; lack of protection against unfair commercial use of undisclosed test or other data submitted to the government by agrochemical or pharmaceutical companies; and the use of unlicensed software by the government.

INVESTMENT BARRIERS

Under Paraguayan law, foreign companies must demonstrate "just cause" to terminate, modify, or decide not to renew contracts with Paraguayan distributors. Severe penalties and fines may result if a court determines that the foreign company ended the relationship with its distributor without first having established that such "just cause" exists. This requirement often leads to expensive out-of-court settlements. The law has discouraged foreign investment, given concerns about potential lawsuits and contractual interference.

Judicial uncertainty and corruption mar Paraguay's investment climate. Many investors find it difficult to adequately enforce contracts, and are frustrated by lengthy bureaucratic procedures. The government of Paraguay has taken steps in recent years to increase transparency and accountability, including the passage of an Access to Information Law, but corruption and impunity continue to affect the investment climate.

A plaintiff pursuing a lawsuit may seek reimbursement from the defendant of legal costs, calculated as a percentage of claimed damages. In larger suits, the amount of reimbursed legal costs often far exceeds the actual legal costs incurred. Such measures can serve as a disincentive to foreign investment in Paraguay.

PERU

TRADE SUMMARY

The U.S. goods trade surplus with Peru was $3.7 billion in 2015, a 5.9 percent decrease ($234 million) over 2014. U.S. goods exports to Peru were $8.8 billion, down 12.4 percent ($1.2 billion) from the previous year. Corresponding U.S. imports from Peru were $5.1 billion, down 16.6 percent. Peru was the United States' 30th largest goods export market in 2015.

Sales of services in Peru by majority U.S.-owned affiliates were $2.6 billion in 2013 (latest data available), while sales of services in the United States by majority Peru-owned firms were $6 million.

U.S. foreign direct investment (FDI) in Peru (stock) was $6.5 billion in 2014 (latest data available), a 20.9 percent increase from 2013. U.S. direct investment in Peru is led by mining, manufacturing, and nonbank holding companies.

Trade Agreements

Trans-Pacific Partnership -- Peru is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Singapore, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address non-tariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

United States-Peru Trade Promotion Agreement -- The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. The PTPA is a comprehensive free trade agreement that resulted in the significant liberalization of trade in goods and services between the United States and Peru. Under the PTPA, Peru immediately eliminated most of its tariffs on U.S. exports, with all remaining tariffs phased out over defined time periods. The PTPA also includes important disciplines with respect to customs administration and trade facilitation, technical barriers to trade, government procurement, services, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environmental protection. Since 2009, two-way trade between the U.S. and Peru has increased by 76.6 percent, reaching nearly $16.2 billion in 2014.

Trade in Services Agreement -- Peru is also participating in the Trade in Services Agreement (TiSA) negotiations. TiSA would promote fair and open trade in services and address new issues arising from the rapid growth of digital trade. The 23 economies participating in TiSA represent 75 percent of the world's $44 trillion services market.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Moratorium on Agricultural Biotechnology

On November 3, 2011, the Peruvian Congress approved Law 29,811, which declared a 10-year moratorium on the importation or production of products derived from agricultural biotechnology because of concerns they may adversely affect the environment. Risk assessment standards provided in the November 14, 2012, implementing regulations (Supreme Decree 008-2012) were vague, and have not clarified exemptions in the 2011 law for controlled research, pharmaceutical and veterinary products, and biotechnology derived products for human consumption, feed, or processing.

U.S. Government efforts to address concerns related to the moratorium have included frequent discussions with Peruvian government officials and business associations. Among other venues, the issue was raised by the United States at the annual meetings of the PTPA Standing Committee on Sanitary and Phytosanitary Measures (PTPA SPS Committee), held in June 2012, June 2013, August 2014, and November 2015.

Labeling of Foods Derived from Agricultural Biotechnology

Article 37 of the Consumer Defense Code, approved by Congress in March 2011, mandates the labeling of products containing agricultural biotechnology (*i.e.*, genetically engineered) ingredients. Although the law required publication of implementing regulations within 180 days of approval of the Consumer Defense Code, the El Instituto Nacional de Defensa de la Competencia y de la Protección de la Priopiedad Intelectual (INDECOPI), the Peruvian intellectual property and consumer protection agency, has not yet issued them.

The law specifies that labels must detail the percentage of genetically engineered content for each input that exceeds a minimum threshold of detection. The scientific and technical considerations involved in setting minimum thresholds are highly complex and would require sophisticated and expensive regulatory capacity to set, monitor, and enforce such standards.

U.S. Government efforts to engage on this issue have included repeated discussions and written correspondence with Peruvian government officials. The United States also raised the issue during the meeting of the PTPA's Committee on Technical Barriers to Trade (PTPA TBT Committee) in June 2014 and again in November 2015.

Labeling Requirements for "Unhealthy" Prepackaged Food Items

President Humala signed the "Act to Promote Healthy Eating among Children and Adolescents" on May 16, 2013. The Act establishes a mandatory front-of-pack warning statement on food labels for prepackaged foods that surpass an established threshold for sugar, sodium, and saturated fats, and for all food products that contain trans-fats. The Act also establishes restrictions on advertising and promoting such food products to children and adolescents. Following approval of the Act, Peru's Ministry of Health (MOH) is developing implementing regulations and has indicated that it plans to notify them to the WTO. Once this occurs, the United States will continue to engage with the Peruvian government on this issue, as appropriate.

IMPORT POLICIES

Tariffs

According to the WTO, Peru's average bound WTO tariff rate was 30 percent in 2014, and its average most favored nation (MFN) applied tariff rate was 3.5 percent. Under the PTPA, more than 80 percent of U.S. exports of consumer and industrial products now enter Peru duty-free. All remaining tariffs on U.S. consumer and industrial goods exports to Peru will be phased out by 2018. More than two-thirds of current U.S. agricultural exports enter Peru duty-free; the remaining tariffs on U.S. agricultural exports to Peru will be phased out by 2025. In accordance with its PTPA commitments, Peru has eliminated its price band system on trade with the United States.

Non-Tariff Measures

The government of Peru has eliminated many of Peru's non-tariff barriers, and under the PTPA, it subjects remaining measures, including subsidies, to additional disciplines.

Peru currently restricts imports of certain used goods, including used clothing and shoes (except as charitable donations), used tires, cars over five years old, and heavy trucks (weighing three tons or more) over eight years old. A 45-percent excise tax applies to used cars and trucks (compared to 20 percent for new cars). However, if these used cars and trucks undergo refurbishment in an industrial center in the south of the country (located in Ilo, Matarani, or Tacna) after importation, no excise tax applies.

The effective tax rate on imported spirits is higher than the tax assessed on domestically-produced Pisco products, thus putting distilled spirits produced in the United States at a competitive disadvantage.

Peru currently requires that biopharmaceutical companies submit a "Batch Release Certificate" issued by the competent authority of the country of origin. The United States Food and Drug Administration (FDA) does not issue such certificates for all types of biological pharmaceuticals. As a result, this requirement adversely affects market access for some biologics produced in the United States. Other administrative processing requirements and duplicative product testing have a negative impact on access to the Peruvian market. For instance, until prevented by a local court injunction, the Peruvian Ministry of Health allowed the registration of biosimilars of biologic drugs with only an affidavit that successful clinical trials have taken place and that the drug is safe for use, meaning local companies were able to register biosimilar products that unfairly compete with innovator biologic drugs because they are exempt from the same rigorous data requirements on safety and efficacy. In November 2015, the Peruvian MOH proposed draft regulations that could maintain this loophole, also allowing drugs already in the marketplace and in process of registration to be grandfathered in under the old regime. The new draft regulations also reduce requirements for extrapolation and risk management for biosimilars.

GOVERNMENT PROCUREMENT

The PTPA requires that procuring entities use fair, nondiscriminatory, and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurements covered by the PTPA. Under the PTPA, U.S. suppliers can bid on procurements of most Peruvian central government entities on the same basis as Peruvian suppliers. This includes procurements by covered state-owned enterprises, such as Peru's oil company and Peru's electrical company.

Peru has made similar government procurement commitments to the United States and 10 other partners in the recently concluded (TPP). Under TPP, Peru has expanded its procurement commitments to include several central government ministries and services that were not covered previously under the PTPA, and to apply lower thresholds for goods and services than under the PTPA.

Peru is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Peru remained on the Watch List in the 2015 Special 301 Report. Pirated and counterfeit goods remain widely available in Peru. Piracy over the internet is a growing problem, especially with respect to music, software, and video content (movies and television programs). Other challenges include inadequate resources for law enforcement, lack of coordination among enforcement agencies, the need for improved border measures, and the need for prosecutorial and judicial reforms. Clarification is also needed with respect to Peru's protections for biotechnologically-derived pharmaceutical products.

Under the TPP, which sets strong and balanced standards on intellectual property protection and enforcement, Peru has committed to more robust standards for its intellectual property rights regime. The United States continues to work with Peru to address intellectual property issues through TPP implementation and bilateral engagement.

INVESTMENT BARRIERS

Peruvian law prohibits majority foreign ownership in the broadcast media sector. Peruvian law also restricts foreign persons from owning land or investing in natural resources located within 50 kilometers of its border, although the government may grant special authorization to operate within those areas. Under current law, foreign employees may generally not comprise more than 20 percent of the total number of employees of a local company (whether owned by foreign or Peruvian persons) or more than 30 percent of the total company payroll.

Both U.S. and Peruvian firms remain concerned that executive branch ministries, regulatory agencies, the tax agency, and the judiciary often lack the resources, expertise, or impartiality necessary to carry out their respective mandates. U.S. and Peruvian investors have also expressed concerns about reinterpretation of rules by La Superintendencia Nacional de Aduanas y de Administración Tributaria (SUNAT), Peru's customs and tax agency, as well as the imposition of fines by SUNAT perceived by investors to be disproportionate.

THE PHILIPPINES

TRADE SUMMARY

The U.S. goods trade deficit with the Philippines was $2.3 billion in 2015, a 35.5 percent increase ($601 million) over 2014. U.S. goods exports to the Philippines were $7.9 billion, down 6.4 percent ($544 million) from the previous year. Corresponding U.S. imports from the Philippines were $10.2 billion, up 0.6 percent. Philippines was the United States' 32nd largest goods export market in 2015.

U.S. exports of services to the Philippines were an estimated $2.4 billion in 2014 (latest data available), and U.S. imports were $4.4 billion. Sales of services in the Philippines by majority U.S.-owned affiliates were $3.8 billion in 2013 (latest data available), while sales of services in the United States by majority Philippine-owned firms were $43 million.

U.S. foreign direct investment (FDI) in the Philippines (stock) was $5.1 billion in 2014 (latest data available), a 21.3 percent increase from 2013. U.S. direct investment in Philippines is led by manufacturing, wholesale trade, and professional, scientific, and technical services.

The United States and the Philippines meet regularly under our Trade and Investment Framework Agreement to address issues and consider ways to deepen our economic relations. The Philippines' has preferential trade agreements with trading partners such as China, Australia, and New Zealand, which has eroded the competitiveness of U.S. products in the Philippines. The Philippines has eliminated tariffs on approximately 99 percent of all goods from ASEAN trading partners.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Meat Handling Regulations

The Philippines maintains a two-tiered system for regulating the handling of frozen and freshly slaughtered meat for sale in local "wet" markets. Under this system, the Philippines imposes more burdensome requirements on the sale of frozen meat, which is primarily imported, than it does on the sale of freshly slaughtered meat, which is only raised domestically. The United States has engaged extensively with the Philippine government on this issue and will continue to do so.

Import Clearance

The Philippine Department of Agriculture requires importers to obtain a sanitary and phytosanitary SPS permit prior to shipment of any agricultural product and to transmit the permit to the exporter. This requirement adds costs, complicates the timing of exports, and prevents the transshipment of products to the Philippines intended for other markets. It also prevents an exporter from reselling an imported product if the importer refuses to accept delivery or abandons the shipment. The United States has raised this issue and will continue to work with the government of the Philippines to address this concern.

Agricultural Biotechnology

In December 2015, the Supreme Court of the Philippines struck down a 2002 administrative order that outlined the rules and regulations for importing and releasing into the environment genetically modified crops and that imposed a temporary ban on biotechnology imports until the Department of Agriculture drafts a new administrative order conforming to the court decision. The Philippine government said it will appeal this decision. U.S. exports of soybean meal are valued at more than $600 million.

IMPORT POLICIES

Tariffs

The Philippines' simple average most-favored-nation tariff is 6.3 percent. Six percent of its applied tariffs are 20 percent or higher. All agricultural tariffs and about 60 percent of non-agricultural tariff lines are bound under the Philippines' WTO commitments. The simple average bound tariff in the Philippines is 25.7 percent. Products with unbound tariffs include certain automobile, chemical, plastic, vegetable textile fiber, footwear, headgear, fish, and paper products. Applied tariffs on fresh fruit, including grapes, apples, oranges, lemons, grapefruits, and strawberries, as well as on processed potato products, including frozen fries, are between 7 percent and 15 percent, whereas bound rates are much higher at 35 percent and 60 percent.

High in-quota tariffs for agricultural products under the Philippines' tariff-rate quota program, known locally as the Minimum Access Volume (MAV) system, significantly inhibit U.S. exports to the Philippines. Under the MAV system, the Philippines imposes a tariff rate quota on numerous agricultural products, including sugar, corn, coffee and coffee extracts, potatoes, pork, and poultry products. In-quota tariffs range from 30 percent to 50 percent. Sugar has the highest in-quota tariff at 50 percent, followed by rice, coffee, poultry, and potatoes at 40 percent. The in-quota tariff for corn is 35 percent, while pork and raw coffee have in-quota tariffs of 30 percent. Since 2005, the Philippines has maintained MAV levels at its Uruguay Round commitments despite dramatically increasing demand in the Philippine market for MAV products. The Philippine government increases in-quota volumes of affected MAV commodities in times of shortages, but because of its lack of predictability, the practice does not serve to relax the Philippines' restrictive import regime.

Quantitative Restrictions

The Philippine National Food Authority (NFA) controls rice imports through quantitative restrictions and provides price support to rice growers. The NFA's stated objectives are to achieve self-sufficiency and to ensure sufficiently high and stable food prices to enhance farm incomes and alleviate rural poverty. The NFA's policies have contributed to the sector's lack of competitiveness by reducing incentives for farmers to minimize production costs and improve efficiency. Philippine rice farmers are protected from global prices by a tariff of 35 percent for in-quota imports and 50 percent for out-of-quota imports, which U.S. stakeholders report has the unintended consequence of encouraging widespread smuggling.

The Philippines previously benefited from special treatment for rice under Annex 5 of the WTO Agreement on Agriculture. Pursuant to Annex 5, the Philippines maintained a rice quota of 350,000 metric tons (MT), but that special treatment expired on June 30, 2012. In July 2014, the WTO approved an extension of the Philippine rice quantitative restrictions up to 2017. The 2014 to 2017 extension is covered by a waiver of the Philippine obligation to convert quantitative restrictions on agricultural imports into tariff measures. In exchange for the extension, the Philippine's MFN rice import tariff falls from 40 percent to 35 percent, and the MAV quota increases from 350,000 MT to 805,200 MT. In connection with the WTO approval of the extension of rice special treatment, the United States and the Philippines reached a bilateral agreement on Philippine agricultural concessions in June 2014. As part of this agreement, the Philippines reduced tariffs on a variety of agricultural products, including buttermilk, cheese, grapes, poultry, and walnuts, covering over $66 million of U.S. agricultural exports to the Philippines.

Automobile Sector

The Philippines continues to apply high tariffs on finished automobiles and motorcycles, including a 30-percent tariff on passenger cars; tariffs of 20 percent to 30 percent on vehicles for the transport of goods; and tariffs of 15 percent to 20 percent on vehicles for the transport of persons, depending on vehicle weight. ASEAN countries and Japan enjoy preferential import tariffs on new vehicle imports under the ASEAN Free Trade Agreement and the Japan-Philippines Economic Partnership Agreement, respectively. The Philippines continues to extend duty-free treatment on imports of capital equipment, spare parts, and accessories by motor vehicle manufacturers and other enterprises registered with the Board of Investments.

Motor vehicle production is a priority sector under the Philippine Motor Vehicle Development Program. This program, implemented by the Board of Investments, is designed to spur exports and encourage local assembly through low tariffs on components. A one percent tariff applies to completely knocked-down kits (CKDs) imported by participants registered under the program. CKDs of alternative fuel vehicles enter duty free. The policy also prohibits the importation of used motor vehicles.

The manufacture and assembly of motor vehicles, parts, and components is a preferred activity under the 2014-2016 Philippine Investment Priorities Plan (*see Subsidies section below*). In May 2015, President Benigno Aquino III approved a six-year Comprehensive Automotive Resurgence Strategy program to revive the automotive industry by providing approximately $600 million worth of fiscal incentives to domestic car makers and parts manufacturers. The Board of Investments is still drafting the implementing guidelines of the program.

Customs Barriers

Reports of corruption and irregularities in customs processing persist, including undue and costly delays (*e.g*., irregularities in the valuation process, 100-percent inspection and testing of some products, and customs officials seeking the payment of unrecorded facilitation fees). In particular, despite a firm commitment to the United States from the Bureau of Customs to use transaction values to assess duties on imports, as provided for in the WTO Customs Valuation Agreement, importers have reported that reference prices for meat and poultry are still used for valuation. The Bureau of Customs has assigned a single reference value for all “other” pork offal (jowls, ear base, tongue, etc.), which does not reflect the actual prices. Traders have reported that reference prices are frequently well above the transaction prices, which has the effect of imposing an artificially high tariff. The United States has raised concerns on these issues with the Philippines and urged the Philippines to increase its *de minimis* value for expedited shipments, which it intends to do under the Customs Modernization and Tariff Act. Once signed into law, which is expected by mid-April, that legislation will also modernize customs operations.

GOVERNMENT PROCUREMENT

Government procurement laws and regulations favor Philippine companies and locally produced materials and supplies. The 2003 Government Procurement Act sought to consolidate procurement laws, simplify prequalification procedures, introduce objective and nondiscretionary criteria in the selection process, and establish an electronic single portal for government procurement activities. However, implementation of the law remains inconsistent. U.S. companies have expressed concern about delayed procurement decisions and payments, as well as differing interpretations of the procurement law among Philippine government agencies.

All government procurements of imported equipment, materials, goods and services have a countertrade requirement of 50 percent of the value of the supplier’s supply contract if it amounts to at least $1 million. Penalties apply for nonperformance of countertrade obligations.

The Philippines is neither a signatory of nor an observer to the WTO Agreement on Government Procurement.

SUBSIDIES

The Philippines offers a wide array of fiscal incentives for export-oriented investment, particularly investment related to manufacturing. These incentives are available to firms located in export processing zones, free port zones, and other special industrial estates registered with the Philippine Economic Zone Authority. The available incentives include: income tax holidays or exemption from corporate income tax for four years, renewable for a maximum of eight years; after the income-tax-holiday period, payment of a five percent special tax on gross income in lieu of all national and local taxes; exemption from duties and taxes on imported capital equipment, machinery, spare parts and supplies, and raw materials; domestic sales allowance of up to 30 percent of total sales; exemption from wharfage dues, imposts, and fees; zero VAT rate on local purchases, including telecommunications, electricity, and water; and exemption from payment of local government fees (*e.g*., mayor's permit, business permit, health certificate fee, sanitary inspection fee, and garbage fee). Additionally, under the Export Development Act (Republic Act No. 7844), exporters receive corporate tax credits, ranging from 2.5 to 10 percent, for increases in export revenues of 5 percent to over 15 percent. (This incentive, however, is not available for exporters already receiving an income tax holiday or VAT exemption or whose local VAT is below 10 percent).

The Philippine government offers incentives to companies for investment in less-developed economic areas and in preferred sectors, as outlined in the Board of Investment's Investment Priorities Plan. The incentives include: income tax holidays; tax deductions for wages and certain infrastructure investments; tax and duty exemptions for imported breeding stock and genetic materials; and tax credits on local purchases of breeding stock and materials. An enterprise with less than 60-percent Philippine equity may enjoy incentives if its projects are classified as "pioneer" under the Omnibus Investments Code. Pioneer status can be granted to Board of Investments-registered enterprises engaged in the production of new products or using new methods, producing goods deemed highly essential to the country's agricultural self-sufficiency program, or producing or utilizing non-conventional fuel sources. Firms with more than 40-percent foreign ownership that export at least 70 percent of production and Filipino-owned firms (defined as firms with more than 60 percent Filipino ownership) that export 50 percent of production, also qualify for incentives under the Omnibus Investments Code.

The Philippines has not filed a subsidy notification under the WTO Agreement on Subsidies and Countervailing Measures since 1997. The United States has met bilaterally with the Philippines to urge it to submit a WTO subsidies notification and to offer technical assistance. In 2010, the Philippines became subject to the WTO rule against export subsidies under Article 3.1(a) of the Subsidies Agreement, having graduated from the Annex VII(b) list of developing countries exempted from the rule. In its last Trade Policy Review in 2012, the Philippines maintained that it does not provide export subsidies.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The Philippines was not listed in the 2015 Special 301 Report. While there have been significant improvements in the Philippine IPR environment in recent years, U.S. rights holders report some concerns, including increasing internet-based piracy, counterfeit drugs, and weak provisions in patent law that may preclude the issuance of patents on certain chemical forms unless the applicant demonstrates increased efficacy. They have expressed concerns about the continued availability of pirated and counterfeit goods in the Philippines, slow investigation of IPR-related cases by the Department of Justice, and judicial inexperience in handling IPR enforcement cases, both civil and criminal. They also expressed concern that changes in leadership at the Bureau of Customs, the Optical Media Board, and the Intellectual Property

Office of the Philippines appeared to divert attention away enforcement of intellectual property violations. The United States has engaged with the Philippines regarding these concerns and will continue to press it to address U.S. concerns.

SERVICES BARRIERS

Telecommunications

Philippine regulators have defined telecommunications services as a public utility, which under the Philippine Constitution limits foreign equity ownership in telecommunications companies to 40 percent. Foreigners may not serve as executives or managers of telecommunications companies, and the number of foreign directors allowed is tied to the proportion of foreign investment in the company. The United States has urged the Philippines to reclassify telecommunications outside of the utility definition, as it has done for electricity generation. Efforts to liberalize the foreign investment regime in the telecommunications sector suffered a setback in 2013 when the Philippine Securities and Exchange Commission, based on a 2011 Philippines Supreme Court ruling, upheld an expansive interpretation of what constituted a utility. This action effectively limited foreign ownership to levels set out in the Philippines' GATS schedule.

The Philippines also applies the public utility designation to value-added services, which is particularly burdensome to service suppliers and inconsistent with international practice. Finally, foreign equity in private radio communications is limited to 20 percent, and foreign ownership of cable TV and all other forms of broadcasting and media is prohibited.

Insurance

While the Philippines' GATS commitments only bind foreign ownership in the insurance sector to 51 percent, in practice the Philippines permits up to 100-percent foreign ownership. Minimum capital requirements increase with the degree of foreign equity.

Generally, only the state-owned Government Service Insurance System may provide insurance for government-funded projects. A 1994 order requires sponsors of build-operate-transfer projects and privatized government corporations to secure their insurance and bonding from this insurance system at least to the extent of the government's interest. All reinsurance companies operating in the Philippines must cede to the industry-controlled National Reinsurance Corporation of the Philippines at least 10 percent of outward reinsurance placements.

Banking

Subject to certain requirements (such as reciprocity, diversified ownership, and public listing in the country of origin), the "Act Allowing the Full Entry of Foreign Banks in the Philippines" signed in July 2014 re-opened the market to new foreign bank branches (previously capped at ten under a 1994 law) and lifted the 60-percent ownership ceiling of foreign banks in locally incorporated banking institutions. However, banks that seek entry as foreign branches cannot open more than five sub-branch offices each. The Philippine Central Bank is required to ensure that majority Filipino-owned banks control at least 60 percent of total banking system assets.

Foreign individuals and non-bank investors may not own more than 40 percent of the total voting stock in a domestic commercial bank nor own more than 60 percent of the voting stock in a thrift or rural bank.

Other Financial Services

For a mutual fund, all members of the board of directors must be Philippine citizens. Current laws limit foreign ownership of financing and of securities underwriting companies to 60 percent of voting stock.

The 2007 Lending Company Regulation Act requires majority Philippine ownership for credit enterprises not clearly under the scope of other laws.

Audiovisual Services

The Philippine Constitution prohibits foreign investment in mass media.

Advertising

The Philippine Constitution limits foreign ownership of advertising agencies to 30 percent. All executive and managing officers must be Philippine citizens.

Public Utilities

The Philippine Constitution limits foreign investment in the operation and management of public utilities to 40 percent. Philippine law defines "public utility" to include a range of sectors, including water and sewage treatment, electricity transmission and distribution (although not electricity generation), telecommunications, and transport. All executive and managing officers of public utility companies must be Philippine citizens, and foreign investors may serve on governing bodies only in proportion to their equity.

Inter-island Shipping

A law signed in July 2015 relaxed the cabotage law by allowing foreign vessels carrying import or export cargo to transport its goods to and from ports within the Philippines.

Professional Services

The Philippine Constitution limits licensing for the practice of professions to Philippine citizens. As dictated by the Foreign Investment Negative List, only Philippine citizens can practice in the following professions: pharmacy, radiologic and x-ray technology, criminology, and forestry. Foreigners are allowed to practice those professions not specifically prohibited under the Constitution, if their country allows reciprocity for Philippine citizens. These include professions such as medicine, nursing, dentistry, accountancy, architecture, engineering, criminology, teaching, chemistry, environmental planning, geology, interior design, landscape architecture, and customs brokerage.

Express Delivery Services

Foreign equity participation in the domestic express delivery services sector is limited to 40 percent.

Retail Trade

Philippine law restricts foreign investment in small retail ventures to Philippine nationals. Foreigners may own larger retail ventures subject to several requirements, including paid-up capital of $2.5 million or more, an $830,000 minimum investment per store, and parent company net worth of over $200 million. In addition, the retailer must either own at least five retail stores elsewhere or have at least one outlet with capitalization of $25 million or more. For retailers of high-end or luxury products, the minimum investment in each retail store is $250,000, and the net worth of the parent company must exceed $50 million.

Foreign retailers are prohibited from engaging in trade outside their accredited stores, such as through the use of carts, sales representatives, or door-to-door selling. Retail enterprises with foreign ownership exceeding 80 percent of equity must offer at least 30 percent of their shares to local investors within eight years of the start of operations through public offering of stock.

INVESTMENT BARRIERS

The Philippines has significant restrictions on foreign investment. The Foreign Investment Negative List enumerates foreign investment restrictions in two parts: List A details restrictions mandated by the Constitution or in specific laws, and List B lists restrictions mandated for reasons of national security, defense, public health and morals, and the protection of small- and medium-sized enterprises. Foreign investment in sectors enumerated in the negative list may be prohibited outright (*e.g.*, mass media, practice of professions, small-scale mining) or subject to limitation (*e.g.*, natural resource extraction and construction or repair of locally-funded public works). The current list was issued in May 2015. The Philippine Securities and Exchange Commission monitors corporations' compliance with the foreign equity restrictions mandated under the Foreign Investment Negative List. Although touted as a legislative priority by the Aquino Administration, initiatives to reduce the scope of the Foreign Investment Negative List have made little progress.

The Philippine Constitution prohibits foreigners from owning land in the country, but allows for 50-year lease, with one 25-year renewal. An ambiguous deed and property system can make it difficult to establish clear ownership of leased land, however, and an inefficient judiciary results in land disputes that can extend indefinitely. U.S. investors report that these disputes can be a particularly significant barrier to investment in mineral exploration and processing sectors.

Trade-Related Investment Measures

The Board of Investments imposes a higher export performance requirement on foreign-owned enterprises (70 percent of production) than on Philippine-owned companies (50 percent of production) when providing incentives under the Investment Priorities Plan.

ELECTRONIC COMMERCE

Philippine regulators occasionally have required cloud service providers to obtain a value-added telecom services license, and these licenses are only available to Filipino companies. Removing limitations on foreign participation in the information communication technology (ICT) sector have been a longstanding U.S. request, and given the importance of cloud computing to U.S. companies, the restrictions severely limit commercial opportunities for U.S. firms. The United States will continue to raise these issues with the Government of Thailand.

Cloud services companies also may be hampered by government procurement rules. In September 2014, the government released a draft order that would require government agencies to procure cloud services from GovCloud, a Philippine government entity. Such a requirement would prevent cloud services companies from providing services to a significant sector, and could prevent government agencies from receiving high-standard services.

OTHER BARRIERS

Corruption is a pervasive and longstanding problem in the Philippines. Both foreign and domestic investors have expressed concern about the propensity of Philippine courts and regulators to stray beyond matters of legal interpretation into policymaking and about the lack of transparency in judicial and regulatory processes. Concerns also have been raised about courts being influenced by bribery and improperly issuing temporary restraining orders to impede legitimate commerce. The United States has urged the Philippines to address these issues.

QATAR

TRADE SUMMARY

The U.S. goods trade surplus with Qatar was $2.9 billion in 2015, a 14.7 percent decrease ($506 million) over 2014. U.S. goods exports to Qatar were $4.2 billion, down 18.2 percent ($942 million) from the previous year. Corresponding U.S. imports from Qatar were $1.3 billion, down 25.0 percent. Qatar was the United States' 44th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Qatar (stock) was $8.6 billion in 2014 (latest data available), a 2.7 percent increase from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In October 2014, the Public Health Department of Qatar’s Supreme Council of Health announced that it would accept halal slaughtering certificates for imports of U.S. meat and poultry products only from U.S. halal certifiers that have also been approved by the United Arab Emirates.

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization (GSO), issued regulations on the GCC Regional Conformity Assessment Scheme and GCC “G” Mark in an effort to “unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers.” U.S. and GCC officials continue to discuss concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

In April 2015, Qatar’s National Food Safety Committee suspended the importation of U.S. poultry products due to an outbreak of Highly Pathogenic Avian Influenza in the United States. Following engagement by the U.S. Government, the Committee lifted the ban in December 2015.

GCC Member States notified WTO Members in June 2014 of their intention to implement a new “GCC Guide for Control on Imported Foods” by June 2015. Due to concerns about implementation of the Guide, Member States have not implemented it but are reviewing the current version. Stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also could impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius Commission and the World Organization for Animal Health. The United States raised concerns about the current version of the Guide in 2014 and 2015, and GCC Member States delayed entry into force until food safety experts have an opportunity to address these concerns. The United States continues to engage in discussions with the GCC and its Member States regarding their import requirements for food and agricultural products.

IMPORT POLICIES

Tariffs

As a member of the GCC, Qatar applies the GCC common external tariff of five percent with a limited number of GCC-approved country-specific exceptions. Qatar's exceptions include alcohol (100 percent) and tobacco (150 percent), as well as wheat, flour, rice, feed grains, and powdered milk. In addition, Qatar applies a 20 percent tariff on the import of iron bars and rods, steel and cement; a 30 percent tariff on urea and ammonia; and a 15 percent tariff on imports of musical records and instruments.

Import Licensing

Qatar requires a license for the importation of most products, and only issues import licenses to Qatari nationals. The Qatari government has on occasion established special import procedures through government-owned companies to address increases in demand.

Only authorized local agents are allowed to import goods produced by the foreign firms they represent in the local market. However, this requirement may be waived if the local agent cannot source the necessary spare parts and customer services for the product.

The Qatar Distribution Company, a subsidiary of the national air carrier Qatar Airways, has sole authority to import pork and pork products and alcohol.

Documentation Requirements

The Qatari Embassy, Qatari Consulate, or Qatari Chamber of Commerce in the United States must authenticate import documentation for imports from the United States. Imported beef and poultry products require a health certificate and a halal slaughter certificate issued by an approved Islamic authority.

GOVERNMENT PROCUREMENT

Qatar is not a signatory to the WTO Agreement on Government Procurement.

Qatar issued a new procurement law January 2016 that will enter into force in June 2016. The new law eliminates the Central Tendering Committee and has established a new procurement department under the authority of the Ministry of Finance. This department is charged with regulating and standardizing government procurement. The law aims to generate a more transparent, expeditious and efficient procurement system. Over 130 government agencies will be regulated under this new procurement law.

Qatar provides a 10 percent price preference for goods with Qatari content and a five percent price preference for goods containing GCC content. Tenders with a value less than QR 1,000,000 ($275,000) are limited to local contractors, suppliers, and merchants registered with the Qatar Chamber of Commerce.

Additionally, the Qatari Ministry of Finance requires all ministries and government agencies, public corporations, and other institutions that receive government support to give a preference to Qatari products when procuring goods to meet day-to-day operational requirements.

In October 2013, the government established a set-aside that would require foreign companies participating in "mega" infrastructure projects to procure 30 percent of goods and services locally. However, as of January 2015, detailed regulations implementing the policy have not yet been announced.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Qatar was not listed in the 2015 Special 301 Report.

As the six GCC Member States explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation and capacity building programs on IPR policy and practice.

SERVICES

Agent and Distributor Rules

Only Qatari entities are allowed to serve as local agents or sponsors. However, exceptions are granted for 100 percent foreign-owned firms in the agricultural, industrial, tourism, education, and health sectors. However, the state-run company Manateq is currently in process of setting up three economic zones in Qatar. Businesses setting up in these special economic zones can be entirely foreign-owned.

Additionally, some Qatari ministries waive the local agent requirement for foreign companies that have contracts directly with the Qatari government.

Banking

Although foreign banks are permitted to open branches and authorized to conduct all types of business in the Qatar Financial Center (QFC), including provision of Islamic banking services, foreign banks are informally "advised" not to offer services related to retail banking business. Laws and regulations applied to foreign banks registered in the QFC are different from the ones adopted by Qatar Central Bank and more closely resemble international standards. There are 18 retail banks in Qatar.

INVESTMENT BARRIERS

The Organization of Foreign Capital Investment Law (Law 13 of 2000, as amended) requires that 51 percent of the share capital in any local venture be held by a Qatari national. Exceptions to these rules may be granted for projects involving the development and exploitation of natural resources; technical and information consultancy; cultural, sports and entertainment services; energy and mining sectors; and agricultural, industrial, health, education, tourism and distribution services. Foreign investment is generally not permitted in banking and insurance, or in commercial agency and real estate activities.

Foreign ownership of residential property is limited to select real estate projects. Foreigners can receive residency permits without a local sponsor if they own residential or business property, but only if the property is in a designated "investment area."

RUSSIA

TRADE SUMMARY

The U.S. goods trade deficit with Russia was $9.5 billion in 2015, a 26.6 percent decrease ($3.4 billion) over 2014. U.S. goods exports to Russia were $7.1 billion, down 34.1 percent ($3.7 billion) from the previous year. Corresponding U.S. imports from Russia were $16.6 billion, down 30.0 percent. Russia was the United States' 36th largest goods export market in 2015.

Sales of services in Russia by majority U.S.-owned affiliates were $9.8 billion in 2013 (latest data available), while sales of services in the United States by majority Russia-owned firms were $456 million.

U.S. foreign direct investment (FDI) in Russia (stock) was $9.3 billion in 2014 (latest data available), a 29.5 percent decrease from 2013. U.S. direct investment in Russia is led by manufacturing, wholesale trade, and information.

Membership in the World Trade Organization

On August 22, 2012, Russia became the 156th Member of the WTO, and on December 14, 2012, following the termination of the application of the Jackson-Vanik Amendment to Russia, the United States and Russia consented to the application of the WTO Agreement between the two countries. Consequently, following nearly 20 years of negotiations, the United States and Russia are applying the terms and conditions of the WTO Agreement to each other. In June 2015, USTR issued its annual "Report on WTO Enforcement Actions: Russia." In December 2015, USTR issued a consolidated report "2015 Report on the Implementation and Enforcement of Russia's WTO Commitments." (These reports are available at http://www.ustr.gov).

The Eurasian Economic Union

On January 1, 2010, the Russia-Kazakhstan-Belarus Customs Union (CU) entered into force when the three States adopted a common external tariff (CET) with the majority of the tariff rates established at the level that Russia applied at that time. When Russia joined the WTO in 2012, the CU adopted Russia's WTO schedule of tariff bindings. On January 1, 2015, Russia, Kazakhstan, and Belarus continued their movement toward regional economic integration with the establishment of the Eurasian Economic Union (EAEU) as the successor to the CU. Armenia joined the EAEU on January 2, 2015, and Kyrgyzstan joined on August 12, 2015.

A common Customs Code applies to the EAEU Member States, and the Member States abolished all customs posts on their internal borders, allowing for the free flow of most goods among the Member States. The Eurasian Economic Commission (EEC) is the supranational body charged with implementing external trade policy for Member States and with coordinating economic integration among Member States, having replaced the CU Commission in that role.

The EAEU established by the Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of May 19, 2011 (the Treaty) replaces the Customs Union format and incorporates it. As a consequence of its membership in the EAEU, Russia's import tariff levels, trade in transit rules, nontariff import measures (*e.g.*, tariff-rate quotas, import licensing, and trade remedy procedures), and customs policies (*e.g.*, customs valuation, customs fees, and country of origin determinations) are based on the CU/EAEU legal instruments. On these and other issues involving goods, CU Agreements and CU/EEC Decisions establish the basic principles that are implemented at the national level through domestic laws, regulations, and other measures. CU Agreements and CU/EEC Decisions also cover issues such as border enforcement of intellectual property rights, trade remedy determinations, establishment and administration of special economic and industrial zones, and the development of technical regulations and sanitary and phytosanitary measures. The Treaty establishes the priority of the WTO rules in the CU/EAEU legal framework.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

U.S. companies cite technical regulations and related product-testing and certification requirements as major obstacles to U.S. exports of industrial and agricultural goods to Russia. Russian authorities require product testing and certification as a key element of the approval process for a variety of products, and, in many cases, only an entity registered and residing in Russia can apply for the necessary documentation for those product approvals. Consequently, opportunities for testing and certification performed by competent bodies outside Russia are limited. Manufacturers of telecommunications equipment, oil and gas equipment, and construction materials and equipment, in particular, have reported serious difficulties in obtaining product approvals within Russia. Other Member States of the EAEU are in the process of adopting a similar system.

Alcoholic Beverages – Conformity Assessment Procedures, Standards, and Labeling

Russia's regulation of the alcoholic beverages market has raised a number of concerns regarding consistency with the substantive requirements of the WTO TBT Agreement. At the national level, there has been a long-standing requirement to register alcoholic beverage products with the Federal Supervisory Service for Protection of Customers Rights and Human Well-Being (Rospotrebnadzor). Since 2013, Russia's Federal Service for the Regulation of the Alcohol Market (FSR) has maintained additional notification requirements for both existing and new-to-market alcoholic beverages sold in the Russian market. Much of the information required by FSR as part of the additional notification requirements appears duplicative of information required by Rospotrebnadzor in the registration process. In addition, the EEC is considering yet another level of registration, administered by at least three different government authorities, all of which appear to have the same objective of data registration, further duplicating in large part the registration and notification procedures applied at the national level. U.S. officials have raised concerns with the Russian government about these duplicative notification measures and the short timeframes for implementation (as well as the warehouse and distribution licensing practices discussed below), and have requested that Russia notify these measures to the WTO. The United States will continue to work to ensure that Russia's alcoholic beverages control regime is consistent with its WTO commitments.

The draft EAEU "Technical Regulation on Alcoholic Product Safety" also introduces burdensome and unique requirements to label all alcoholic beverages with an expiration date, or to include a label indicating that "the expiry date is unlimited if the storage conditions are observed." U.S. stakeholders note that the proposed requirement does not provide accurate or beneficial information for products containing more than ten percent alcohol, because these products do not expire. Furthermore, the proposed expiration date requirement appears inconsistent with widely accepted international standards, which exempt beverages containing ten percent or more by volume of alcohol from such date marking requirements. The United States will encourage Russia to eliminate this requirement for alcoholic beverages containing more than ten percent alcohol by volume, and urge Russia to adopt international standards or guidelines for such products.

The proposed technical regulation also gives rise to other issues that could adversely affect U.S. exports of alcoholic beverages, including unclear definitions for wine and wine beverages and a requirement that whiskey be aged no less than three years. The United States will continue to work with Russia on this matter in the context of the WTO TBT Committee.

Pharmaceuticals

In December 2014, the Russian Duma approved amendments to the Federal Law on Circulation of Medicines, including a definition for biologics. In addition, details on the regulatory regime for biologics and biosimilars have not yet been issued, creating uncertainty in the market. The United States will continue to monitor these issues to determine whether specific market access concerns arise. U.S. stakeholders have also raised concerns that the registration process for orphan drugs lacks clarity and is too vague to implement. Lastly, Russia requires mandatory Russian patient participation in clinical trials. These requirements are often onerous for companies to meet, especially for drugs for rare medical conditions, where, by definition, the population samples are low.

Medical Devices

According to U.S. stakeholders, shifting registration requirements for medical devices have led to confusion and delays in bringing products to the Russian market. In 2012, Russia introduced new registration procedures requiring that by the end of 2013, all medical devices, including those previously approved for use in Russia, be re-registered with Roszdravnadzor, the Russian regulatory body in charge of medical devices. Due to objections from the U.S. Government and stakeholders concerning the short deadlines, as well as to delays in re-registration, the deadline was initially pushed back to January 1, 2017. U.S. stakeholders have noted further that the EAEU requirements, now applicable in Russia, contain inadequate definitions, insufficient transition periods, and duplicative reporting requirements, raising questions for U.S. companies as to when and how to register medical devices with the Russian government.

Transparency

The United States has continued to emphasize to Russia the importance of timely notifications to the WTO of draft technical regulations to enable other WTO Members to provide comments prior to finalization. Although Russia has notified numerous technical regulations to the WTO, it appears to be taking a narrow view regarding the types of measures that need to be notified. Consequently, its notifications in 2015 may not reflect the full set of technical regulations or conformity assessment procedures that Russia or the EEC proposed that year and that should have notified under the WTO TBT Agreement. For example, Russia has not notified measures related to new registration requirements for alcoholic beverage products; proposed regulatory requirements for the circulation of medical devices, pharmaceuticals and biosimilars; certain technical standards and regulations governing the required installation of GLONASS-compatible navigational systems in civil aircraft; or revisions to amendments to the EEC's regulations governing food labeling. The United States has used a variety of fora, including WTO TBT Committee meetings and inquiry point requests, to urge Russia to notify proposed technical regulations and conformity assessment procedures. In response, Russia notified some proposed technical regulations and conformity assessment procedures in a reasonable period of time. In addition, the United States has raised concerns about the comment periods provided by Russia and the EEC on draft technical regulations to ensure that the United States and interested parties have adequate time to comment. The United States will continue to urge Russia to identify and use a single inquiry point and to notify at an earlier stage proposed technical regulations and conformity assessment procedures (including proposed amendments) that may have a significant effect on trade. The United States also continues to remind Russia of its obligation to take into account comments submitted by other WTO Members.

Sanitary and Phytosanitary Barriers

As noted below, Russia has banned imports of most agricultural products since August 2014. Notwithstanding the resulting virtual cessation of trade, the issues discussed below remain market access barriers.

Beef and Beef Products

Currently, Russia bans imports from the United States of uncooked beef from cattle over the age of 30 months due to concerns about bovine spongiform encephalopathy (BSE). Russia has imposed this ban despite the World Organization for Animal Health's (OIE) determination that the United States poses a negligible risk for BSE and therefore should not be subject to age restrictions. Furthermore, Russia's BSE requirements have effectively closed the Russian market to preclude any U.S. cooked beef. Similarly, Russia's listing requirement (discussed below) works to deny market access for ground beef from the United States. The United States will continue to urge Russia to open its market fully to U.S. beef and beef products based on sound science, the OIE guidelines, and the U.S. BSE negligible risk status.

In addition, in 2013, Russia adopted a zero-tolerance policy for beta-agonists and trenbolone acetate, standards that are more stringent than Codex's maximum residue levels for beef. Russia does not appear to have provided risk assessments that conform to Codex guidelines for any of these products. Although the United States has established a "Never Fed Beta Agonists Program," the Russian prohibition on these hormones continues to preclude U.S. exporters' access to the Russian market. The United States will continue to press for the removal of these barriers to exports of U.S. beef and beef products.

Milk and Milk Products

Despite concluding negotiations in 2014 on a United States-CU veterinary certificate for heat- treated milk products, Russia has effectively banned the importation of U.S. dairy products since September 2010, when Rosselkhoznadzor (Russia's Federal Service for Veterinary and Phytosanitary Surveillance) instructed customs officials to allow shipments only from exporters on Rosselkhoznadzor-approved lists. (The EEC has not extended this listing requirement to most agricultural products. *See below*.) This directive raises questions regarding Russia's compliance with its WTO commitments and with EAEU legislation eliminating the requirement that a foreign producer be included on an approved list in order to be eligible to export dairy products to the EAEU. The United States continues to work with Russia and its EAEU partners to eliminate the listing requirement for exporters of low-risk products, including heat-treated dairy products.

Pork and Pork Products

Russia maintains near-zero-tolerance levels for tetracycline-group antibiotics, a standard that is more stringent than Codex levels. As part of its WTO accession commitments, Russia committed to submit a risk assessment for tetracycline antibiotics conducted in accordance with Codex methodology or align its tetracycline standards with Codex standards. However, to date, Russia has yet to pursue either approach. Russia's adoption of a zero-tolerance for both beta-agonists and trenbolone acetate (described above) has similarly deterred most U.S. pork and pork products from re-entering the Russian market. The United States will continue to press for the removal of these barriers to exports of U.S. pork and pork products.

Russia also requires U.S. pork to be frozen or tested for trichinosis, a requirement that constitutes a significant impediment to exports of U.S. fresh and chilled pork to Russia. The United States does not consider these requirements related to trichinosis to be necessary because U.S. producers maintain stringent biosecurity protocols that limit the existence of trichinae in the United States to extremely low levels in commercial swine. The United States will continue to work with regulatory authorities in Russia to resolve this trade concern.

Live Pigs and Products From Blood Derived From Swine

Due to concerns about reports of porcine epidemic diarrhea (PED) in the United States, as of May 30, 2014, Russia has banned imports from the United States of live swine and products of swine blood that have not been subjected to heat treatment. In June 2014, the United States requested that the trade restrictions be rescinded, offering to add a "60-day PED free" statement to the current bilateral export certificate for live swine as well as testing of pigs for PED during isolation, but the restrictions remain in place.

Poultry

On January 1, 2010, Russia banned the importation and sale of chicken treated with chlorine as a pathogen-reduction treatment, effectively halting all imports of U.S. poultry into Russia. As a result of bilateral negotiations, exports of non-chlorine-treated poultry products resumed in September 2010. Russian regulations also place an upper limit on the amount of water content in chilled and frozen chicken, despite calls by stakeholders and the U.S. Government to adopt the alternative of requiring labeling regarding water content. In addition, Russia continues to ban the importation and sale of certain frozen poultry for use in baby food and special diets, but has not provided the United States with risk assessments that conform to international standards to support these various regulations related to poultry. The United States will continue to work with regulatory authorities in Russia to resolve these trade concerns.

Notwithstanding Russia's ban on imports of various agricultural products, in 2015 Russia banned all imports of U.S. poultry meat based on unsubstantiated claims that it had detected harmful and restricted substances in U.S. poultry products and concerns over proposed changes in the poultry inspection system at certain U.S. poultry establishments. In addition, Russia banned imports of non-heat treated poultry products from the United States and imposed additional temporary restrictions on shipments (including transshipments) of live birds, poultry products, and hatching eggs due to detection of Highly Pathogenic Avian Influenza (HPAI) in the state of Washington, despite having made previous commitments to regionalize HPAI-related bans.

Pet Food and Animal Feed

Russia requires a veterinary certificate to ship pet food and animal feed to Russia, as well as either a letter from the producer attesting to the absence of feed derived from agricultural biotechnology or a copy of the agricultural biotechnology registration provided by the Russian Ministry of Agriculture. Additionally, Russia restricts the use of most U.S. ruminant-origin ingredients in pet foods and animal feeds, further impeding access for U.S. exports to this market.

Agricultural Biotechnology

Although Russia established a system for the approval of agricultural biotechnology food and feed products, the United States continues to have concerns with the implementation of this system, including Russia's requirements that registrations for agricultural biotechnology feed products are time-limited. Registrations for food are effective for an unlimited period, while feed registrations are granted for five years. Each application fee (the first for both food and feed and the second for re-registration of feed events) costs on average $100,000. The fee is unnecessarily onerous.

The United States is concerned also about the EEC's biotechnology labeling requirements, which mandate labeling all food products that contains more than 0.9 percent agricultural biotechnology products, which may wrongly imply that these products are unsafe. The EEC has not yet adopted a technical regulation for the labeling of agricultural biotechnology feed, leaving feed subject to the Russian regulations, creating further confusion for suppliers.

Additionally, the United States is monitoring the development of a system to approve agricultural biotechnology products for cultivation. Russia had approved a framework of rules for the registration of agricultural biotechnology products for cultivation to start in July 2014, but in June 2014, the government delayed this start until 2017. Because the registration process takes five to six years, cultivation of agricultural biotechnology crops in Russia would not have been expected before 2023-2024, delaying the opportunity to trade agricultural biotechnology seeds. However, in September 2015, senior Russian officials announced that they would ban all biotechnology food production in Russia, potentially eliminating altogether the possibility of cultivation of agricultural biotechnology crops in Russia. The United States has encouraged Russia to address these specific concerns, as well as to promote greater cooperation on agricultural biotechnology generally.

Zero-Tolerance for Veterinary Drugs and Pathogens

Russia maintains a zero-tolerance policy for residues of those veterinary drugs that Russia has not approved, many of which are commonly used in U.S. animal production. Findings of veterinary drug residues during Russian border inspection of U.S. meat products have resulted in trade disruptions, including the de-listings of U.S. beef, pork, and poultry facilities as approved sources for exported product to Russia. Russia similarly maintains a zero-tolerance policy for all food products, including raw meat and poultry, for *Salmonella*, *Listeria*, coliforms, and colony-forming units of aerobic and anaerobic bacteria. Such a policy is unwarranted with regard to raw products because food safety experts and scientists recognize that these pathogens are often closely associated with raw meat and poultry products and cannot be removed from the product. Russia has failed to provide an adequate risk assessment to justify its more stringent standards.

Systemic Issues

In addition to the product-specific issues discussed above, U.S. exporters continue to face systemic issues related to the export of agricultural products to Russia. Russia and the EAEU require veterinary certificates to include broad statements by U.S. regulatory officials that the products satisfy EAEU sanitary and veterinary requirements, including meeting certain chemical, microbiological, and radiological standards. These requirements are problematic because many EAEU sanitary and veterinary requirements appear excessively restrictive and appear to lack scientific justification. Similarly, Russia requests U.S. exporters to submit certifications stating that the United States is free from various livestock diseases, even where there is no risk of transmission from the product in question. In other cases, Russia requires export certificates for products for which certifications are unnecessary. For example, Russia requires phytosanitary attestations for shipments of certain plant-origin products destined for further processing, such as corn for popcorn, even though such processing removes any potential risk. The United States is also concerned with Russia's implementation of WTO obligations to remove certain veterinary control measures for lower risk products.

Russia, pursuant to an EEC regulation, allows imports of most products under veterinary control (*e.g.*, meat, poultry, dairy, and seafood) only from facilities on a list approved by all EAEU Member States. The United States has worked with Russian and other EAEU authorities to narrow the scope of products subject to this listing requirement, with some success, but much of this work remains ongoing. Pursuant to a bilateral agreement signed in November 2006, Russia agreed to grant U.S. regulatory officials the authority to certify new U.S. facilities and recertify U.S. facilities that have remedied a deficiency. In practice, however, Russia has not consistently recognized the authority of U.S. regulatory officials to certify additional U.S. facilities, and there have been delays in responding to U.S. requests to update the list of approved U.S. facilities. The EAEU has competence for facility inspections and approvals. The United States worked with Russian and EAEU authorities to negotiate a new EAEU inspection regulation that allows the EAEU to accept the certification of additional facilities provided by SPS authorities in third countries that certify new facilities. However, implementation of this regulation has lacked predictability and transparency because EAEU Member States often continue to insist on conducting their own inspections prior to approval of a facility, without providing any rationale. The United States will work closely with Russia to ensure that the EAEU inspection regulation is implemented fully.

IMPORT POLICIES

On August 6, 2014, Russia issued an order banning certain food and agricultural imports from the United States, the European Union, Canada, Australia, and Norway for a period of one year. The products banned include certain beef, pork, poultry, fish, seafood, fruits, nuts, vegetables, sausages, and prepared foods. On June 24, 2015, Russia extended the ban until August 5, 2016, and amended the list of banned products to remove some inputs needed by Russia's fish farming sector and to tighten the ban on dairy products. On August 13, 2015, Russia expanded the list of countries whose products were banned, adding Albania, Montenegro, Iceland, Liechtenstein, and Ukraine (the ban on products from Ukraine became effective on January 1, 2016, when Ukraine began implementing the Deep and Comprehensive Free Trade Agreement with the EU). Russia stated that the import ban is justified based on national security concerns. Russia also subjected many transit shipments of banned goods to Kazakhstan to additional scrutiny, raising the cost of transit of goods through Russia.

Tariffs, Customs Issues and Taxes

Although Russia implemented the third round of annual tariff reductions in August 2015 as required by its WTO commitments, the implementation of some of its other tariff commitments has raised concerns. One source of concern stems from Russia's implementation of decisions of the EEC (the EAEU body responsible for administering the common external tariff or CET). In particular, pursuant to those decisions, Russia appears to have changed the type of duty on certain tariff lines by augmenting the *ad valorem* rates with an additional minimum specific duty (thereby creating a "combined tariff"). Under WTO rules, the resulting combined tariff must not exceed Russia's bound tariff commitments. However, Russia has not made clear to WTO Members whether the combined tariffs are within the limits of its bound tariff commitments. In addition, although Russia joined the Information Technology Agreement on September 13, 2013, it has not yet notified the WTO of the requisite modifications to its WTO tariff schedule to reflect its tariff elimination commitments. The United States continues to pursue these issues in the WTO to ensure that Russia is not exceeding its bound rates.

A requirement that all customs duties, excise taxes, and value-added taxes on alcohol be paid in advance of customs entry using a bank guarantee (or other type of deposit) is a longstanding customs challenge faced by importers of alcoholic products. Russian Customs often requires bank guarantees far in excess of the actual tax liability of the covered goods, especially for lower-value products. Russian law permits the Customs Service to set the bank guarantee at the highest amount that could be due if the actual amount due cannot be calculated; however, stakeholders claim that information sufficient to calculate a more accurate (and usually lower) bank guarantee amount is generally available to Russian Customs. In addition, stakeholders have reported that refunds or releases of these guarantees are sometimes delayed from seven to nine months. Further, some Russian customs posts have interpreted EAEU rules to require both an EAEU bank guarantee as well as a Russian bank guarantee, effectively re-establishing the double bank guarantee that Russia agreed to eliminate during its WTO accession negotiations. The advance payment requirement for duties and taxes, the frequent demand for duplicative bank guarantees, and the long delay in bank guarantee refunds may limit trade volumes due to the amount of money that importers must dedicate to guarantees.

U.S. stakeholders have raised concerns that the practice of Russian Customs of assessing tariffs on the royalty amounts for the domestic use of imported audiovisual materials, such as TV master tapes, DVDs, digital cinema packs, etc., represents a form of double taxation because royalties are also subject to withholding, income, value-added (VAT), and remittance taxes. U.S. consumer goods companies have also reported that Russian customs authorities calculate customs duties not just on the value of the physical carrier medium, but also on royalty value of the copyright or patent protected content contained on the medium (i.e., on the value of the proceeds of the authorized licensed use of a copyright- or patent-protected work). U.S. companies contend that this methodology leads to inflated valuations for tariff purposes. Of further concern is Russia's rebate of VAT on payments for the "right to use" cinema products. The VAT payments on royalties paid for screening "Russian" movies (as defined in the Russian tax code) can be rebated but not VAT payments on royalties for screening U.S. (or other non-Russian) films. This practice increases the cost of screening U.S. films.

U.S. stakeholders have also raised concerns about the administration of Russia's copyright levy system. Russia collects a levy on both domestically produced and imported products that can be used to copy material protected by copyright for personal use (*e.g.*, video recorders, voice recorders, and photocopy machines). Those levies are provided to an accredited royalty collecting society for distribution to rights holders. However, the list of domestically produced products on which the levies are paid appears to differ from the list of imported products on which the levies are paid. In addition, the reporting and payment systems also appear to differ. Russian Customs provides information on imports to the Ministry of Culture, which in turn provides the information to the collecting society to verify the payment of the levies by importers; by contrast, domestic manufacturers pay based on sales, and self-notify. Further, although Russia accredited a collecting society to undertake the collection of levies and distribution of royalties, U.S. stakeholders have raised concerns regarding the lack of transparency in this process. The legitimacy of that collecting society has also been challenged in Russian courts, creating uncertainty as to its credibility and reliability. U.S. officials have raised concerns about these issues with Russia's Ministry of Culture and the Ministry of Economic Development and Trade.

U.S. stakeholders also report that Russia does not publish all regulations, judicial decisions, and administrative rulings of general application on customs matters. In addition, U.S. exporters report that customs enforcement varies by region and port of entry, and that frequent changes in regulations are unpredictable, adding to costs and delays at the border. In its WTO accession protocol, Russia committed to publish all trade-related measures and implement notification, public comment, and other transparency requirements for a broad range of trade-related measures. U.S. officials have pressed Russia to meet these important WTO transparency requirements.

Import and Activity Licenses

Although Russia simplified its licensing regimes when it became a WTO Member, the processes to obtain an import or activity license remain burdensome and opaque. For example, in its WTO accession protocol, Russia committed to reform its import licensing regime for products with cryptographic functionalities ("encryption products"). However, U.S. exporters report that Russia continues to limit the importation of encryption products through the use of import licenses or one-time "notifications." Stakeholders have raised concerns regarding the process for importing consumer electronic products considered "mass market" products under the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (the "Wassenaar Arrangement"). A simple notification process is supposed to apply to these products; however, the EAEU regulations governing the definition of "mass market" products do not accurately reflect the definition of such products under the Wassenaar Arrangement or

Russia's WTO commitments. Moreover, the Russian requirements to meet the definition of "mass market" are burdensome and appear to go beyond what is required under the EAEU regulations. As a result, U.S. exports of encryption products, particularly common consumer electronic products, continue to be impeded.

In addition, in 2012, Russia amended the regulations governing activity licenses for the distribution, among other activities, of encryption products. In doing so, Russia reasserted control over many consumer electronic products that had previously not required an activity license to distribute. Because an activity license to distribute encryption products is required to obtain an import license for encryption products, the 2012 amendments impose an additional indirect burden on the importation of such products.

When Russia became a WTO Member, it abolished the requirement to obtain an import license for alcohol. However, Russia's Federal Service for the Regulation of the Alcohol Market (FSR) still requires an activity license to warehouse and distribute alcohol in Russia, and stakeholders assert that the difficulty and expense involved in obtaining this license is disruptive to trade. The process is burdensome and expensive, and the license is valid for only five years. Several U.S. exporters have experienced months of delays and expended thousands of dollars seeking to bring their warehousing practices into conformity with relevant regulations after inspections raised compliance issues.

Furthermore, alcohol distributors have raised concerns about the seemingly onerous and arbitrary requirements of Russian Order #59n governing the conditions for the storage of alcoholic beverages, which must be met in order to obtain an activity license. For example, Order #59n prohibits the storage of different types of alcohol on a single pallet, precludes the storage of other goods with alcohol products, and requires certificates from third-party government agencies that require a great deal of time and effort to obtain. Notwithstanding revisions in 2012 that improved slightly the terms of conditions imposed by Order #59n, concerns remain. The United States has sought clarification regarding the specificity of warehouse construction requirements, the stringency of warehouse inspections, and the restrictiveness of required temperature controls, which appear to exceed international standards. In addition, Russian importers of U.S. products have complained that FSR is denying their applications for a warehouse license on spurious grounds apparently to limit the number of importers in this sector. The United States has raised concerns about Russia's warehousing requirements but has yet to receive a response from the Russian government. The United States will continue to work to ensure that Russia's alcohol warehouse licensing provisions are WTO consistent, transparent and not unnecessarily burdensome. In addition, Russia (and the EAEU) imposes various (and duplicative) technical requirements governing the alcoholic beverage sector (see discussion on Technical Barriers to Trade).

Import licenses or activity licenses to engage in wholesale and manufacturing activities are also necessary for the importation of pharmaceuticals, explosive substances, narcotics, nuclear substances, equipment to be used at nuclear installations and corresponding services, hazardous wastes (including radioactive waste), and some food products (e.g., unprocessed products of animal origin). The process for obtaining these licenses is often unpredictable, nontransparent, time-consuming, and expensive. Similarly, Russia's opaque and burdensome activity licensing regime allows it to control access to many sectors, such as mining. U.S. officials have raised concerns about these import licensing issues with Russian and EAEU officials.

Automotive and Vehicle Recycling Fees

On September 1, 2012, Russia introduced a "recycling fee" on automobiles and certain other wheeled vehicles. Under the new law, importers and manufacturers in Russia of automobiles and certain other wheeled vehicles pay a fee, determined by the age, total mass, and engine size of the vehicle, intended to cover the cost of recycling the automobile at the end of its useful life. Rates range from 2,000 rubles to 5.5 million rubles (approximately $31 to $85,000 in 2015) for new vehicles and from 3,000 rubles to 6 million rubles (approximately $46 to $92,000) for used vehicles. Originally, automobile manufacturers located in

Belarus, Kazakhstan, and Russia were not required to pay this fee if they agreed to establish procedures designed to dispose of a vehicle at the end of its useful life. Russian officials justified the new program on environmental grounds, and promised that the fee would be temporary. The United States, as well as other WTO Members, raised concerns about the consistency of this program with Russia's WTO obligations. On October 21, 2013, President Putin signed a law extending the recycling fee to domestic automobile manufacturers, as well as cars imported from Belarus and Kazakhstan, regardless of any producer's commitment to recycle its vehicles. However, concerns remain regarding the overall level and calculation of the fee for heavy duty commercial vehicles. (In fact, the 2016 U.S. federal budget increases the fee by 65 percent, to account for the depreciation of the ruble.) Although a WTO dispute settlement panel has been established at the request of the EU, the members of the panel have not been selected.

Import Substitution Policies

Russia is increasingly adopting import substitution/localization policies, and in 2015 Russia accelerated its promotion of import substitution and called for more local content across a variety of sectors. *(See the section on Service Barriers for more information.)*

In March 2015, the Ministry of Industry and Trade released import substitution plans for 19 sectors, and the Communications Ministry issued an import substitution plan specifically for the information technology sector. Government officials, including President Putin, have signaled that import substitution is now a central tenet of Russian economic policy. The medical device and pharmaceutical industries (see above) are examples of sectors in which localization policies have been developed and implemented over several years. In addition, there are currently sectoral import substitution proposals for defense, health care, consumer goods, oil and gas equipment, solar energy products, light industry, textiles, optical fiber, and agriculture. The preferred mechanism for implementing these policies was initially through government procurement *(see the section on Government Procurement for more information)*, but was extended to cover purchases by state-owned enterprises (SOEs) in 2015.

Since implementing the import ban on certain agriculture products (see above), government officials have pressed for greater food self-sufficiency. For heavy machinery, the Minister of Industry and Trade has called for increasing the share of machinery and tool equipment produced domestically from the current 10 percent to 60 percent by 2020. Pharma 2020, the government's pharmaceutical industry development plan, calls for Russian manufacturers to account for at least 50 percent of total domestic sales (based on value) by 2020. Other healthcare-related policies that discriminate against U.S. exporters in favor of domestic producers include a reimbursement system that allows only domestic companies to request annual adjustment of prices registered by the Ministry of Health, and a 15 percent price preference for Russian (and Belarusian) companies in federal and municipal procurement auctions. In February 2015, Russia barred foreign medical device manufacturers from participating in government tenders for a specific list of medical devices if two producers from an EAEU Member State participated in the tender. The February 2015 list was, for the most part, limited to low-technology goods, but the Russian government has discussed expanding the list to additional medical devices. In November 2015, Russia extended the "three's-a-crowd" localization policy to bar foreign drugs from competing in government tenders if there are two equivalent drugs available from an EAEU Member State (with limited exceptions through 2016).

The Ministry of Economic Development and the Ministry of Industry and Trade set the parameters for determining what constitutes domestic telecommunications equipment, and therefore what equipment could be used in specified applications or projects. The localization level depends on the scope of the research activities and technological operations carried out in Russia, resulting in localization levels from 60 percent to 70 percent. Moreover, to qualify, a company manufacturing telecommunications equipment must be a Russian resident and at least less 50 percent owned by a Russian party or entity. In addition, the manufacturer must have the legal rights to the technologies and software, possess its own production base, manufacture printing boards, and carry out final assembly of the telecommunications equipment in Russia.

Russia developed a global navigation positioning technology called GLONASS as an alternative to the U.S. GPS system. Russia's Ministry of Transport issued a rule in March 2012 requiring that GLONASS-compatible satellite navigation equipment be installed on all Russian-manufactured aircraft, with varying deadlines depending on the use, age, and size of the aircraft, but on all aircraft no later than 2016. In addition, any foreign-manufactured aircraft listed in a Russian airline's Air Operator Certificate must have GLONASS or GLONASS/GPS compatible satellite navigation equipment installed by January 1, 2018 or earlier, depending on the size of the aircraft. Because U.S. aircraft are not currently configured for GLONASS, modifications to the aircraft would be necessary to meet this new rule.

In 2015, the Russian government began to extend its local content requirements beyond government procurement to purchases by SOEs. For example, amendments to Russia's law governing SOE purchases expressly favor Russian-produced products, including by granting the Russian government the authority to establish plans and tender rules for the purchase of specific Russian goods, works, and services. Other amendments established a Government Import Substitution Commission with responsibility for determining which types of machinery and equipment for large investment projects by SOEs, state corporations, or certain private businesses must be sourced locally. In November 2015, the Russian government issued a decree extending additional controls over the purchasing decisions of 35 of Russia's largest SOEs, including Gazprom, Rosneft, and Aeroflot. As a result, the selected SOEs' purchases of pharmaceutical, high technology, and innovative products must be coordinated with the recently established Federal Corporation on Development of Small and Medium Business (FCDSMB) to ensure that small and medium enterprises (SMEs) can increase their share in procurement from large government-owned corporations. Because U.S. SMEs cannot easily enter the Russian market, these quotas will effectively favor domestic SMEs. Beyond these specific procurement restrictions, Russian law further recommends that SOEs follow the more restrictive procurement rules that govern federal and municipal procurement *(see the section on Government Procurement for more information).*

Russia appears committed to continue its policies of import substitution. It has introduced a program for "Special Investment Contracts" to focus on creating or modernizing its industrial capabilities, particularly for those products that Russia does not currently produce. Special Investment Contracts are intended to attract investment to Russian industries and to promote localization by foreign companies. These contracts require a minimum level of investment ($11.5 million), guarantees of a certain volume of production, and a percentage of localization over the life of the contract (up to 10 years).

EXPORT POLICIES

Although Russia has eliminated export duties on a few products, it maintains export duties on 240 types of products for both revenue and policy purposes. For example, a variety of products are subject to export tariffs, such as certain fish products, oilseeds, fertilizers, non-ferrous metals, hides and skins, and wood products. Russia has indicated that it intends to eliminate gradually most of these duties, except for products deemed strategically significant, such as hydrocarbons and certain scrap metals. In fact, however, in 2015, Russia extended its export ban on certain raw hide items through November 25, 2015, and introduced export duties on certain chemicals and anodes of the platinum group of metals. In February 2015, Russia imposed a fixed export duty on wheat, but in July 2015 converted it to a variable export duty taking into account the dollar-ruble exchange rate. In October, the variable rate export duty was reduced. In addition, Russia expanded the list of products that are "essentially significant for the domestic market" and hence for which exports could be restricted or banned to include a variety of ferrous steel and non-ferrous scrap. Because Russia is a major source of scrap on global markets and a major steel producer, this addition contributed to the uncertainty of the availability of Russian ferrous scrap for export to global markets and caused concern among U.S. stakeholders of possible market distortions.

Historically, Russia established high export duties on crude oil to encourage domestic refining. However, Russia committed to cut its export duties on oil and oil products to the level of Kazakhstan as part of the process to establish the EAEU. Amendments to the Tax Code signed into law on November 24, 2014, and known as "the tax maneuver," will gradually reduce export duties on oil and light oil products and increase the mineral extraction tax and export duties for refined products to compensate for the resulting loss of federal budget revenues. The change will make domestic crude more expensive for domestic refiners. Separately, the government maintains a 30 percent export tax on natural gas.
Stakeholders claim that Russia has placed higher rail freight rates on certain raw materials intended for export, contrary to its commitment to eliminate discrepancies in such rates by July 1, 2013. Since June 2015, there were no changes to rates or notifications sent to the WTO of elimination of differential freight rates.

SUBSIDIES

In January 2015, Prime Minister Dmitry Medvedev signed the government "Plan of Priority Measures to Ensure Sustainable Economic Development and Social Stability in 2015," commonly known as the Anti-Crisis Plan. The plan was designed to support import substitution programs, small and medium-size enterprises, and exports of non-commodity goods, and to reduce the cost of credit for businesses in key sectors and to provide funds for social programs. As part of the plan, on February 8, 2015, the Russian government identified 199 "backbone" companies to be first in line for government support, including loan subsidies, due to their size and importance to the Russian economy. The list included public, private, and foreign companies from a broad range of sectors, which together generated 70 percent of Russia's GDP in 2013 and employed 20 percent of the workforce. An analysis from the Audit Chamber (a permanent supreme body of external public audit accountable to the Federal Assembly of the Russian Federation) published in October 2015 found the government implemented only 28 percent of planned regulations and spent just 27 percent of the $9.3 billion committed. In October 2015, Finance Minister Anton Siluanov announced that the Anti-Crisis Plan would not be extended into 2016, but the Russian government would support critical industries through a special fund of 150 billion rubles ($2.3 billion).

Gazprom, a Russian state-owned company that currently has a monopoly on exports of pipeline natural gas produced in Russia, charges higher prices on exports of natural gas than it charges to most domestic customers. U.S. stakeholders have raised concerns that Russia's natural gas pricing policies effectively operate as a subsidy to domestic industrial users in energy-intensive industries such as the steel and fertilizer industries (which use natural gas as an input). Stakeholders have also raised concerns about government subsidies to Russia's uranium enrichment industry, which they claim has allowed Rosatom, an SOE, to expand its production capacity in the face of a global surplus.

GOVERNMENT PROCUREMENT

Although not yet a signatory to the WTO Agreement on Government Procurement (GPA), as part of its WTO accession, Russia committed to initiate negotiations for accession to the GPA by 2016. Russia became an observer to the GPA in May 2013. When it joined the WTO, Russia committed that its government agencies would award contracts in a transparent manner according to published laws, regulations, and guidelines.

Russia has adopted certain local content requirements that it argues are not subject to the national treatment obligations of the General Agreement on Tariffs and Trade (GATT) and General Agreement on Trade in Services (GATS) because they relate to federal or municipal government procurement. Given the breadth of the government's role in the economy and the scope of the "Buy Russia" policies, such measures impede trade because U.S. exports are excluded from a broad section of the Russian economy.

Government procurement restrictions began in earnest in 2014 when Russia established a 15 percent preference for a variety of goods (including, *inter alia*, certain food products, pharmaceuticals, steel, machinery, and medical products) produced in the EAEU in purchases for government use. In addition, Russia banned states and municipalities from purchasing foreign-made automobiles, other vehicles, and machinery, and banned procurement of a broad array of consumer goods produced outside the EAEU. On December 31, 2014, President Putin signed the Industrial Policy Law, which specifically promotes import substitution and restricts government procurement (and SOE purchases) of foreign-made products. The law went into effect on June 30, 2015, and provided a framework for the support of innovative product manufacturing, research and development subsidies, and infrastructure projects as well as implementation of the "Buy Russia" law. The law also includes provisions for financial and material support for Russian companies to boost their export potential.

Russia expanded its restrictions on federal and municipal procurement in 2015. To implement the Industrial Policy Law, Russia has prioritized domestically produced goods over foreign goods by defining what constitutes "local content" for certain industrial products (from such sectors as machine tools, automotive, special mechanical engineering, photonics and lighting, electrical-technical, cable, and heavy machinery), and by establishing the minimum level of local content (for example, some types of metal-working equipment must contain from 20 to 50 percent domestic parts), with increasing targets each subsequent year. Also in 2015, Russia reaffirmed the ban on government procurement of a wide range of foreign-made machinery (*e.g.*, machinery used in the construction and raw material extraction industries) and certain vehicles (*e.g.*, emergency service vehicles, bulldozers, and excavators). In February 2015, Russia banned government procurement of numerous foreign-made medical devices and health-related disposable goods if fewer than two companies from the EAEU submitted a bid. Similarly, pursuant to amendments to Russia's national procurement law, Russia is creating a registry of Russian software and, starting on January 1, 2016, foreign-made software will no longer routinely qualify for government and municipal procurement, unless there is no similar domestically produced software available. In addition, Russia has created a Government Commission on Import Substitution with the mandate to support the production of priority goods, works, and services that are not currently produced in Russia. *(See the section on Import Substitution Policies for more information.)*

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Russia remained on the Priority Watch List in the 2015 Special 301 Report. The Report identifies online piracy, failure to allocate adequate resources to intellectual property rights (IPR) enforcement, manufacture of and trade in counterfeit goods, and the absence of transparency as some of the significant obstacles to adequate and effective protection of IPR in Russia. Multinational and U.S. companies continue to report counterfeiting in the areas of consumer goods, distilled spirits, agricultural chemicals and biotechnology products, and pharmaceuticals. In 2015, Russian courts began to implement the antipiracy legislation passed in November 2014, but the impact on online piracy in Russia remains to be seen.

SERVICES BARRIERS

Russia's services market is largely open to U.S. services suppliers, including in areas such as financial services, education, legal services, and distribution.

However, specific problems remain in particular areas. Russia continues to prohibit foreign banks from establishing branches in Russia. The Central Bank of Russia established the National System of Payment Cards (NSPC) in July 2014 to handle the processing of all domestic credit card transactions, and is planning to launch a domestic credit card. This new procedure has introduced additional technical costs for credit card companies, which must now transmit data through the NSPC system. There are also concerns about the potential conflict of interest because the state regulator owns the domestic competitor. In addition, the ability of foreign service suppliers to provide services to public utilities and certain energy-related services remains limited. Although Russia raised the limit on foreign capital in the insurance sector from 25 percent to 50 percent, a lack of transparency regarding the issuance of licenses, among other issues, hinders foreign investment in the market. Stakeholders report that the process for an individual or a company to obtain a license to provide a service remains difficult, and limitations on the form of commercial establishment adversely affect some sectors. For example, Russia has not yet amended its legislation to reflect its WTO commitment to remove the limitation on sales of biologically active substances to pharmacies and specialized stores only.

In 2015, Russia extended its localization policies to the services sector. *(See the section on Import Substitution for more information.)* Effective September 1, 2015, Russian law requires that certain data collected electronically by companies on Russian citizens be processed and stored in Russia. (At least one sector, airline reservations, has been exempted from the localization requirement.) Some Russian authorities have told industry that the law does not preclude exporting such data, provided that copies remain in Russia. However, at the time the law entered into effect, Russia had not issued implementing regulations, creating enormous uncertainty among both domestic and foreign companies as to the actual requirements of the law. It is also unclear what impact the law will have on foreign companies for which ensuring local storage and processing is either technically or economically infeasible. Moreover, industry stakeholders are concerned the law will limit their ability to offer a variety of services in Russia and provide the Russian government with excessive access to citizens' private information.

INVESTMENT BARRIERS

Russia has made improving its investment climate a priority, but U.S. and other foreign investors continue to cite issues, such as corruption, which act as barriers to investment. Russia's foreign investment regulations and notification requirements can be confusing and contradictory, which has an adverse effect on foreign investment. In addition, notwithstanding the creation of an Anti-Corruption Council and the enactment of significant anticorruption legislation, various internationally recognized corruption indices suggest there has been little progress to date in reducing corruption. Further obstacles to investment in Russia include inadequate dispute resolution mechanisms, weak protection of minority shareholder rights, the absence of requirements for all companies and banks to adhere to accounting standards consistent with international norms, and problems with enforcing the rule of law.

The 1999 Investment Law contains broadly defined provisions that give Russia considerable discretion to prohibit or limit foreign investment in a potentially discriminatory fashion. For example, the Investment Law permits the government to circumscribe investors' rights for "the protection of the constitution, public morals and health, and the rights and lawful interest of other persons, and the defense of the state." The Investment Law also includes a "grandfather clause" that stipulates that existing (as of 1999) "priority" investment projects with foreign participation of over 25 percent will be protected from certain changes in the tax regime or new limitations on foreign investment. The law defines "priority" projects as those with a foreign charter capital of more than $4.1 million and with a total investment of more than $41 million. However, the lack of corresponding tax and customs regulations means that any protection afforded by this clause is, at most, very limited.

Russian law places two primary restrictions on land ownership by foreigners. First, land located in border areas or other specifically assigned territories may not fall under foreign ownership; second, foreign citizens and foreign legal entities cannot own more than 50 percent of a plot of agricultural land. As an alternative to agricultural land ownership, foreign companies typically lease land for up to the maximum allowed 49 years.

On October 15, 2014, President Putin signed a law "On Mass Media," which restricts foreign ownership of any Russian media company to 20 percent. The previous law applied a 50 percent limit only to Russia's broadcast sector. The new rules took effect on January 1, 2015, and media owners have until February 1, 2017, to adjust their ownership structures. U.S. stakeholders have also raised concerns over limits on direct investments in the mining and mineral extraction sectors that they say discriminate against foreign companies, as well as a licensing regime they describe as non-transparent and unpredictable.

Russia's Strategic Sectors Law (SSL) establishes a list of 45 "strategic" sectors or activities in which purchases of "controlling interests" by foreign investors must be pre-approved by Russia's Commission on Control of Foreign Investment. The universe of companies, investments, and transactions covered by the SSL was broadened in 2014. For example, there is a new requirement that foreign investors obtain approval for the acquisition of a strategic business' main production assets if the value of the property exceeds 25 percent of the book asset value of the company. In addition, unrelated international organizations, foreign states, and companies they control will now be treated as a single entity for the purpose of the law, and their joint participation in a strategic business will be subject to the restrictions as if they were a single foreign entity.

Privatization

Russia is slowly pursuing steps to privatize state assets, both to allow market forces to play a greater role in the economy and to raise revenue for the federal budget. However, the government maintains a list of 176 companies that are either wholly or partially owned by the Russian state and that cannot be privatized due to their national significance. This list includes 128 federal unitary enterprises (100 percent government-owned) and 48 joint stock companies (varying percentages of state ownership). The government's privatization plans with respect to other companies are proceeding slowly, and the last privatization plan (covering 2014-2016) was published in January 2013. On August 19, 2015, Prime Minister Medvedev signed a resolution amending that privatization plan to include over 400 additional companies subject to privatization.

In December 2014, the government reversed the prohibition against senior government officials serving on SOE boards, further tilting the playing field in favor of SOEs by re-introducing a government/political voice in SOEs' decision-making processes. Government ministers or deputy ministers currently chair the boards of Russian Railways, RusHydro, Rosneft, Rostelecom, Bashneft, Transneft, and Russian Grids (Rossetti).

In addition to SOEs, there are currently six state corporations in Russia: Rosatom, VEB, Fund for Communal Housing, Deposit Insurance Agency, Roskosmos, and Rostec. While private enterprises are technically allowed to compete with these state corporations on the same terms and conditions, in practice, the market is skewed in favor of state corporations. For example, state corporation holding structures and management arrangements (*e.g.*, senior government officials as board members) make it difficult for private enterprises to compete because of the preferential treatment accorded to state corporations. Furthermore, specific legal constructions can result in preferential treatment of state corporations. Unlike private corporations, state corporations have no common legal framework because they are established and operated under legislation unique to each state corporation. Such a case-by-case approach leaves much scope for discretion and lobbying by company insiders at the expense of private enterprises.

Taxes

Russian and U.S. leasing companies have reported that the VAT assessed on inputs for exported final products is often not refunded, and that they often must resort to court action to obtain their reimbursements. Leasing companies have reported that VAT refunds on exports are the source of significant fraud, and actions to prevent fraud make it even more difficult for legitimate exporters to obtain refunds. In addition, the companies have reported that, in some cases, local tax inspectorates have initiated audits and attempted to seize their bank accounts, thus forcing exporters to seek very expensive and time-consuming court enforcement.

U.S. companies have also raised concerns about Russian tax authorities' scrutiny of payments that cross Russia's borders, but remain, for tax purposes, in the legal structure of the same Russian company. This tax issue has arisen chiefly in two contexts: (1) when a multinational company transfers an employee temporarily to the company's Russian office from another office outside Russia; and (2) in intra-company payments for the use of intellectual property. Under internationally accepted accounting standards, these normal business practices are handled as an intra-firm payment from one office to the other, or to the headquarters in the case of royalty payments. However, Russian tax inspectors have in the past disputed such expenses as "economically unjustified" and, consequently, not permissible under the Russian Tax Code. In consultation with foreign firms, Russia developed and adopted a new law on transfer pricing. Domestic transactions are now subject to transfer pricing regulations if the aggregate annual income from the parties exceeds 1 billion rubles (approximately $17 million).

Automotive Sector

Russia maintains an investment incentive regime in the automotive sector with domestic content requirements and production targets. The first program, introduced in 2005, allowed for the duty-free entry of automotive parts used in the production of vehicles that contained at least 30 percent Russian content and required that automotive manufacturers produce at least 25,000 units domestically. In December 2010, Russia initiated a second automotive industry investment incentive program that increased significantly the required domestic production volume to 300,000 units and the domestic content requirement to 60 percent. Automotive producers also had to agree to establish an R&D center in Russia and to comply with the requirement that engines and transmissions should represent 30 percent of the output in Russia. As part of its WTO accession protocol, Russia agreed to end the problematic elements of the automotive industry incentive programs by July 1, 2018, and to begin consultations in July 2016 with the United States and other WTO Members on WTO-consistent measures it may take in this sector. Nevertheless, the local content requirements remain a barrier to U.S. exports of automotive parts and the United States will work with Russia to eliminate the elements of these programs that are inconsistent with the Trade Related Investment Measures Agreement, even before the July 1, 2018 deadline.

ELECTRONIC COMMERCE

Since December 2013, when President Putin announced support for "streamlining e-commerce," government officials have proposed various reductions in the duty-free threshold for online purchases from non-EAEU online stores. Although the Ministry of Economic Development in 2014 proposed reducing the current €1,000 maximum to €500 per month, no decisions to reduce the duty-free limit have been taken.

SAUDI ARABIA

TRADE SUMMARY

The U.S. goods trade deficit with Saudi Arabia was $2.4 billion in 2015, a 91.6 percent decrease ($25.9 billion) over 2014. U.S. goods exports to Saudi Arabia were $19.7 billion, up 5.3 percent ($985 million) from the previous year. Corresponding U.S. imports from Saudi Arabia were $22.1 billion, down 53.1 percent. Saudi Arabia was the United States' 19th largest goods export market in 2015.

U.S. exports of services to Saudi Arabia were an estimated $9.3 billion in 2014 (latest data available), and U.S. imports were $1.4 billion. Sales of services in Saudi Arabia by majority U.S.-owned affiliates were $4.3 billion in 2013 (latest data available), while sales of services in the United States by majority Saudi Arabia-owned firms were $2.5 billion.

U.S. foreign direct investment (FDI) in Saudi Arabia (stock) was $10.1 billion in 2014 (latest data available), a 0.2 percent decrease from 2013. U.S. direct investment in Saudi Arabia is led by wholesale trade, prof., scientific, and tech. services, and information.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

U.S. and Saudi officials continue to work to develop mechanisms for stakeholder consultations to ensure that interested parties have opportunities to provide comments on draft regulations and to ensure that such comments are taken into account. Saudi regulatory agencies, such as the Saudi Standards, Metrology, and Quality Organization, the Baladia zoning department, the Capital Markets Authority, the Consumer Affairs Department of the Ministry of Commerce and Industry, and the Saudi Arabia Monetary Agency, sometimes assume an unproductive, adversarial relationship with regulated entities and foreign companies. Consultations with stakeholders will be important as Saudi Arabia continues its efforts to develop new energy and fuel efficiency standards for a variety of products, including vehicles, air conditioners, electrical appliances, lighting, electrical motors, tires, insulation and others that could affect the import of these products.

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization (GSO), issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials continue to discuss concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

Saudi Arabia banned imports of all U.S. beef and beef products in May 2012 following an atypical case of bovine spongiform encephalopathy in the United States. Following extensive negotiations with the U.S. Government, Saudi Arabia agreed in December 2015 to open its market to U.S. beef and beef products from cattle under the age of 48 months in May 2016. Saudi Arabia also agreed to a path to full access for U.S. beef and beef products from cattle of all ages.

Saudi Arabian authorities suspended imports of approved poultry and poultry products from several U.S. states due to outbreaks of Highly Pathogenic Avian Influenza in 2015. The U.S. government has been working closely with Saudi officials in an effort to get the ban lifted.

GCC Member States notified WTO Members in June 2014 of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. Due to concerns about implementation of the Guide, Member States have not implemented it but are reviewing the current version. Stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also could impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius Commission and the World Organization for Animal Health. The United States raised concerns about the current version of the Guide in 2014 and 2015, and GCC Member States delayed entry into force until food safety experts have an opportunity to address these concerns. The United States continues to engage in discussions with the GCC and its Member States regarding their import requirements for food and agricultural products.

IMPORT POLICIES

Tariffs

As a member of the GCC, Saudi Arabia applies the GCC common external tariff with a limited number of GCC-approved country-specific exceptions. As part of that process, Saudi Arabia currently imposes a 5 percent import duty on most imported agricultural and food products, though duties for some products grown domestically (*e.g.*, dates) range as high as 40 percent. Tobacco products face a tariff rate of 100 percent.

Import Prohibitions and Licenses

Saudi Arabia prohibits the importation of alcohol, pork products, used clothing, and firearms, as well as automobiles and automotive parts older than five years. Special approval is required for the importation of live animals, horticultural products, seeds for use in agriculture, products containing alcohol, chemicals and harmful materials, pharmaceutical products, wireless equipment, radio-controlled model airplanes, natural asphalt, archaeological artifacts, audio or visual media, books, periodicals and religious materials that do not adhere to the state-sanctioned version of Islam or that relate to a religion other than Islam. Some media products that are imported are subject to censorship.

Customs

Firms importing U.S. goods continue to report difficulties with Saudi Customs Affairs, including delayed clearance of goods, inconsistent application of tariffs, and unclear regulations regarding origin marking. Firms also raise concerns with the lack of a mechanism for stakeholders to consult with officials regarding notification and publication of Saudi customs procedures and decisions, and with lack of opportunity to comment and receive information before entry into force of customs regulations.

GOVERNMENT PROCUREMENT

Saudi Arabia is an observer to the WTO Committee on Government Procurement. Although Saudi Arabia committed to initiate negotiations for accession to the Agreement on Government Procurement when it became a WTO Member in 2005, it has not yet begun these negotiations.

Contractors must subcontract 30 percent of the value of any government procurement, including support services, to firms that are majority-owned by Saudi nationals. An exemption is granted when no Saudi-owned company can provide the goods or services necessary to fulfill the requirements of a tender. Foreign suppliers are also required to establish a training program for Saudi nationals. Saudi Arabia provides a 10 percent price preference for GCC goods for procurements in which foreign suppliers participate. Foreign companies are permitted to provide services to the Saudi Arabian government directly without a local agent and to market their services to other public entities through an office that has been granted temporary registration from the Ministry of Commerce and Industry. Foreign companies solely providing services to the government, if not already registered to do business in Saudi Arabia, are required to obtain a temporary registration from the Ministry within 30 days of signing a contract.

Most defense procurement is not subject to Saudi Arabia’s general procurement decrees and regulations; instead, tenders are negotiated on a case-by-case basis. For defense sales, U.S. contractors are subject to an offset rate of 40 percent of the total value of the contract and must ensure that at least half of all offsets be direct. Saudi Arabia will reportedly implement a 40 percent offset requirement applicable to procurement contracts above specified threshold amount in the health care sector.

U.S. private sector companies have reported long delays and difficulty in receiving payments for goods and services rendered to the Saudi Arabian government and regional government entities, with some delays lasting more than two years. The Saudi Arabian government’s efforts to reduce overall expenditures in the last quarter of 2015 will likely only exacerbate these payment delays. Some U.S. companies have also reported being paid by the Saudi Arabian government at discounted rates.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Saudi Arabia was removed from the Special 301 Watch List in 2010. The United States continues to carefully monitor the adequacy and effectiveness of intellectual property rights (IPR) protection and enforcement in Saudi Arabia, including the imposition of deterrent-level penalties for violations of Saudi copyright law, actions to increase the use of legal software within the Saudi government, and adequate protection for patented pharmaceutical products.

IPR enforcement responsibilities remain scattered across several Saudi ministries and offices, although the government reportedly intends to consolidate IPR issues under one umbrella at the Ministry of Commerce and Industry. Currently, the Ministry of Culture and Information supervises copyrights, the King Abdulaziz City for Science and Technology supervises patents, and the Ministry of Commerce and Industry supervises geographical indications and trademarks, which are also supported and enforced through Saudi Customs Affairs and the Ministry of Finance.

As the six GCC Member States explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation and capacity building programs on IPR policy and practice.

SERVICES BARRIERS

Audiovisual Services

Saudi Arabia has long banned the construction or operation of public cinemas. Beginning in late 2014, the Saudi General Commission of Audiovisual Media has been consulting with various ministries to explore the possible issuance of licenses for such activities.

Banking

Saudi Arabia limits foreign ownership in commercial banks to 40 percent of any individual bank operation. Saudi Arabia limits foreign ownership to 60 percent for investment banks and brokerages.

Insurance

Saudi Arabia requires that all insurance companies be locally incorporated joint-stock companies, with foreign equity limited to 60 percent. The remaining 40 percent must be sold in the Saudi stock market. Insurance companies must operate on a cooperative or mutual basis, in effect requiring distribution of any profits between policyholders and the insurance company.

INVESTMENT BARRIERS

Foreign investment is currently prohibited in 16 manufacturing and service sectors and subsectors, including production and manufacturing and services related to military activity, oil exploration, and drilling. In November 2015, Saudi Arabia announced a new law regarding company ownership that allows for single shareholders to register a company. The law is in an effort to promote a more open business climate and establish more financial transparency, partly by setting fines for financial impropriety. The law also allows full foreign ownership of certain types of business in Saudi Arabia.

All foreign investment in Saudi Arabia requires a license from the Saudi Arabian General Investment Authority (SAGIA), which must be renewed periodically. While SAGIA is required to grant or refuse an investment license within 30 days of receiving a complete application, bureaucratic impediments arising from SAGIA and other agencies sometimes delay the process. U.S. investors continue to report difficulties with SAGIA being overly restrictive and capricious in administering requirements for companies seeking to invest in Saudi Arabia. High fees for some investment licenses discourage foreign companies, especially SMEs, from entering the Saudi market. Companies can also experience bureaucratic delays after receiving their license, such as when obtaining a commercial registry or purchasing property. SAGIA has been working to develop an automated system to streamline the process and reduce delays.

On June 1, 2015, the Capital Market Authority (CMA) announced that it would allow "qualified foreign investors" (QFI) to directly buy shares listed on the Saudi Arabia *Tadawul* stock exchange, in an effort to attract stable, experienced and strategic investments to the market. Under the terms of this opening, investments can only be made by QFIs, who can hold no more than five percent of any individual company. Furthermore, cumulative foreign ownership cannot exceed 10 percent of the total *Tadawul* market capitalization or 49 percent of any individual company. In order to qualify as a QFI, an applicant must be a bank, brokerage or securities firm, fund manager, or insurance company that is duly licensed or otherwise subject to oversight by a regulatory body with standards equivalent to those of the CMA; have assets under management of at least $5 billion (subject to discretionary reduction to $3 billion by the CMA); and have been engaged in securities or investment-related activities for at least five years.

SINGAPORE

TRADE SUMMARY

The U.S. goods trade surplus with Singapore was $10.4 billion in 2015, a 24.5 percent decrease ($3.4 billion) over 2014. U.S. goods exports to Singapore were $28.7 billion, down 5.2 percent ($1.6 billion) from the previous year. Corresponding U.S. imports from Singapore were $18.2 billion, up 11.0 percent. Singapore was the United States' 13th largest goods export market in 2015.

U.S. exports of services to Singapore were an estimated $11.9 billion in 2014 (latest data available), and U.S. imports were $6.0 billion. Sales of services in Singapore by majority U.S.-owned affiliates were $59.5 billion in 2013 (latest data available), while sales of services in the United States by majority Singapore-owned firms were $8.3 billion.

U.S. foreign direct investment (FDI) in Singapore (stock) was $179.8 billion in 2014 (latest data available), a 12.5 percent increase from 2013. U.S. direct investment in Singapore is led by nonbank holding companies, manufacturing, and finance/insurance.

Trade Agreements

Trans-Pacific Partnership -- Singapore is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, and Vietnam); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut more than 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address nontariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Beef, Pork, and Poultry Pathogen Reduction Treatments (PRTs)

Prior to 2012, Singapore's Agri-Food and Veterinary Authority, the national body governing food and agriculture matters, prohibited the use of all PRTs and antimicrobial rinses in the production of beef, pork, and poultry products sold in Singapore, which added significantly to the cost of U.S. companies exporting such products to Singapore. Based on documentation provided by the United States regarding the safety of certain PRTs, the Veterinary Authority now allows U.S. meat exported to Singapore to be produced using eight PRTs for which risk assessments have been completed by the Joint FAO/WHO Expert Committee on Food Additives. Effective February 2013, fresh/chilled and frozen meat and poultry carcasses and meat and poultry cuts certified for export to Singapore can only be treated with the eight PRTs. On February 4, 2016, the United States and Singapore signed a letter exchange on SPS issues. In it, the two governments agreed to establish a Bilateral Cooperative Mechanism on Pathogen Reduction Treatments to engage in cooperative activities with respect to PRTs used in the production of meat and poultry products in the United States that may be subsequently exported to Singapore. The United States will continue to work with Singapore to secure the approval of additional PRTs.

Pork/Trichinae and Permissible Time Limits

Singapore requires U.S. pork exports to be frozen or tested for trichinosis, even though U.S. producers maintain stringent biosecurity protocols that limit the presence of trichinae in U.S. commercial swine to extremely low levels. U.S. industry sources note that the requirement delays export by two to three weeks, adding to inventory and related costs. Singapore also imposes overly-restrictive requirements on frozen and processed meat and poultry products that restrict the time after slaughter or manufacture that a product may arrive in Singapore.

On February 4, 2016, as part of a bilateral letter exchange on SPS issues, the United States and Singapore agreed to establish a Bilateral Cooperative Mechanism on Pork Trade to serve as a forum for consultations between technical experts of Singapore and the United States with respect to pork-related trade issues, including *trichinella*-related mitigations for the shipment of fresh or chilled pork and pork meat products from the United States to Singapore and the length of time after slaughter that pork and pork meat products from the United States are allowed to enter Singapore. Under the terms of the letter exchange, the United States and Singapore will work to reach agreement as soon as possible through the Pork Trade Bilateral Cooperation Mechanism to resolve these issues.

Beef and Beef Products

In 2015, the United States and Singapore concluded negotiations on agreed terms and conditions to lift Singapore's longstanding BSE-related ban on U.S. beef and beef products and to restore full market access for such products. Previously, only fresh/chilled and frozen boneless beef derived from animals less than 30 months of age were eligible for export to Singapore. Fresh/chilled and frozen beef cuts derived from cattle of all ages are now eligible for export to Singapore. Offal and processed beef are also allowed entry under certain conditions. Singapore reaffirmed its commitment to open its market to U.S. beef and beef products as part of the February 4, 2016 SPS letter exchange.

IMPORT POLICIES

Import Licenses and Internal Taxes

Singapore maintains a tiered motorcycle-operator licensing system based on engine displacement which, along with a road tax based on engine size and regulations that limit the power output of electric motorcycles to no more than 10 kilowatts, discourages imports of large motorcycles from the United States. Singapore also restricts the import and sale of non-medicinal chewing gum. It levies high excise taxes on distilled spirits and wine, tobacco products, and motor vehicles.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Singapore was not listed in the 2015 Special 301 Report. Singapore aspires to become an innovation hub and has made it a national priority to establish itself as a regional intellectual property hub. Despite Singapore's strong record on intellectual property, U.S. stakeholders have raised some concerns, including limitations of trade secrets protection, weak enforcement against infringing goods transshipped through

Singapore, and insufficient deterrent penalties for end-user software piracy. Industry also cites the lack of effective enforcement against online peer-to-peer infringement as a concern, as well as the absence of standalone legislation making the illicit recording of a film in a theater a criminal offense. In July 2014, the Singapore parliament passed an anti-piracy amendment to its copyright act, which came into force in December 2014.

Under the TPP Agreement, which sets strong and balanced standards on IPR protection and enforcement, Singapore has committed to more robust standards for its IPR regime. The United States continues to work with Singapore to address IPR issues through TPP implementation as well as through bilateral engagement.

SERVICES BARRIERS

Pay Television

In 2011, the Media Development Authority (MDA) implemented regulations requiring pay TV providers to "cross carry" exclusive broadcasting content acquired after March 12, 2010. These rules require a pay TV company with an exclusive contract for channels/content to offer that content to other pay TV companies for their subscribers at similar commercial rates. U.S. content providers remain concerned about the negative impact these regulations have on private contractual arrangements, innovation in the packaging and delivery of new content to consumers, and investment in the market. The United States will continue to engage with Singapore to address this issue, including with respect to exclusive content supplied via the burgeoning "over-the-top" model (serving subscribers via the Internet, rather than via dedicated cable or satellite networks).

Audiovisual and Media Services

Singapore restricts the use of satellite dishes and has not authorized direct-to-home satellite TV services. MDA licenses the installation and operation of broadcast receiving equipment, including satellite dishes for TV reception. Parties who require TV services received via satellite need to apply for a TV Receive-Only System License, which is given only to organizations, such as financial institutions, that need to access time-sensitive information for business decisions.

Distribution, importation, or sales of any "offshore" or foreign newspaper must be approved by the government.

Licensing of Online News Websites

Citing the need to align the regulatory frameworks of online and traditional news platforms, MDA released new guidelines under the Broadcasting Act in May 2013 requiring all online news websites that provide regular reports on Singapore and have significant reach to acquire an individual license. Any news website that reports an average of at least one article per week on Singapore news and current affairs over a period of two months and reaches at least 50,000 unique Internet Protocol addresses in Singapore over the same two-month period requires a special license. The licensed sites must also put up a performance bond of SGD $50,000 ($36,000), similar to that required for niche TV broadcasters. The new license requires holders to take down content that breaches certain standards within 24 hours of being notified by the Singapore government.

Legal Services

U.S. and other foreign law firms with offices in Singapore cannot practice Singapore law or employ Singapore lawyers to practice Singapore law unless they have a "Qualified Foreign Law Practice" license.

Singapore has issued nine such licenses to foreign law firms, allowing them to practice Singapore law except in certain excluded areas such as litigation, family law, and probate.

Banking

Unless they have been awarded Qualifying Full Bank (QFB) privileges, foreign banks and other financial institutions that issue credit cards in Singapore can provide ATM services to locally-issued credit card holders only through their own networks or through a foreign bank's shared ATM network. QFBs, however, can negotiate with local banks on a commercial basis to let their credit card holders obtain cash advances through the local banks' ATM networks.

The Minister in charge of the Monetary Authority of Singapore must approve a merger or takeover of a bank incorporated in Singapore or financial holding company, as well as the acquisition of voting shares in such institutions above specific thresholds – 5 percent, 12 percent, and 20 percent. One important consideration in this approval process is the government's policy of maintaining local banks' market share of no less than 50 percent of total resident deposits. With respect to expansion of business within Singapore, MAS will consider awarding new QFB privileges to foreign banks only under FTAs and where there are substantial benefits to Singapore.

Healthcare: Procedural Transparency

U.S. stakeholders have expressed interest in greater transparency regarding Ministry of Health (MOH) subsidy policies and procedural rules regarding pharmaceuticals. In particular, U.S. stakeholders have urged the Health Ministry to accelerate the review periods for approvals of new medical devices and diagnostics in Singapore and to enhance transparency and procedural fairness related to the determination of reimbursement levels.

SOUTH AFRICA

TRADE SUMMARY

The U.S. goods trade deficit with South Africa was $1.9 billion in 2015, a 3.7 percent decrease ($72 million) over 2014. U.S. goods exports to South Africa were $5.5 billion, down 14.3 percent ($911 million) from the previous year. Corresponding U.S. imports from South Africa were $7.3 billion, down 11.8 percent. South Africa was the United States' 41st largest goods export market in 2015.

U.S. exports of services to South Africa were an estimated $3.0 billion in 2014 (latest data available), and U.S. imports were $1.7 billion. Sales of services in South Africa by majority U.S.-owned affiliates were $6.9 billion in 2013 (latest data available), while sales of services in the United States by majority South Africa-owned firms were $242 million.

U.S. foreign direct investment (FDI) in South Africa (stock) was $6.2 billion in 2014 (latest data available), a 3.1 percent decrease from 2013. U.S. direct investment in South Africa is led by manufacturing; wholesale trade; and professional, scientific, and technical services.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Department of Health published in 2010, and implemented in 2012, a labeling regulation for foodstuffs (Regulations Relating to the Labeling and Advertising of Foodstuffs (R146)) that restricts the use of testimonials, endorsements, or statements claiming a food as healthy or nutritious. In May 2014, the Department of Health published the second phase of these regulations, which would impose new labeling requirements and restrictions (R429). Pursuant to the draft regulations, the use of terms such as "healthy", "nutritious" or "diet" is prohibited unless the food contains no added sodium, sugar, or saturated fat, or only contains "low" levels of them. In addition, the regulations would prohibit the use of these terms for foods that contain any addition of fructose, non-nutritive sweeteners, fluoride, aluminum or caffeine, in any quantity. Some stakeholders are particularly concerned that, if finalized as drafted, the new regulations could require some brand owners to make changes to existing trademarks, and branding and labels in order to continue to sell their products in South Africa. This is because the Department of Health has indicated that, in the case where health claims or nutrient content claims form part of a brand name or trademark, the use of that brand name or trademark on the packaging of the foodstuff would be required to be phased out.

In September 2014, the Department of Health issued proposed amendments to its regulations relating to health measures on alcoholic beverages (Amendment to Regulations Relating to Health Messages on Container Labels of Alcoholic Beverages (R697)). The proposal would require that the health warnings printed on the labels of alcoholic beverages be increased in size to 1/8 of the total container size, as opposed to 1/8 of the label. Some stakeholders have expressed concerns about the proposal, including the lack of a definition of the word "container", which could be interpreted to include not just the consumer-facing packaging, but also any other packaging materials used to contain or transport the beverages. In addition, stakeholders are seeking clarity about enforcement of the proposed rotation requirement, which would require that the seven health warnings be exhibited on the labels with equal regularity to one another within a 12-month period.

The United States regularly engages with South Africa on this and other issues related to technical barriers to trade (TBT) at the WTO.

Sanitary and Phytosanitary Barriers

Beef and Beef Products

In June 2010, South Africa opened its market to U.S. deboned beef from cattle of all ages. However, South Africa continued to ban the importation of all other beef cuts and beef products, as well as other U.S. ruminant animals and products. In June 2015, South Africa's Cabinet adopted a decree recognizing the United States' negligible risk status for bovine spongiform encephalopathy (BSE). In January 2016, the U.S. Department of Agriculture (USDA) and South Africa's Department of Agriculture, Forestry, and Fisheries (DAFF) reached agreement on the content of a health certificate for the importation of U.S. beef and beef products into South Africa. This will allow trade in all U.S. beef and beef products to resume.

Pork

South Africa imposes stringent trichinae-related freezing requirements for imported pork and pork products. The United States does not consider such requirements to be necessary for U.S. pork products since most U.S. producers maintain stringent biosecurity protocols that limit the appearance of trichinae in the United States to extremely low levels in commercial swine.

South Africa also requires certification that swine are free of pseudorabies, even though the United States achieved the successful eradication of pseudorabies in commercial herds in all 50 states in 2004.

Additionally, in May 2012, South Africa notified to the WTO a new restriction regarding Porcine Reproductive and Respiratory Syndrome (PRRS), which further limited U.S. pork exports to South Africa. This restriction is not consistent with international standards. The United States continues to engage with South Africa on this issue.

In January 2016, USDA and DAFF reached agreement on the content of a health certificate for the importation of some U.S. pork and pork products into South Africa. This will allow a resumption of trade in certain pork products for which the certificate may be used. However, South Africa's PRRS restrictions continue to prevent the importation of many U.S. pork products for unrestricted sale (*i.e.*, sale for use without further processing) in South Africa. Discussions to expand the list of U.S. pork products that may be sold without being further processed in South Africa are ongoing.

Poultry

The United States has shipped almost no poultry to South Africa since 2000, largely due to South Africa's imposition of antidumping duties on imports of U.S. frozen bone-in chicken, as discussed below. In addition, in December 2014, South Africa banned all poultry imports from the entire United States due to the detection of high pathogenic avian influenza (HPAI) in backyard flocks in Washington and Oregon. In November 2015, the United States and South Africa agreed to an animal health protocol to allow trade in U.S. poultry from states not affected by HPAI. In January 2016, USDA and DAFF reached agreement on a health certificate for the importation of U.S. poultry to South Africa. At the same time, USDA and DAFF agreed to specific procedures with respect to Salmonella testing to be applied to imports of U.S. poultry to South Africa. Under the agreement, U.S. poultry was successfully imported into South Africa in February 2016.

Horticultural Products

South Africa prohibits imports of Pacific Northwest apples, except apples originating from orchards that have been declared free from *Rhagoletis pomonella* (apple maggot). The United States is currently seeking access for apples that originate from areas regulated for apple maggot and that undergo a cold treatment protocol. South Africa also prohibits imports of U.S. cherries and U.S. pears.

IMPORT POLICIES

Tariffs

South Africa is a member of the WTO, the Southern African Development Community (SADC), and the Southern African Customs Union (SACU). As a member of SACU, South Africa applies the SACU common external tariff (CET). In practice, South Africa sets the level of Most Favored Nation (MFN) tariffs applied by all SACU countries, and manages all matters related to trade remedies and disputes for the SACU countries. South Africa's average applied MFN duty rate in 2015 was 7.6 percent. South Africa has preferential trade agreements with the European Union (EU), the Southern Common Market (MERCOSUR), the European Free Trade Area (EFTA), and SADC. In 2014, South Africa concluded negotiations for a SADC Economic Partnership Agreement (EPA) with the EU.

U.S. exports face a disadvantage compared to EU goods in South Africa. The European Union-South African Trade and Development Cooperation Agreement (TDCA) of 1999 covers a significant amount of South Africa-EU trade. South Africa's tariffs applied to imports from the EU on TDCA-covered tariff lines average 4.5 percent based on an unweighted average, while the general tariff rates, which imports from the United States face, average 19.5 percent for TDCA-covered lines. Key categories in which U.S. firms face a tariff disadvantage include cosmetics, plastics, textiles, trucks, and agricultural products and machinery.

Final phase-in of the EU tariff preferences under the TDCA became effective in 2012, and U.S. companies are increasingly impacted by the tariff differential. Concerned importers of U.S. products report dealing with the issue in three ways: (1) substituting EU supply chains for U.S. supply chains (primarily large U.S. multinationals with complex global supply chains); (2) limiting marketing risk in South Africa, such as testing market response to new U.S. imports; or (3) pressing for tariff parity.

The EU-SADC EPA will further erode U.S. export competitiveness in South Africa and the region when it enters into force. The United States has raised concerns about the tariff disparity in bilateral discussions with South Africa, including under the U.S.-South Africa TIFA, noting the unilateral benefits the United States offers South African imports under the African Growth and Opportunity Act. South African authorities have emphasized that the only way to address this imbalance is through a free trade agreement, which they note was attempted unsuccessfully between SACU and the United States during the 2003–2006 U.S.-SACU FTA negotiations.

In September 2013, the South African International Trade Administration Commission (ITAC) increased import duties for whole chickens to the maximum bound rate of 82 percent, and announced import duty increases for other poultry products, including an increase in duties to 37 percent for imports of frozen bone-in chicken (imports of U.S. frozen bone-in chicken are also subject to antidumping duties, as noted below). South Africa raised the tariffs in response to requests from its domestic industry. In recent years, the South African government has encouraged domestic industry to appeal for increases up to the bound tariff rates where a lack of global competitiveness was a concern.

In June 2015, U.S. and South Africa poultry industry groups reached agreement on an understanding to establish a tariff rate quota (TRQ) on a certain volume of U.S. bone-in chicken that could be exported to South Africa without being subjected to antidumping duties. In December 2015, ITAC published final guidelines for administering the TRQ. Upon publication of the final guidelines, the TRQ entered into force, allowing U.S. trade in bone-in chicken subject to the agreement to begin. In February 2016, shipments of U.S. bone-in chicken subject to the TRQ entered the commerce of South Africa.

Nontariff Measures

The Department of Trade and Industry (DTI) prohibits specified classes of imports into South Africa by notice in the Government Gazette, unless the products are imported in accordance with a permit issued by ITAC. ITAC also requires import permits on used goods if such goods are also manufactured domestically, thus significantly limiting importation of used goods. Other categories of controlled imports include waste, scrap, ashes, residues, and goods subject to quality specifications.

In addition, U.S. stakeholders have a longtime objection to South Africa's imposition of antidumping duties on imports of frozen bone-in chicken from the United States. U.S. stakeholders' objections are many-fold, ranging from methodological, transparency, and due process concerns from the original investigation and final determination in 2000 to the improper initiation of subsequent sunset reviews. The United States continues to raise these antidumping issues with South Africa in the United States-South Africa Trade and Investment Framework Agreement meetings, as well as in other bilateral fora.

U.S. technology firms report that South African delays in issuing letters of authority (LOAs) are effectively blocking imports of certain U.S. high-technology/ICT equipment into South Africa. (LOAs are conformity assessments that show that products imported into South Africa meet the relevant South African standards.) Previously, the National Regulator for Compulsory Services (an agency within DTI), issued LOAs within four to six weeks; however, now LOAs are reportedly taking up to six months to be approved and issued. Given the pace of technology advancing and short product life cycles for technology products, the approval delays can mean that an updated version of the equipment is being produced before the old version is approved for import to South Africa.

GOVERNMENT PROCUREMENT

The 2011 Local Procurement Accord (the Accord) signed between the government and business, labor, and community stakeholders commits the government to significantly expand the value of goods and services it procures from South Africa suppliers. The Accord included an "aspirational target" of sourcing 75 percent of government procurement locally to boost industrialization and to create jobs. South Africa's National Industrial Participation Program, introduced in 1996, imposes an industrial participation obligation on all government and parastatal purchases or lease contracts for goods, equipment, or services with an imported content greater than or equal to $10 million. This obligation requires the seller or supplier to engage in local commercial or industrial activity valued at 30 percent or more of the value of the imported content of the goods and/or services purchased or leased pursuant to a government tender.

South Africa also uses government procurement to empower historically disadvantaged populations through its Broad-Based Black Economic Empowerment (B-BBEE) strategy. In a procurement the company's B-BBEE scorecard accounts for 10 percent of a bid's assessment (*See the section on Investment Barriers for more information on B-BBEE.*)

South Africa is not a party to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

South Africa was not listed in the 2015 Special 301 Report. In an effort to improve intellectual property rights (IPR) enforcement, in recent years, the South African government formed an interagency counterfeit division, appointed more inspectors, designated more warehouses for securing counterfeit goods, and improved the training of customs, border police, and police officials. Additionally, the DTI is working with universities and other local groups to incorporate IPR awareness into college curricula and training of local business groups. The private sector and law enforcement cooperate extensively to stop the flow of counterfeit goods into the marketplace.

In 2013, the Cabinet issued for public comment a draft national IPR strategy, which would have proposed significant changes to IPR laws. There were concerns that the policy would significantly reduce protection for patent holders, could lead to an uptick in trade in counterfeit products, and would not meet internationally agreed standards under new copyright provisions. Based on significant stakeholder concerns regarding these and other provisions contained within the draft policy, South Africa retracted this draft policy and is in the process of drafting a new draft national IPR strategy. Further, under the EU-SADC EPA concluded in 2014, South Africa has agreed to prohibit the use of certain terms as geographical indications in its domestic market, a move that could have a significant impact on U.S. agricultural products.

SERVICES

Telecommunications

Telecommunications regulation is divided between the South African Department of Communications (DOC) and the Independent Communications Authority of South Africa (ICASA). ICASA was established under the ICASA Act (2000), which merged the South African Telecommunications Regulatory Authority and the Independent Broadcasting Authority. ICASA receives funding from DOC.

Telkom is South Africa's leading communications services provider, and it dominates fixed-line telecommunications services. Telkom operated as a monopoly until 2006, when Neotel was launched as a fixed-line operator following the passage of the Electronic Communications Act of 2005, which allowed the creation of a second national operator for telecommunications services. Even though it has a parallel regulatory role, the DOC is the largest shareholder in Telkom with a 39.8 percent stake. DOC expects Telkom to operate as a private company, but reportedly views Telkom as a strategic asset and often influences management decisions. An ICASA proceeding to determine whether ICASA should regulate FDI in electronic communications has been pending since 2009.

DOC has implemented measures to address some problems facing smaller operators. As a result, more mobile operators may now install their own fixed lines to link cell towers into their networks, Value Added Network Service (VANS) providers may use infrastructure not owned by Telkom, and VANS providers may offer voice services. In addition, private telecommunications network operators may sell spare capacity.

Broadcasting

ICASA imposes local content requirements for satellite, terrestrial, and cable subscription services. Foreign ownership in a broadcaster is capped at a maximum of 20 percent.

In 2006, an agreement with the International Telecommunications Union committed South Africa to achieve digital migration by June 1, 2015, although full digital migration appears behind schedule. After this date, the 11.5 million South African households with a television would require a set-top box (STB) for terrestrial broadcasting transmission signals as the analog broadcasting frequencies' exclusivity would be lifted, resulting in signal interruptions. DOC is attempting dual-illumination, a period wherein digital television signals would be broadcast concurrently with analog television signals. During this transition, South Africa would need to convert all of its analog television households to digital STBs. DOC admits it is behind schedule, but it has no clear timeline to achieve digital migration.

Telecommunications operators continue to be frustrated by the migration delays. Telecommunications operators have requested access to the 2.6 GHz band and frequencies below 850 MHz, which will be freed by analog-to-digital migration, to build next generation mobile broadband networks. However, the spectrum cannot be allocated until the analog-to-digital migration is complete.

ELECTRONIC COMMERCE

The 2002 Electronic Communications and Transactions Law governs electronic commerce in South Africa. The law was designed to facilitate electronic commerce but has been criticized as imposing significant regulatory burdens. The law requires government accreditation for certain electronic signatures, takes government control of South Africa's ".za" domain name, and requires a long list of disclosures for websites that sell goods and services via the Internet.

INVESTMENT BARRIERS

While South Africa is generally open to greenfield FDI, merger and acquisition-related FDI has been scrutinized more closely for its impact on jobs and local industry. Private sector and other stakeholders are concerned about politicization of South Africa's posture towards this type of investment. South Africa also imposes local content requirements on investments in areas such as renewable energy projects.

The B-BBEE Codes of Good Practice, promulgated in 2007 and entered into force in 2011, created a certification system (a "B-BBEE scorecard") that rates a company's commitment to the empowerment of historically disadvantaged people in South Africa. A high rating is particularly important in competition for public tenders, as the B-BBEE scorecard will account for 10 percent of a bid's assessment, but is also important for branding purposes and for managing client relationships, as a company's score can influence a client's score.

In October 2013, South Africa introduced stricter B-BBEE requirements, which entered into force in October 2015. The government hopes an increased focus on enterprise and skill development on the B-BBEE scorecard will produce more transformation of the South Africa economy. U.S. firms are wary that the changes will reduce their current B-BBEE ratings. U.S. firms have struggled to score well on the "ownership" element of the scorecard, particularly when corporate rules prevent the transfer of discounted equity stakes to South African subsidiaries. Previously, U.S. firms compensated by scoring higher on other elements, but the new rules introduce penalties for failing to comply in key elements of ownership, management control diversity, enterprise development, and preferential procurement. In addition to ownership, the preferential procurement category requires localization with "Empowering Suppliers," which could prove challenging to companies importing products or inputs for value chains.

Sectors such as financial services, mining, and petroleum have their own "transformation charters" intended to promote accelerated empowerment within those sectors. The charters for the integrated transport, forest products, construction, tourism, and chartered accountancy sectors have force of law in South Africa. Many other sectors, including financial services, information and communications technology (ICT), and property have transformation charters that do not have force of law, yet express the sector's commitment to "economic transformation."

Mineral and Petroleum Resources Development Act (MPRDA)

The pending MPRDA would grant the government 20 percent carried interest in any new petroleum or mineral activity. Further, the act allows the government to acquire additional ownership of the venture on terms determined by the Minister of Mineral Resources. U.S. and other international oil companies have raised concerns about the pending legislation. The Act is pending review in Parliament after being sent back to Parliament by President Zuma and has yet to be reconsidered.

Other Legal Concerns for Investment

President Zuma signed the Protection of Investment Act into law in December 2015. Analysts have commented that the Act is overly vague and allows for international arbitration for dispute settlement only after domestic remedies have been exhausted, which could deter foreign investment.

The pending Expropriation Act redefines the term "expropriation." The proposed bill states that the government can expropriate property for a "public purpose" or in the "public interest" in return for compensation deemed to be "just and equitable." Analysts suggest that how these terms will be interpreted is uncertain, and the process of expropriation is inconsistent with South Africa's constitution. The Act is pending review in Parliament.

Another concern for investors is the Private Security Industry Regulation Act Amendment Bill, which, if signed, would require 51 percent local ownership in private security firms. The bill gives foreign-owned firms only one month to comply with these provisions after they go into effect. Local analysts note that passage of the bill would probably result in "fire sales" of shares as firms seek to comply within the tight timeframe. The United States continues to raise concerns about the local ownership provision of the bill in bilateral discussions with South Africa.

OTHER BARRIERS

Transparency and Corruption

Several laws have been enacted in the last 15 years to increase transparency and reduce corruption in South Africa's government, but some of those laws suffer from deficiencies. For example, legislation barring the payment of bribes to public officials fails to protect whistleblowers against recrimination or defamation claims, while the recent Protection of State Information bill (passed in 2013) has been criticized by academics, civil society groups, international organizations, and the media as limiting transparency and freedom of expression. President Zuma has yet to sign the bill into law.

Implementation of transparency and anticorruption laws also suffers from challenges. Although South Africa has no fewer than 10 agencies engaged in anticorruption activities, high rates of violent crime strain overall law enforcement capacity and make it difficult for South African criminal and judicial entities to dedicate adequate resources to anticorruption efforts.

Labor Constraints

Companies in many economic sectors experience difficulty recruiting qualified employees, due in part to declining performance in South Africa's school system, in particular with respect to math and science. Businesses also argue that labor laws are too stringent in limiting the ability of employers to hire temporary workers and fire for cause, which in turn limits job creation. For many years, U.S. and other foreign companies have complained of difficulties in obtaining temporary work permits for their skilled foreign employees. These issues were exacerbated by immigration regulations promulgated by the Department of Home Affairs, which came into effect in May 2014. The regulations affect foreigners looking to visit, study, work, live, and own businesses in South Africa. The visa requirements under these immigration regulations were rescinded in October 2015, but new regulations have not yet been finalized.

SRI LANKA

TRADE SUMMARY

The U.S. goods trade deficit with Sri Lanka was $2.5 billion in 2015, a 8.2 percent increase ($190 million) over 2014. U.S. goods exports to Sri Lanka were $372 million, up 6.2 percent ($22 million) from the previous year. Corresponding U.S. imports from Sri Lanka were $2.9 billion, up 7.9 percent. Sri Lanka was the United States' 105th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Sri Lanka (stock) was $111 million in 2014 (latest data available), a 8.8 percent increase from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Biotechnology

Sri Lanka prohibits the sale of seeds derived from agricultural biotechnology or products containing agricultural biotechnology components intended for human consumption without the approval of Sri Lanka's Chief Food Authority. Sri Lanka does not appear to have a functioning approval mechanism and thus in effect imposes a *de facto* ban on sales of seeds and other agricultural products derived from biotechnology. Furthermore, Sri Lanka requires all commodity imports to be accompanied by a certification that the commodity is "non-GE." The United States will continue to engage Sri Lanka on these issues.

Poultry Products

Sri Lanka does not follow World Organization for Animal Health (OIE) standards for highly pathogenic avian influenza (HPAI). The OIE standard is that regional zones can be accepted as HPAI-free three months after a stamping out policy is applied and where the exporting party has an effective surveillance system in place. Sri Lanka allows imports of poultry products only from countries that have never reported outbreaks of HPAI, or six months after the final report by the USDA to the OIE of HPAI-affected states.

Meat Products

Animal health authorities take extended periods to conduct microbiological tests of meat shipments. Further, Sri Lankan authorities to do not comply with the testing regulations specified in Sri Lanka's import permit when carrying out sample testing in-country, and have, on occasion, rejected imports based on testing methods contradictory to which are set out in the country's regulations. Local authorities have recently disregarded certificates issued by overseas authorities conforming to methods specified in the import permit. Authorities only consider tests conducted by the Medical Research Institute based in Colombo, whose testing methods differ from those set out in the regulations. Any negative results on the sample tests could force the importer to re-export the shipment. The extended period taken to conclude testing of the shipment places the importer at risk of losing the right to file insurance claims, as many insurers only insure for a limited time period.

Seed Potatoes

After several years of negotiations, in 2010 Sri Lanka agreed to adjust some importation terms to allow for U.S. seed potatoes to enter the market more easily. However, the Sri Lankan authorities recently detained a consignment of seed potatoes on the basis that the potatoes do not meet local health import regulations. The authorities used a testing method in-country that is different than the method specified in the regulations. The United States will continue to work to ensure that Sri Lanka upholds its 2010 commitment; the U.S. Department of Agriculture, through Embassy Colombo, will continue to explain to the Sri Lankan Department of Agriculture the measures taken by the United States to ensure a safe and disease-free product.

IMPORT POLICIES

The Sri Lankan government continues to utilize import substitution policies, and taxes on imports remain high for a large number of goods, making them prohibitively expensive. Policies contained in the 2016 budget adhere to the Sri Lankan government's support for agricultural self-sufficiency and food security.

When there are balance of payment difficulties, the government has imposed controls on foreign exchange transactions. In November 2015, the Sri Lankan government imposed a 100-percent deposit requirement on motor vehicle imports, requiring importers to pay up front the full value of motor vehicles when opening letters of credit with commercial banks. The government subsequently lifted the 100 percent deposit requirement on December 1, 2015. However, in December 2015, the Sri Lankan government imposed a policy capping vehicle financing to no more than 70 percent of the value of the vehicle. This policy was intended to limit motor vehicle imports in an effort to counteract the increase of vehicle imports over the previous year, which adversely affected Sri Lanka's trade deficit and caused traffic congestion in the capital.

Import Charges

Sri Lanka's main trade policy instrument has been the import tariff. According to the WTO, Sri Lanka's average applied agricultural tariff in 2014 was 23.3 percent, but its bound rates are significantly higher, averaging 50 percent. The average duty rates for imported agriculture products are routinely between 85 and 100 percent. In 2014, Sri Lanka's average applied tariff for non-agricultural goods was 7.3 percent. However, less than 30 percent of Sri Lanka's non-agricultural tariffs are bound under WTO rules.

The government of Sri Lanka simplified the import tariff structure in November 2015 by reducing the number of tariff bands from four to three. However, the highest tariff rate increased from 25 percent to 30 percent. As of January 2016, tariff bands are: 0 percent; 15 percent; and 30 percent. Generally, raw materials are at zero import duty and finished goods are at 30 percent. Some items are subject to an *ad valorem* or a specific tariff, whichever is higher. For example, ceramic products and several agricultural products carry specific tariffs. There is intermittent use of exemptions and waivers.

In addition to the import tariff, there are a number of supplementary taxes and levies on imports which make some imported food and consumer goods prohibitively expensive. Before 2015, supplementary taxes on selected products were increased regularly through annual government budgets, most often to protect local industries. In general, these frequent changes, mostly upward, make it difficult for foreign exporters and local importers to calculate their import costs. Affected U.S. products include agricultural products, processed/packaged foods, and personal care products. Other charges on imports include:

- An Export Development Board (EDB) levy, often referred to as a "cess," ranges from 10 percent to 35 percent *ad valorem* on a range of imports identified as "nonessential" or competing with local industries. Locally manufactured products are not subject to the EDB levy. Most of the impacted imports are also subject to specific duties as well. Further, when calculating the EDB levy, an imputed profit margin of 10 percent is added onto the import price. In some cases, such as biscuits, chocolates, and soap, the levy is charged not on the import price, but on 65 percent of the maximum retail price. The 2014 budget increased the EDB levy on a range of items, including dairy products, meat, fruits, vegetables, and confectionary goods. The EDB levy on these items remains unchanged since then. The EDB levy on biscuits increased from Rs 60 (approximately $0.41) per kg in 2012 to Rs 80 (approximately $0.55) per kg in 2013. The tax was increased further to Rs 100 (approximately $0.69) per kg in 2014. The EDB levy on cheese, butter, and dairy products was increased from Rs 100 (approximately $0.69) per kg in 2012 to Rs 200 (approximately $1.38) per kg in 2013 and to Rs 300 (approximately $2.07) per kg in 2014 and remain in place in 2015.

- A Ports and Airports Development Levy (PAL) is applied on most imports. The government increased the PAL from 5 percent to 7.5 percent in November 2015. Locally manufactured products are not subject to the PAL.

- The Sri Lankan government changed the single band value-added tax (VAT) rate which was 11 percent, to a three band system in November 2015. However, in January 2016, the government decided to withhold the implementation of changes to the VAT and the nation building tax (NBT) proposed in the budget until relevant laws are passed in parliament. When calculating the VAT, an imputed profit margin of 10 percent was added to the import price. Locally manufactured products were also subject to VAT, but not the imputed profit margin.

- Excise duties are charged on some products, including aerated water, liquor, beer, and cigarettes. Excise duties were also imposed on refrigerators and washing machines in November 2015. When calculating the excise duty, an imputed profit margin of 15 percent is added to the import price. The excise duty is applied on the price inclusive of other duties. Locally manufactured products are also subject to excise duties.

- An NBT of two percent is applied on most imports. The 2016 budget proposed to increase the rate to four percent, but the date of implementation is not announced yet.

- As of September, 2015, a special commodity levy (SCL) is charged on some imported food items including soybean oil, palm oil, sunflower seed, and coconut products between Rs 110 ($0.76) per kg to Rs 130 ($0.90) per kg. Items subject to the SCL, which are exempt from all other taxes, changes based on market and political climate.

- Since November 2011, the Sri Lankan government has imposed an all-inclusive tax under the EDB levy on imported textiles not intended for use by the apparel export industry. As of January 2016, this all-inclusive tax was Rs 100 per kg (approximately $0.77). No other taxes apply to these textiles.

- In November 2015, the Sri Lankan government introduced an all-inclusive tax under the EDB levy on apparel imports replacing the 25 percent import tariff, the 12 percent VAT, the Rs 75 (approximately $0.57) per unit EDB Levy, the five percent PAL, and the two percent NBT. As of January 2016, this all-inclusive tax was 15 percent or Rs 200 per unit, whichever is higher.

- In October 2014, the Sri Lankan government introduced an all-inclusive tax under the Excise Special Provisions Law on cars replacing the VAT, the NBT, the EDB levy, the import tariff, and the PAL. As of January 2016, the excise tax on cars ranged from 150 percent for small cars to 220 percent for large vehicles. Hybrid vehicles and electric cars are taxed at lower rates.

Price Controls

Sri Lanka's Consumer Affairs Authority sets maximum retail prices (MRP) for essential consumer items. Items subject to MRP include lentils, sugar, chick peas, chicken, wheat flour, dried chili peppers, canned fish, and milk powder. Food importers have lobbied the government to remove MRP, arguing that standard prices are impractical in an environment of changing international markets and currency fluctuations.

Import Licenses

Sri Lanka requires import licenses for over 400 items at the 6-digit level of the Harmonized Tariff System, mostly for health, environment, and national security reasons. Importers must pay a fee equal to 0.222 percent of the import price with a minimum fee of Rs 1,000 (approximately $6.90) to receive an import license.

EXPORT POLICIES

Sri Lanka maintains a ban on the export of ferrous scrap, limiting global supply and effectively subsidizing their downstream industries.

GOVERNMENT PROCUREMENT

Government procurement of most goods and services is primarily undertaken through a public tender process. Some tenders are open only to registered suppliers. Procurement has also occurred outside the normal competitive tender process.

The government of Sri Lanka now directs all government agencies to follow tender guidelines rather than accept unsolicited project proposals. However, as of January 2016, some government agencies continued to review unsolicited project proposals; since receiving the directive to utilize a tender process, it does not appear these agencies have approved unsolicited proposals.

In response to alleged corruption in government procurement in years past, President Sirisena appointed an independent procurement commission to formulate procedures and guidelines for procurement by government institutions. The commission, mandated by an amendment to the constitution, is also responsible for monitoring government procurement. The commission is not yet operational.

Sri Lanka is not a signatory to the WTO Agreement on Government Procurement but holds observer status at the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Although IPR enforcement has gradually improved in Sri Lanka, counterfeit goods continue to be widely available and music and software piracy are reportedly widespread. U.S. and other international companies in the recording, software, movie, clothing, and consumer product industries complain that inadequate IPR protection and enforcement weaken their businesses. The government of Sri Lanka published a policy in 2010 requiring all government ministries and departments to use only licensed software, but has yet to put systems in place to monitor compliance with this policy. Some industry sectors, including apparel, software, tobacco, and electronics, have reported success in combating trademark counterfeiting through the courts. However, redress through the courts remains time-consuming and challenging overall. Better coordination among enforcement authorities and government institutions such as the National Intellectual Property Office is needed to strengthen Sri Lanka’s IPR regime.

SERVICES BARRIERS

Insurance

Until October 2015, foreign insurance companies could directly sell health insurance policies in Sri Lanka through an insurance broker registered in Sri Lanka. Post-October 2015, foreign insurance companies that provide health insurance services to resident Sri Lankans must sell through an insurance broker registered in Sri Lanka and sell products not sold by local insurance companies. (Foreign insurance companies/brokers cannot sell products that are offered by local insurance companies.) Branch offices are not permitted. The Sri Lankan government requires all insurance companies to reinsure 20 percent of their insurance business with a state-run insurance fund.

Broadcasting

Sri Lanka imposes taxes on foreign films, programs, and commercials shown on television. However, according to a policy change in the 2016 budget, the government has proposed to remove the tax from April 1, 2016. Government approval is required for all foreign films and programs shown on television.

INVESTMENT BARRIERS

Sri Lanka maintains foreign investment restrictions in a wide range of sectors. For example, foreign investment is not permitted in certain types of money lending activities, in the coastal fishing sector, and in retail trade for investments of less than $2 million (or $150,000 in the case of international brands and franchises). In other sectors, foreign investment is subject to case-by-case screening and approval when foreign equity exceeds 40 percent. These sectors include shipping, travel agencies, freight forwarding, mass communications, deep-sea fishing, timber industries, mining and primary processing of natural resources, and the cultivation and primary processing of certain agriculture commodities. Foreign equity restrictions also apply in the air transportation, coastal shipping, lotteries, and gem mining sectors, as well as in sensitive industries such as military hardware.

Sri Lanka prohibits the sale of public and private land to foreign nationals and to enterprises with foreign equity exceeding 50 percent. Foreign companies engaged in banking, financial, insurance, maritime, aviation, advanced technology, or infrastructure development projects identified and approved as strategic development projects may be exempted from this restriction on a case-by-case basis. Also, this restriction does not apply to the purchase of condominium properties on or above the fourth floor of a building. In January 2016, the government removed a controversial 15 percent tax on land and property leased to foreign investors that had to be paid upfront at the time the lease was signed.

In 2011, the Sri Lankan government approved the Revival of Underperforming Enterprises and Underutilized Assets Act, which allows for the nationalization of assets belonging to 37 companies deemed by the Sri Lankan government to be underperforming and not meeting lease conditions. Although many of the companies were defunct, several were operating businesses, including one that was owned by a prominent member of the opposition. The act significantly increased investor uncertainty regarding property rights in Sri Lanka. The current President Sirisena-led government said it will not nationalize private companies.

ELECTRONIC COMMERCE

A 2.5 percent stamp duty applies to usage of credit cards issued by Sri Lanka banks for transactions entered into in foreign currency. The 2.5 percent is an increase, in effect since January 1, 2016, from a previous level of 1.5 percent. Beginning on January 1, 2016, transactions in local currency are exempted from this duty.

OTHER BARRIERS

Public sector corruption, including bribery of public officials, is a significant challenge for U.S. firms operating in Sri Lanka and a constraint on foreign investment. While the country has generally adequate laws and regulations to combat corruption, enforcement is weak and inconsistent. U.S. stakeholders have expressed particular concern about corruption in large projects and in government procurement.

SWITZERLAND

TRADE SUMMARY

The U.S. goods trade deficit with Switzerland was $8.9 billion in 2015, a 0.8 percent decrease ($72 million) over 2014. U.S. goods exports to Switzerland were $22.3 billion, up 0.5 percent ($112 million) from the previous year. Corresponding U.S. imports from Switzerland were $31.2 billion, up 0.1 percent. Switzerland was the United States' 17th largest goods export market in 2015.

U.S. exports of services to Switzerland were an estimated $28.9 billion in 2014 (latest data available), and U.S. imports were $21.9 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were $64.2 billion in 2013 (latest data available), while sales of services in the United States by majority Switzerland-owned firms were $52.0 billion.

U.S. foreign direct investment (FDI) in Switzerland (stock) was $152.9 billion in 2014 (latest data available), a 20.7 percent increase from 2013. U.S. direct investment in Switzerland is led by nonbank holding companies, manufacturing, and finance/insurance.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Swiss Federal Council has determined that low-volume vehicle manufacturers (*i.e.*, under 300,000 units produced by the manufacturer and sold in Europe per year) and niche vehicle manufacturers (*i.e.*, fewer than 10,000 units) are subject to fleet average carbon dioxide targets of 130g/km Recognizing that this legislation may eliminate the market for luxury European automobiles in Switzerland, the Swiss government granted select car manufacturers an adjusted target of approximately 75 percent of 2007 carbon dioxide emission levels, provided the vehicles had received type approval in a European Union (EU) Member State. Although U.S. vehicle import volumes into Switzerland are much lower than European import volumes, importers of secondary (gray) market U.S. vehicles that have not been type approved by an EU Member State have not been granted a similarly adjusted (*i.e.*, lowered) target, meaning the carbon dioxide tax for these U.S. vehicles remains based on the original 130g/km target. Prior to the implementation of this carbon dioxide tax, secondary market U.S. vehicle imports into Switzerland generated $40-50 million per year in revenue for importers. The current level of secondary market U.S. automobile imports into Switzerland is approximately 20 percent of 2014 values, and is expected to decline to zero percent by the end of 2016. In a November 2014 session, the Swiss Federal Council reviewed this law, acknowledging that while the law would unfairly eliminate some U.S. imports into the Swiss market the Swiss government had no intention of addressing this trade barrier through new or revised legislation.

Sanitary and Phytosanitary Barriers

Switzerland's restrictive phytosanitary regulations, combined with strong public sentiment against agricultural biotechnology, have dampened interest in the Swiss market for biotechnology products. This is reflected in the Swiss government's moratorium on planting biotechnology crops and marketing agricultural biotechnology animals, which will remain in force until 2017. U.S. officials continue to urge their Swiss counterparts to conduct regulatory reviews in a timely manner, while pushing for a removal of the moratorium on the cultivation of agricultural biotechnology products.

IMPORT POLICIES

Switzerland, along with Norway, Iceland, and Liechtenstein, is a member of the European Free Trade Association (EFTA). Unlike other EFTA members, Switzerland does not participate in the EU single market through the European Economic Area (EEA) accord. According to the WTO, Switzerland's simple average applied tariff is 35.7 percent for agricultural goods and 1.9 percent for non-agricultural goods.

Agricultural Products

U.S. agricultural product access to the Swiss market is restricted by high tariffs on certain products, preferential tariff rates for products from other trading partners, and certain government regulations. Switzerland's tariff schedule is composed only of specific (*i.e.*, non-*ad valorem*) duties. Imports of nearly all agricultural products, particularly those that compete with Swiss products, are subject to seasonal import duties, quotas, and import licensing. Agricultural products that are not produced in Switzerland, such as tropical fruit and nuts, tend to have lower tariffs.

GOVERNMENT PROCUREMENT

Switzerland is a party to the WTO Agreement on Government Procurement (GPA), which covers both cantonal and federal procurement. However, since cantons are allowed to implement the GPA independent of federal intervention, disparities in procedures may be found among the cantons, which may affect participation by foreign firms. In contrast to cantonal and communal practice, federal authorities are not required to inform unsuccessful bidders of the selected tender or to justify the award of a contract to successful bidders. Switzerland is the only GPA party that has not yet adopted the revised GPA, which entered into force in April 2014. As such, United States government procurement obligations with Switzerland are defined by the 1994 GPA.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Switzerland was not listed in the 2015 Special 301 Report, and generally maintains high standards of intellectual property rights (IPR) protection, particularly patent protection. However, U.S. copyright holders continue to express strong concerns that U.S. and other copyright holders have little recourse to defend their copyrights against Swiss-based Internet piracy. Copyright enforcement in Switzerland is a principal concern for the U.S. Government, and several Internet platforms located in or with connections to Switzerland were included in the 2015 Notorious Markets Report, including cuevana.tv, movshare.net, novamov.com, nowvideo.sx, putlocker.is, torrentz.eu, uploaded.net, videoweed.es, and watchseries.it. In December 2015, the Swiss government published an amendment to its copyright act that is expected to result in more effective enforcement actions. The amendment is open for public consultation until March 31, 2016, but is not expected to be in force until 2019.

SERVICES BARRIERS

Insurance

Managers of foreign-owned insurance company branches must be residents of Switzerland. The majority of the board of directors of any Swiss subsidiary must also have EU or EFTA country citizenship.

Public monopolies exist for fire and natural damage insurance in 19 cantons and for insurance of workplace accidents in certain industries.

TAIWAN

TRADE SUMMARY

The U.S. goods trade deficit with Taiwan was $14.8 billion in 2015, a 6.2 percent increase ($868 million) over 2014. U.S. goods exports to Taiwan were $25.9 billion, down 2.8 percent ($741 million) from the previous year. Corresponding U.S. imports from Taiwan were $40.7 billion, up 0.3 percent. Taiwan was the United States' 14th largest goods export market in 2015.

U.S. exports of services to Taiwan were an estimated $12.8 billion in 2014 (latest data available), and U.S. imports were $7.5 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were $7.2 billion in 2013 (latest data available), while sales of services in the United States by majority Taiwan-owned firms were $2.3 billion.

U.S. foreign direct investment (FDI) in Taiwan (stock) was $17.1 billion in 2014 (latest data available), a 1.6 percent increase from 2013. U.S. direct investment in Taiwan is led by manufacturing, wholesale trade, and finance/insurance.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Food – Mandatory Biotechnology Labeling

New biotechnology labeling regulations for prepackaged foods, food additives, and unpackaged foods were promulgated on May 2015. The regulations cover highly refined foods that are "directly" manufactured using biotechnology crops. For example, Taiwan has said corn syrup, made of biotechnology corn, must be labeled GE (genetically engineered), whereas a beverage made with corn syrup is exempt from GE labeling. The regulations impose a three percent labeling threshold (down from the previous five percent) for products containing biotechnology material. These regulations cover restaurants and catering establishments. The labeling requirements for prepackaged foods and food additives were implemented on December 31, 2015, and the requirements for unpackaged foods were implemented in three phases concluding on July 1, October 1, and December 31, 2015, respectively. The United States has continued to raise the lack of scientific basis for these labeling requirements, the potential impact on trade, and lack of clarity with respect to implementation at the October 1, 2015 Trade and Investment Framework Agreement (*TIFA*) Council meeting and WTO TBT Committee.

In December 2015, the Taiwanese legislature passed amendments to the School Health Act that would ban the use of biotechnology food ingredients and processed food with biotech ingredients in school meals. Taiwan has not provided any scientific basis for this ban. Once this policy takes effect, this ban could significantly impact U.S. soy exports.

Cosmetics – Labeling and Other Requirements

Draft amendments to Taiwan's *Cosmetic Hygiene Control Act* were sent to the Executive Yuan, Taiwan's cabinet, for review in July 2015. The Taiwan Food and Drug Administration (TFDA) is drafting guidelines that are anticipated to address requirements for product information files (PIF), product notification, good manufacturing practices, product claims, and advertisements, which would be issued for public comment after the Legislative Yuan approves the amendments.

Stakeholders have raised concerns that the amendments, if approved, would place an onerous burden on industry by requiring extensive pre-market documentation submissions, including documents that might contain confidential business information (CBI). Under the proposed amendments, during the transition from a pre-market approval to a post-market surveillance system, both systems would be in effect, creating a duplicative compliance burden for cosmetics businesses. The United States, through its TIFA TBT Working Group with Taiwan, WTO TBT Committee discussions, and seminars with U.S. businesses, has encouraged Taiwan to engage with industry on the draft amendment and provide a reasonable interval for WTO members to comment after the Legislative Yuan approves the draft.

U.S. stakeholders have expressed concerns that trade in medicated cosmetic products, including toothpaste, breath fresheners, and sunscreen, might be adversely affected under the amendments. U.S. exports of beauty products, makeup, hair, bath and shaving preparations, dental hygiene products, and related materials totaled $164 million in 2015.

Chemical Substances – ECN and NCN Programs

Under the Labor Safety and Health Law (LSHL), importers and producers of chemical substances must register all chemical substances they sell or utilize in production with the Ministry of Labor (MOL, known prior to February 2014 as the Council of Labor Affairs, or CLA).

Amendments to the Toxic Chemical Substances Control Act (TCSCA), drafted by the Environmental Protection Agency of Taiwan (EPAT), were passed on December 11, 2013. The amended TCSCA covers existing and new chemical substances that are manufactured in, exported from, or imported into Taiwan. The amended TCSCA mandates registering existing chemical substances with EPAT under an Existing Chemical Notification (ECN) program and new chemical substances under a New Chemical Notification (NCN) program. On July 3, 2013, Taiwan's Legislative Yuan passed amendments to the LSHL and renamed it the Occupational Safety and Health Act (the OSH Act), which became effective on July 3, 2014.

On September 8, 2014, Taiwan notified the WTO of its draft "Regulation of New and Existing Chemical Substances Registration," enacted pursuant to the amended TCSCA. This regulation covers existing chemical substances listed in EPAT's ECN inventory, as well as new chemical substances not listed in the ECN inventory. This regulation became effective on December 11, 2014. On October 28, 2014, Taiwan notified the WTO of its draft "Regulation of New Chemical Substances Registration," enacted pursuant to the OSH Act and covering any new chemical substances not listed in the existing MOL chemical inventory. This regulation became effective on January 1, 2015. While previous ECN and NCN programs permitted implementation on a voluntary basis, separate ECN/NCN registrations under the TCSA and OSH Act implementing regulations both became mandatory from their entry into force. In response to stakeholder concerns that duplicative EPAT and OSHA listings create undue burdens, in August 2015 EPAT announced that it would serve as a consolidated single registration window. This step, taken in response to U.S. advocacy through the TIFA TBT Working Group, industry seminars, and other fora, has reduced regulatory complexity associated with $2.5 billion in U.S. chemical exports. Taiwan is the United States' 9th largest market for inorganic chemicals, worth $438 million in 2015, and the 14th largest market for organic chemicals, worth $897 million in 2015. Sales of other chemical products reached an additional $547 million in 2014.

The United States has continued to raise questions regarding the protection of confidential business information and the scope of coverage of the revised regulations. EPAT released a set of frequently asked questions in October 2015 aimed at clarifying the implementing regulations, including procedures related to CBI protection, in which EPAT affirmed that applicants are allowed to self-certify CBI and that submission of supporting documents is voluntary. The United States will continue to raise concerns with

Taiwan on the limited duration of CBI protection and seek greater flexibility in extending the CBI protection term.

Organics

Taiwan regulations do not allow product labeled as organic to test positive for any chemical residues. This zero residue policy, which does not take into account unintentional environmental contamination, has impeded U.S. organic exports to Taiwan. Organic products may be subject to additional and random testing or screening. In addition, in November 2015, Taiwan's Council of Agriculture released draft legislation regarding the production, marketing, testing, and labeling of organic products, including imported products. The legislation further mandates that the organic equivalency that Taiwan grants the United States and other trading partners become reciprocal or be retracted.

Sanitary and Phytosanitary Barriers

Beef and Beef Products

Taiwan banned imports of U.S. beef and beef products following the detection of an animal with bovine spongiform encephalopathy (BSE) in the United States in 2003. In 2006, Taiwan began allowing imports of U.S. deboned beef derived from animals under 30 months of age. In October 2009, the United States and Taiwan reached an agreement on a protocol to expand market access to fully re-open to U.S. beef and beef products for human consumption. However, in January 2010, Taiwan's Legislative Yuan adopted an amendment to the Food Sanitation Act that banned imports of U.S. ground beef, internal organs and eyes, brains, spinal cord, and skull meat for at least 10 years since the last confirmed BSE or variant Creutzfeldt-Jakob disease case, contrary to Taiwan's obligations under the 2009 beef protocol. Taiwan announced additional border measures, including a special import licensing scheme for permitted offals, and imposed stricter inspection requirements for certain "sensitive" beef offals (*e.g.,* tongue) that discourage trade for eligible items. In July 2014, Taiwan confirmed market eligibility for U.S. beef lips, ears, backstrap, skirt sinew, and tunic tissue, though barriers such as batch-by-batch inspections discourage trade. The United States will continue urging Taiwan to open its market fully to U.S. beef and beef products based on science, World Organization for Animal Health (OIE) guidelines, the United States' negligible risk status, and the beef protocol.

Beta-agonists

In September 2012, Taiwan adopted and implemented a maximum residue limit (MRL) for ractopamine in beef muscle cuts consistent with the Codex Alimentarius Commission standard. Taiwan has not implemented an MRL for ractopamine in other beef products (*e.g.,* offal) or pork, despite notifying the WTO in 2007 of its intent to do so. Taiwan authorities state that pressure from the local pork industry and consumer groups prevent their establishment of an MRL for pork. Apart from ractopamine, Taiwan has also not established MRLs for other beta-agonist compounds or provided science to support its policy. The United States will continue urging Taiwan to implement the remaining proposed MRLs for ractopamine without delay, and accept and approve new applications for MRLs for beta-agonists based upon science in a timely manner.

MRLs for Agrochemicals

Taiwan's slow process for establishing MRLs for pesticides, low number of approved MRLs, and zero tolerance policy for pesticides without established MRLs have resulted in U.S. shipments stopped at ports of entry and other restrictions on U.S. agricultural exports to Taiwan. In May 2014, the United States provided Taiwan authorities with a prioritized list for MRLs for more than 250 chemicals. The United

States will continue working with Taiwan authorities to establish MRLs for pesticides that do not currently have an approved MRL in Taiwan and find ways to further reduce the risk of rejected or delayed shipments in the future.

IMPORT POLICIES

Tariffs

When Taiwan became a WTO Member in January 2002, the authorities implemented tariff-rate quotas (TRQs) on small passenger automobiles and 24 agricultural products. Taiwan subsequently eliminated TRQs for eight of those agricultural products. TRQs remain on 16 agricultural products, including rice, peanuts, bananas, and pineapples.

Taiwan maintains special safeguards (SSGs) for a number of agricultural products covered by TRQs. SSGs, which are permitted under Article 5 of the WTO Agreement on Agriculture, allow Taiwan to impose additional duties when import quantities exceed SSG trigger volumes or import prices fall below SSG trigger prices. Because Taiwan previously did not import many of these products, its SSG trigger volumes are relatively low. Currently, Taiwan applies SSG provisions to 15 agricultural product categories, including poultry meat, certain types of offal, and milk.

U.S. stakeholders continue to request that Taiwan lower or eliminate tariffs on many goods, including large motorcycles, agricultural products, and soda ash.

Agriculture and Fish Products

Prior to joining the WTO, Taiwan banned or restricted imports of 42 agriculture and fish products. At the end of 2007, Taiwan phased out TRQs for persimmons, mackerel, carangid, and sardines. As noted above, 16 agricultural products still are subject to TRQs.

Rice

Upon accession to the WTO in 2002, Taiwan committed to lifting the ban on rice imports and opened an import quota of 144,720 metric tons (MT) on a brown rice basis under a “special treatment” regime. Taiwan’s annual WTO TRQ is divided into two portions: 35 percent or 50,652 MT for private sector imports, and 65 percent or 94,068 MT for public sector imports. The amount allocated to public sector imports is divided by both country of origin and tender type (*i.e*., the simultaneous buy-sell (SBS) scheme and normal tenders). The SBS scheme is attractive to U.S. exporters because private importers bear all costs of importing, storing, and distributing the rice.

In 2003, based on input from the United States and other WTO members, Taiwan implemented a public sector import quota based on a country-specific quota (CSQ) regime, with the U.S. quota of 64,634 MT accounting for the largest share. However, in certain years Taiwan has rejected bids for U.S. rice under its WTO CSQ, arguing that high U.S. prices had exceeded Taiwan's ceiling price. U.S. exporters have raised concerns that Taiwan’s ceiling price mechanism, which is not made public, arbitrarily sets prices lower than the levels bid by U.S. exporters, causing the tenders to fail.

For example, in 2014, out of the total CSQ allotted to the United States, only 46,100 MT were successfully awarded for U.S.-origin rice. One reason for this shortfall is that multiple tenders failed due to low ceiling prices. Taiwan did complete the 2015 CSQ for both normal and SBS tenders. The United States will continue to underscore to Taiwan that rice tenders should reflect the market price and to press for greater transparency in its ceiling price mechanism.

Distilled Spirits

Taiwan categorizes cooking wine into two subgroups, one group with a salt content requirement, and the other under "cooking alcoholic products" for products with alcohol content no greater than 20 percent and labeled "exclusively used for cooking." Based on these specifications, *mijiu* rice wine under these categories is taxed at NT$9 ($0.30) per liter, a much lower tax rate than that applied to non-cooking alcoholic products, NT$2.5 ($0.08) per liter per degree (percentage) of alcohol content.

The United States and other trading partners continue to express their strong concerns to the Taiwan authorities that steps should be taken to ensure that the domestic *mijiu* rice wine is not marketed to compete with, or substitute for, like imported alcoholic beverages, and that imported alcoholic beverages should not be taxed at a higher rate than like domestically produced alcoholic beverages.

The distilled spirits industry also continues to face challenges in the Taiwan market stemming from unclear regulations, excessive restrictions, and burdensome labeling requirements.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Intellectual property rights holders face serious challenges in Taiwan's overall protection and enforcement of intellectual property, including with respect to copyright, online piracy, and illegal textbook copying. In the areas of protecting and promoting pharmaceutical innovation, trade secrets protection and IPR enforcement, Taiwan authorities have taken important steps in recent years to address key concerns. Taiwan payments to U.S. rights holders for the use of movies and television, books and sound recordings, and related copyrighted works were worth $109 million annually as of 2014; however, the compound annual growth rate in Taiwan payments of 2.1 percent for copyrighted materials from 2006-2014, lagged behind payments from Taiwan for other forms of intellectual property, which grew 16.9 percent annually over the same period.

Infringement of copyrighted material on the Internet takes various forms, including file sharing and the use of unregulated media box or over-the-top (OTT) hardware that may contain or facilitate the user's access via the Internet to pirated content. Taiwan's Copyright Act was amended in 2009 to require Internet service providers (ISPs) to undertake effective notice-and-takedown actions and introduce a graduated response system against online infringers as a condition of avoiding liability for infringing activities of users on their networks. While implementation of the notice-and-takedown system has been effective, Taiwan has yet to implement effectively the graduated response provisions under the Copyright Act amendments. Meetings convened by the Taiwan Intellectual Property Office (TIPO) between ISPs and rights-holders aimed at producing a consensus on specific measures to address repeat infringement have been successful. In response to U.S. efforts to seek redress of publishers' concerns over continued textbook copying and new forms of infringement related to digital educational content, Taiwan's Ministry of Education (MOE) in 2015 held meetings with rights holders to consider recommendations on improvements to on-campus IPR protection, including on MOE administered networks. However, these discussions have yet to translate into new policies.

Serious concerns remain with regard to media box devices that facilitate infringement via Internet links to pirated content. TIPO has increased outreach to law enforcement bodies on media box piracy in an attempt to mount an effective response to this new form of infringement, with a focus on retailers that overtly advertise media boxes as being sold for purposes of accessing infringing content. Taiwan has also taken steps to engage with governments which reportedly host exporters of the devices. However, these positive efforts have not fully addressed the problem, particularly with media box devices that may be shipped via couriers and that do not overtly advertise the hosting of infringing content.

Through the TIFA, the United States and Taiwan have engaged on effective responses to trade secrets misappropriation. The United States has welcomed the legislative steps that Taiwan has taken in recent years to improve protections against trade secrets misappropriation and theft of trade secrets from major foreign and Taiwan businesses. The Legislative Yuan amended Taiwan's Trade Secrets Law in January 2013 to provide more deterrent, enhanced penalties for trade secrets misappropriation. Under January 2014 amendments to Taiwan's Communications Protection and Surveillance Act, law enforcement bodies were also given additional enforcement tools to deal with trade secret theft. Additionally, May 2014 amendments to the Intellectual Property Case Adjudication Act oblige defendants in lawsuits concerning trade secrets to submit substantive defenses. April 2015 amendments to the Witness Protection Act that extended coverage to witnesses in trade secrets cases were pending review by the Legislative Yuan. Despite these positive steps, it remains difficult to pursue civil trade secret actions in Taiwan courts, in part due to continuing challenges in developing and securing access to evidence that is critical to plaintiffs. In 2015, the United States and Taiwan conducted exchanges on trade secrets protection, investigation, prosecution and adjudication, and will continue these exchanges in 2016.

In 2014, Taiwan authorities also took positive steps in the direction of enhancing patent and test data protections for innovative pharmaceutical products in certain respects by committing to establish a patent linkage system and study expanding the scope of regulatory data protection to cover a broader range of innovations in pharmaceuticals and biologics. In 2015 and early 2016, Taiwan authorities commenced drafting of and held a series of public hearings on amendments to the Pharmaceutical Affairs Act that would implement these commitments.

Taiwan's Intellectual Property Rights Police completed a restructuring on January 1, 2014 into a Criminal Investigative Brigade (CIB), with the stated intent of improving operational capacity, as well as coordination and cooperation with other enforcement agencies. Rights holders raised concerns over reduced staffing and the small number of enforcement actions, which the United States raised with Taiwan in 2014 and 2015 TIFA engagements. The CIB has reported increased seizure values, and that after a significant dip in value in 2014, the volume and value of both trademark and copyright cases in 2015 exceeded the level in 2013.

SERVICES BARRIERS

Banking Services

In 2013, Taiwan's banking regulatory body, the Financial Supervisory Commission (FSC) indicated that it would allow foreign banks in Taiwan to keep both their subsidiary and branch operations, but asked that foreign banks' branches limit their primary business scope to areas that do not overlap with those of the subsidiaries, including corporate finance and derivatives services for large companies.

In May 2014, Taiwan authorities implemented the "Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation," which lifted previous requirements that both local and foreign banks establish standalone onshore data centers.

Securities Services

In December 2012, the FSC announced that it would adopt a differential management approach and provide preferential licensing procedures for foreign trust fund companies that meet FSC's localization standards. In November 2014, FSC announced new measures to promote long-term investment in the Taiwan market by lowering the ceiling for Taiwan investors' share of an offshore fund from 70 percent to 50 percent, and down to 40 percent in some cases. The lower ceiling levels would apply if the offshore fund does not meet certain qualifications for the preferential management scheme, such as establishing a local presence, investing an average of NT$4 billion ($127.5 million) in onshore funds, and recruiting a certain number of Taiwan staff. As of December 2015, two offshore funds have met these criteria and seven others received a one-year grace period until September 30, 2016. FSC will review these funds' preferential status annually. According to FSC statistics, as of September 2015, 48 offshore funds in Taiwan do not meet the criteria.

Telecommunications

The combined direct and indirect foreign ownership limit for wireless and wire line telecommunications firms is 60 percent, with a direct investment limit of 49 percent. Separate rules exist for Chunghwa Telecom (CHT), the legacy carrier still partially owned by the Ministry of Transportation and Communications. CHT controls 97 percent of the fixed line telecommunications market. For CHT, the cap on direct and indirect foreign investment was raised to 55 percent in December 2007, with a direct investment limit of 49 percent.

Pay Television Services

Taiwan's Cable, Radio, and Television Act restricts foreign investment in cable television broadcasting services to a total equity share of 20 percent for direct investment, or 60 percent for combined direct and indirect investment. Foreign investment in satellite television broadcasting services is limited to 49 percent of the total shares issued.

The National Communications Commission (NCC) in July 2012 relaxed geographic restrictions on cable franchises for new and incumbent operators that agreed to use digital signals. The cable digital television (DTV) penetration rate rose from 38.9 percent in September 2013 to 85 percent in June 2015, while NCC's target is to reach 100 percent in 2017. Industry experts point to continuing caps of NT$600 ($20) on monthly cable television fees as hampering public access to a broader range and higher quality of programming. The NCC has announced plans to implement "a la carte" DTV service by 2017, which would remove the cap on monthly fees and allow for differential payment by consumers.

INVESTMENT BARRIERS

Taiwan prohibits or restricts foreign investment in certain sectors, including agricultural production, chemical manufacturing, bus transportation, and public social services (including public education, health, child care, sewage, and water services).

Foreign ownership in power transmission and distribution, piped distribution of natural gas, and high speed railways is limited to 49 percent of the total shares issued. The foreign ownership ceiling on airline companies, airport ground handling companies, forwarders, air cargo terminals, and catering companies is 49.99 percent, with each individual foreign investor subject to an ownership limit of 25 percent.

In the October TIFA Council meeting, the United States raised the need for transparency and consistency in Taiwan's investment review process. Taiwan authorities have proposed amendments to the Statute for Investment by Foreign Nationals that aim to bolster inbound investment, including by eliminating pre-investment approval requirements for investments under $1 million. However, the Legislative Yuan did not approve the amendments before the conclusion of its 2015 session.

OTHER BARRIERS

Pharmaceuticals

Stakeholders continue to underscore the need for greater transparency and predictability in Taiwan's pricing and reimbursement policies for pharmaceuticals, including innovative pharmaceuticals, in Taiwan's health care system. In July 2015, Taiwan's Ministry of Health and Welfare announced that it would extend by an additional two years (2015-2016) the pilot drug expenditure target (DET) program. The 2013 introduction of the DET served as an improvement over the less predictable price volume survey system that preceded it. However, there remain concerns over the DET's inconsistent treatment for reimbursing patented pharmaceutical products, the calculation of annual drug expenditure targets, and confusion over what actions will be taken if targets are exceeded.

The United States encourages Taiwan to increase transparency and predictability in its pricing and reimbursement policies, while continuing to provide meaningful opportunities for input by relevant stakeholders with a view towards improving patients' access while supporting innovation. U.S. exports of pharmaceutical products to Taiwan were valued at $371 million in 2015.

Medical Devices

Taiwan is a major market for U.S. medical device exports, valued at $264 million in 2014. Concerns persist over Taiwan's product license approvals and pricing review mechanisms. Manufacturing facility (Quality Systems Documentation, QSD) registration is mandatory in Taiwan, regardless of whether a medical device is already on the market or new to Taiwan's market; and re-registration is required every three years. While TFDA makes available an expedited application process for regulatory review of medical devices, U.S. industry has continued to express concern with the documentary requirements.

Self-pay and balance-billing are two mechanisms that have been introduced by Taiwan authorities to allow Taiwan patients to have the option of choosing medical devices that are not paid in-full by the authorities. At present, the National Health Insurance Administration (NHIA) does not provide reimbursement for implanted devices. Implants, in addition to a range of other commonly used devices not approved for reimbursement, must instead be issued a self-pay code, but this option is currently not available to a range of other non-implantable devices. Stakeholders report that hospitals that ask patients to self-pay for devices without a code are subject to administrative penalties by NHIA. To expedite code issuance, in April 2014, NHIA began assigning temporary self-payment codes for urgent or high-demand medical devices within two months of application. Temporary self-payment codes for new medical devices cannot be issued until NHIA completes review of new therapeutic procedures in which the device is used, and industry has suggested that issuance of temporary self-pay codes for new procedures are needed to accelerate patient access to new devices.

The balance billing mechanism, introduced in January 2013, allows partial patient self-pay for high-end devices or new technologies. NHIA has the authority to introduce price caps that apply ceilings on what patients pay on new balance billing items. Transparency and due process mechanisms are critical in this process and stakeholders expressed concern that the current balance billing system does not effectively distinguish among devices of differing effectiveness. In a positive development in 2014, NHIA established a website used to help consumers compare the cost of devices at different hospitals as a way to address a consumer concern without resorting to setting a balance billing cap. Stakeholders continue to urge NHIA to lift balance-billing caps on products with the same functional classifications, and to adopt a more flexible approach in allowing hospitals to set charges.

THAILAND

TRADE SUMMARY

The U.S. goods trade deficit with Thailand was $17.3 billion in 2015, a 13.3 percent increase ($2.0 billion) over 2014. U.S. goods exports to Thailand were $11.2 billion, down 4.8 percent ($563 million) from the previous year. Corresponding U.S. imports from Thailand were $28.6 billion, up 5.4 percent. Thailand was the United States' 25th largest goods export market in 2015.

U.S. exports of services to Thailand were an estimated $2.9 billion in 2014 (latest data available), and U.S. imports were $2.8 billion. Sales of services in Thailand by majority U.S.-owned affiliates were $5.2 billion in 2013 (latest data available), while sales of services in the United States by majority Thailand-owned firms were $140 million.

U.S. foreign direct investment (FDI) in Thailand (stock) was $11.7 billion in 2014 (latest data available), a 19.4 percent increase from 2013. U.S. direct investment in Thailand is led by manufacturing, wholesale trade, and professional, scientific, and technical services.

The United States and Thailand meet regularly under our Trade and Investment Framework Agreement to address issues and consider ways to deepen our economic relations. Thailand has preferential trade agreements with trading partners such as China, Australia, and New Zealand, which has eroded the competitiveness of U.S. products in the Thai market. Thailand has eliminated tariffs on approximately 99 percent of all goods from ASEAN trading partners.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Alcoholic Beverage Labeling Requirements

On October 19, 2015, Thailand’s new regulation titled “The Rules, Procedure and Condition for Labels of Alcoholic Beverages” came into force. Though the Office of Alcohol Control issued a guidance document for the regulation, many of Thailand’s trading partners and alcohol importers remain concerned about the measure’s lack of clarity, especially on enforcement procedures, and on the kinds of terms, claims, and statements that businesses can use on labels for alcoholic beverages. Thai officials also publically expressed their intention to apply a graphic warning requirement to such products. This proposal was initially proposed in 2010 for all beer, wine, and spirits sold in Thailand, but was not adopted. The Ministry of Public Health published this additional proposal on its website, but has not yet notified it to the WTO. During subsequent TBT Committee meetings, the United States and other WTO members urged Thailand to notify stakeholders of the proposal so they can become acquainted with it and have an opportunity to offer their input.

Sanitary and Phytosanitary Barriers

Animal-Derived Products

Although the World Animal Health Organization (OIE) recognized the United States as a negligible bovine spongiform encephalopathy (BSE) risk country in 2013, Thailand has not lifted its long-standing ban on U.S. feed or feed ingredients that contain or are derived from ruminant animals. Thailand also requires inspection and approval of U.S. manufacturing facilities that produce certain animal-derived products as a condition of import. The United States has engaged extensively with the Government of Thailand on this issue and will continue to do so.

Beef and Beef Products

Notwithstanding OIE recognition of the United States as a negligible BSE-risk country, Thailand restricts imports of U.S. beef and beef products due to the detection of a BSE positive animal in the United States in 2003, and only allows the importation of U.S. deboned beef from animals less than 30 months of age. In 2012, Thailand published new rules that largely align its BSE-related requirements with OIE guidelines. In August 2013, a team from the Thai Department of Livestock and Development conducted an audit of the U.S. beef production system as a step towards fully reopening the Thai market to U.S. beef. The United States and Thailand are now working to reach agreement on export certificate language. Separately, the Thai Food and Drug Administration (FDA) has also claimed jurisdiction over the importation of beef products based on its administration of food safety standards. USDA is working with the Thai FDA to ensure that Thai FDA regulations comply with OIE guidelines on BSE. The Thai FDA submitted a new draft rule on BSE to the WTO's SPS Committee for comments from trading partners in December 2015 and the United States is submitting comments on this draft. The United States will continue to work with the Government of Thailand to address these concerns.

Ractopamine

In 2012, after the Codex Alimentarius Commission established maximum residue levels (MRLs) for ractopamine in cattle and pig tissues, Thailand indicated it would lift its ban on imports of pork from countries, such as the United States, that allow ractopamine use. Thailand has begun work on a risk assessment of ractopamine, but the results are still pending. As a result, Thailand has not yet established MRLs for ractopamine in pork, which effectively prevents the importation of U.S. pork products.

Poultry

Thailand bans U.S. live poultry and poultry meat due to the sporadic presence of highly pathogenic avian influenza (HPAI) in the United States. This ban is not consistent with OIE guidelines. The United States has urged Thailand to adopt an OIE-consistent 'regionalization' policy and to accept poultry products from areas of the United States not affected by HPAI. In 2015, U.S. poultry and poultry product exports fell 80 percent to $2.6 million (from $13.2 million in 2014).

Import Fees

Thailand imposes food safety inspection fees in the form of import permit fees on all shipments of uncooked meat. Current fees are $160 per ton for red meat (beef, buffalo, goat, lamb, and pork) and offals, and $320 per ton for poultry meat. Equivalent fees for domestic meat inspections, however, are significantly lower: $5 per ton for beef, $21 per ton for poultry, $16 per ton for pork, and zero for offals. The domestic fees are levied in the form of slaughtering or slaughterhouse fees. In November 2014, the Thai National Legislative Assembly passed a new Animal Epidemics Act that contains a provision that gives DLD discretionary authority for up to a five-fold increase in these import fees. The United States has raised and will continue to raise concerns with these fees.

IMPORT POLICIES

Tariffs

High tariffs in many sectors remain an impediment to access to the Thai market. While Thailand's average applied MFN tariff rate was 11.6 percent *ad valorem* in 2014, *ad valorem* tariffs can be as high as 724 percent, and the *ad valorem* equivalent of some specific tariffs (charged mostly on agricultural products) is even higher. Thailand has bound all tariffs on agricultural products in the WTO but only approximately 70 percent of its tariff lines on industrial products. The highest *ad valorem* tariff rates apply to imports competing with locally produced goods, including automobiles and automotive parts, motorcycles, beef, pork, poultry, tea, tobacco, flowers, wine, beer and spirits, and textiles and apparel. About a half of Thailand's MFN tariff schedule involves duties of less than 5 percent, and almost 20 percent of tariff lines are duty free, including for products such as chemicals, electronics, industrial machinery, and paper.

Thailand has bound its agricultural tariffs at an average of 39 percent *ad valorem*. Its average applied MFN tariff on agricultural products is 31.3 percent. Applied MFN duties on imported processed food products typically range from 30 percent to 50 percent. Tariffs on meats, fresh fruits and vegetables, fresh cheese, and pulses (*e.g.*, dry peas, lentils, and chickpeas) are similarly high. For corn, the in-quota tariff is 20 percent and the out-of-quota tariff is 73 percent. In some cases, high tariffs are applied irrespective of domestic production. The type of potato used to produce frozen French fries, for example, is not produced in Thailand, yet imports of these potatoes face a 30 percent tariff. Tariffs on apples are 10 percent, while duties on pears, cherries, citrus, and table grapes range from 30 percent to 40 percent. Application of preferential tariffs as a result of free trade agreements with countries such as China, Australia, and New Zealand has eroded the competitiveness of U.S. products, including these and other agricultural products, in recent years.

Thailand's average bound tariff for non-agricultural products is 25.5 percent. Thailand's applied tariffs on industrial goods tend to be much lower than its bindings, averaging 16 percent in 2014. However, Thailand applies high tariffs in some sectors. For example, Thailand applies import tariffs of 80 percent on motor vehicles, 60 percent on motorcycles and certain clothing products, 54 - 60 percent on distilled spirits, and 30 percent on certain articles of plastic and restaurant equipment. Among the products on which Thailand charges tariffs of 10 - 30 percent are certain audiovisual products, reception apparatus, and other consumer electronics. Thailand applies a 10-percent tariff on most pharmaceutical products, including almost all products on the World Health Organization's list of essential medicines, with the exception of some vaccines, antimalarials, and antiretrovirals, which are exempt.

Nontariff Barriers

Import licenses are required for 16 categories of products, including certain chemical and pharmaceutical products such as clenbuterol, albuterol, and salbutamol; unfinished garments, parts, or components except collars, cuffs, waistbands, and pockets; worked monument or building stone; used automobiles, including cars, motorcycles and six-wheeled buses having 30 seats or more; certain used diesel engines; machinery and parts that can be used to violate copyrights via digital video and compact discs; intaglio printing machines and color copier machines; waste and scraps of plastic; chainsaws and accessories; fish meal with protein content less than 60 percent; caffeine; gold; and potassium permanganate. Imports of used motorcycle parts, medical devices, and gaming machines are prohibited. Import licenses for used automobiles and used motorcycles are granted only for imports intended for re-export or for individual, non-commercial use. Imports of certain minerals, arms and ammunition, and art objects require special permits from the relevant ministries.

Although Thailand has been relatively open to imports of feed ingredients, including corn, soybeans, and soybean meal, U.S. stakeholders have raised concerns about what they consider to be excessively burdensome requirements for feed products containing certain dairy ingredients. Thailand imposes domestic-purchase requirements on importers of several products subject to tariff-rate quotas, including soybeans and soybean meal.

The United States has raised concerns with Thailand about a draft measure related to infant and follow-up formula products. Thailand's Draft Marketing Control of Food for Infant and Young Child and Related Products includes additional restrictions on the use of trademarked brand names, packaging, symbols, and educational, promotional, and marketing activities for modified milk for infants, follow up formula for infants and young children, and supplemental foods for infants. The United States has asked for the rationale and scientific evidence that support the proposed measure, as well as the extent to which the measure is based on international standards, as the current draft is more restrictive than relevant international standards, specifically the Codex Alimentarius Commission and the World Health Organization Code of Marketing of Breast-Milk Substitutes. Where other countries in the region regulate marketing of breast-milk substitutes, the marketing restrictions generally do not apply to follow-up formula for young children over one year. After numerous requests, Thailand notified the measure to the WTO. The United States has submitted formal comments on Thailand's draft and continues to communicate to raise the issue with the Government of Thailand.

Price Controls

The Thai government, through the Trade Competition Board, has the legal authority to control prices or set *de facto* price ceilings for selected goods and services, including staple agricultural products (such as sugar, pork, cooking oil, condensed milk, and wheat flour), liquefied petroleum gas, medicines, sound recordings, and student uniforms. The controlled list is reviewed at least annually, but these price control review mechanisms are nontransparent. In practice, Thailand's government influences prices in the local market through its control of state monopoly suppliers of products and services, such as in the petroleum, aviation, and telecommunications sectors.

Excise Taxes

Excise taxes are high on some items such as unleaded gasoline, beer, wine, and distilled spirits. Currently, Thailand is reviewing its excise tax structure and is considering changes that could further increase the excise tax burden on imported products.

Excise taxes on automobiles in Thailand are based on carbon dioxide emissions, and range from 10 percent to 50 percent, as of January 1, 2016.

Customs Barriers

The United States continues to have serious concerns about the lack of transparency in Thailand's customs regime and the significant discretionary authority exercised by Customs Department officials. The Customs Department Director General has the authority and discretion to increase the customs value of imports for reasons that are not authorized by the WTO Agreement on Customs Valuation. The United States has raised concerns with Thailand's government regarding its use of this authority and has urged Thailand to eliminate this practice. The U.S. Government and stakeholders also have expressed concern about the inconsistent application of Thailand's transaction valuation methodology and reports of repeated use of arbitrary values by the Customs Department.

The U.S. Government and exporters continue to urge the Customs Department to implement overdue reforms, including publishing proposals for changes in customs laws, regulations, and providing public notice and allowing sufficient time for comments on these proposals. U.S. companies also continue to report serious concerns about corruption and the cost, uncertainty, and lack of transparency associated with the penalty/reward system. This system creates conflicts of interest for customs officials and encourages customs investigations for personal financial gain. The Thai government is currently moving legislation that could lower the rewards for customs officials and allow for reduced penalties for administrative errors and other unintentional violations. The United States will continue to press Thailand in bilateral and multilateral fora to address this issue.

GOVERNMENT PROCUREMENT

The Prime Minister's Procurement Regulations, which govern public sector procurement, came into effect in 1992 and have been revised several times. These regulations established a preference program in which products certified by the Ministry of Industry as from domestic suppliers have an automatic 7-percent price advantage over foreign bidders in evaluations in the initial bid round. (Domestic suppliers in the preference program include subsidiaries of U.S. firms registered as Thai companies.)

If corruption is suspected during the bidding process, Thai government agencies and State enterprises reserve the right to accept or reject any or all bids at any time. The Thai government also reserves the right to modify the technical requirements at any time. This gives considerable leeway for Thai government agencies and state-owned enterprises to manage procurements, while denying bidders recourse to challenge procedures. Foreign businesses have frequently alleged that the Thai government makes changes to technical requirements for this purpose during the course of procurements. Despite Thailand's commitment to transparency in government procurement, U.S. companies and the Thai media report allegations of irregularities.

Thailand remains a non-signatory to the WTO Agreement on Government Procurement, but became an observer to the agreement on June 3, 2015.

SUBSIDIES

In early 2014, the Thai government discontinued its controversial rice pledging program. This program resulted in large financial outlays by the government and up to 18 million metric tons of government-owned rice stocks. Since the coup d'état in May 2014, the interim government has acted to export rice through government-to-government contracts and private auctions at prices far below acquisition costs, further adding to downward price pressure on international markets. In late 2014 and 2015, the Thai government announced a similar four-month pledging program, at lower guaranteed prices than in previous years, and limited to only fragrant and glutinous rice paddies. The Thai government is only processing 350,000 metric tons of rice under the program in marketing year 2014/15 and the selling price is unclear. The Bank for Agriculture and Agricultural Cooperatives, which managed the pledging program, received interest rate compensation from the government.

The Thai government is also in the process of reforming fuel subsidies by eliminating large cross-subsidies between energy sources and reinstating excise taxes and Oil Fund levies on diesel and liquid petroleum gas (LPG). LPG prices and electricity up to 50Watt-hours/month have remained fixed for low-income households.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Thailand remained on the Priority Watch List in the 2015 Special 301 Report. The United States recognized Thailand's continuing efforts to strengthen IPR protection and enforcement in 2015 through a number of legislative amendments, covering *ex officio* authority for enforcement actions and addressing unauthorized camcording in movie theaters, among other issues. However, IPR enforcement remains inconsistent and uncoordinated. Online and mobile piracy reportedly increased significantly, and physical goods piracy and counterfeiting on a commercial scale remains widespread. The United States continues to urge Thailand to take enforcement action against widespread piracy and counterfeiting in the country, and to impose sentences that would deter potential offenders. The National Legislative Assembly is reportedly in the process of reviewing and ratifying additional IPR-related legal amendments, but how these new laws will be implemented and whether the new legal environment improves IPR protection and enforcement is still unclear. Additionally, the United States has urged Thailand to develop new laws and regulations, including on pharmaceutical-related issues, through a more transparent process that takes into account the views of rights holders and incorporates effective notice and comment processes.

SERVICES BARRIERS

Audiovisual Trade Barriers

The Motion Picture and Video Act gives Thailand's Film Board the authority to establish ratios and quotas limiting the importation of foreign films. Foreign ownership and investment in terrestrial broadcast networks is prohibited.

Telecommunications Services

Thailand has taken steps to reform its telecommunications regulatory regime, but significant obstacles to foreign investment remain. Despite limiting foreign equity to only 20 percent in its provisional 1997 WTO commitments, Thai law now allows foreign equity up to 49 percent in basic telecommunications service firms and higher levels for providers of value-added services. Thailand has not revised its WTO schedule, as it committed to do, to reflect both these higher foreign-equity limits and the adoption of pro-competitive regulatory measures (*e.g.*, mandatory interconnection) that it subsequently enacted.

Thailand maintains regulations to restrict "foreign dominance" in telecommunications. The regulations prohibit foreign ownership beyond 49 percent and look beyond traditional accounting methods for classifying shareholdings. The criteria by which foreign dominance is determined remains unclear, raising concerns that implementation of the regulations is inconsistent and nontransparent. In addition, U.S. and other foreign telecommunications companies also have expressed concern that the regulations may be extended to other industries.

The United States has concerns about other issues in the telecommunications sector relating to the two State-owned telecommunications enterprises: TOT and CAT Telecom. These include the phasing out of the concession contracts of TOT and CAT Telecom; preferences accorded to TOT and CAT with respect to spectrum; the privatization of TOT and CAT; and enforcing the interconnection obligations of these two operators. The United States has expressed concerns to Thailand about these practices and will continue to engage with the Government of Thailand to address these concerns.

Legal Services

U.S. investors may own law firms in Thailand only if they enter into commercial association with local attorneys or local law firms, and U.S. citizens and other foreign nationals (with the exception of "grandfathered" non-citizens) may not provide legal services. In certain circumstances, foreign attorneys can obtain a limited license entitling them to offer advisory services in foreign and international law.

Financial Services

Thailand limits the number of licenses for foreign bank branches and subsidiaries. Foreign banks can gain entry to the Thai banking system by obtaining new licenses, which are opened for application periodically, and by acquiring shares of existing domestic banks. The latest round of applications for new licenses was in 2013: consistent with the Financial Sector Master Plan Phase 2, five new foreign full bank licenses to operate as a subsidiary were made available for the purpose of encouraging international trade and investment. In 2014, out of the five licenses allowed by the quota, Thailand granted new subsidiary licenses to two foreign banks. However, in past practice, most foreign banks enter the market by acquiring shares of existing domestic banks. Foreign ownership is limited to 25 percent of shares, although the Bank of Thailand can raise this amount to 49 percent on a case-by-case basis. In addition, the Minister of Finance, with a recommendation from the Bank of Thailand, may authorize foreign ownership above 49 percent if deemed necessary to support the stability of a financial institution or the overall financial system during an economic crisis. Changes in major shareholders must also be for prudential reasons with emphasis on good governance and risk management under the Basel Core Principles.

Foreign bank branches and subsidiaries can perform all types of financial activities under the concept of "universal banking," similar to local banks. A subsidiary may open up to 20 branches and 20 off-premise ATMs across Thailand, and foreign bank branches may open up to three branches or off-premise ATMs in Thailand without having to meet additional capital requirements. Representative offices have the authority to conduct liaison and research services.

The Thai Securities and Exchange Commission grants licenses to new domestic and foreign securities companies that meet its requirements. It allows various ownership structures, including 100-percent Thai or foreign ownership, strategic foreign partnerships, joint ventures between Thai and foreign companies, or bank affiliate status.

The Thai government has relaxed restrictions on foreign investment and ownership in the insurance sector, but barriers remain. Foreign investors are now limited to a 25 percent equity stake in existing insurance firms and may hold up to 25 percent of board of director seats. The Office of the Insurance Commission may, as empowered by its board of directors, approve an increase of foreign shareholding and the number of seats on the board of directors up to 49 percent on a case-by-case basis if the company is financially sound with a good reputation, has a good track record of business performance, can demonstrate its business strength and contributions to the insurance industry, and has a solid business plan. The Insurance Commission also must approve the company directors.

Accounting Services

Thailand's Foreign Business Act reserves accounting services for Thai nationals. As a result, foreigners cannot serve as professional accountants in Thailand unless their employer company is granted a special privilege to bring in expatriates, such as under a Board of Investment promotion. In addition, foreigner workers cannot be licensed as certified public accountants unless they pass the required examination in the Thai language, are citizens of a country with a reciprocity agreement, and legally reside in Thailand. Foreign accountants may serve as business consultants. Regarding business operations, foreigners are only permitted to own up to 49 percent of an accounting professional service, through a limited liability company registered in Thailand.

Postal and Express Delivery Services

Private express delivery companies must pay postal "fines" and penalties for delivery of documents in Thailand. These fines amount to an average of 37 baht per item (slightly more than $1) for shipments that weigh up to two kilograms. Thailand also imposes a 49-percent limit on foreign ownership in land transport.

INVESTMENT BARRIERS

The Foreign Business Act (FBA) lays out the framework governing foreign investment in Thailand. Under the FBA, a foreigner (defined as a person who is not a Thai national, a company that is not registered in Thailand, or a company in which foreign ownership accounts for 50 percent or more of total shares) needs to obtain an alien business license from the relevant ministry before commencing business in a sector restricted by the FBA. Although the FBA prohibits majority foreign ownership in most sectors, U.S. investors registered under the United States-Thailand Treaty of Amity and Economic Relations (AER) are exempt. However, U.S. investment is prohibited under the AER in the following areas: "communications, transportation, fiduciary functions, banking involving depository functions, the exploitation of land or other natural resources, domestic trade in indigenous agricultural products, and the practice of professions, or calling reserved for Thai nationals." The following occupations are reserved for Thai nationals: tour guides, clerks and secretaries, attorneys, accountants, civil engineers, architects, farmers, construction workers, drivers and vehicle operators, jewelry makers, hairdressers, weavers, a variety of handicraft makers, and tailors.

OTHER BARRIERS

U.S. stakeholders have expressed concern that processes used by the Thai government for revising laws and regulations affecting trade and investment lack consistency, transparency, and broad stakeholder engagement.

In the pharmaceutical sector, the Government Pharmaceutical Organization, a State-owned entity, is not subject to Thai FDA licensing requirements on the production, sale, and importation of pharmaceutical products. U.S. stakeholders have expressed concerns about the lack of transparency and due process in the administration of the Thai government's National List of Essential Drugs for procurement of pharmaceutical products dispensed at government hospitals, pending changes to the Drug Act that would affect registration of patented medicines, the uncertain business climate following Thai Cabinet-level resolutions that cite compulsory licensing as an acceptable cost reduction method for health care, and other issues in the pharmaceutical sector.

Corruption

The 2007 Thai Constitution contains provisions to combat corruption, including enhancement of the status and powers of the National Anti-Corruption Commission, which is independent from other branches of government and is thus unique among Thai bodies aimed at countering corruption. Under the provisions, persons holding high political office and members of their immediate families must disclose their assets and liabilities before assuming office, every three years while in office, upon leaving office, and one year after leaving office. Despite these steps, corruption continues to be a serious concern in Thailand.

In July 2015, the revised Organic Act on Counter Corruption came into effect. Among the various substantive amendments to the country's primary anticorruption legislation to ensure further compliance with the United Nations Convention against Corruption are provisions to criminalize the bribery of foreign public officials and employees of public international organizations, establish criminal liability for legal persons when their employees or agents engage in the bribery of public officials, as well as to allow the National Anti-Corruption Commission to confiscate proceeds of corruption through non-conviction-based forfeiture. There is a positive trend of increased dialogue and collaboration between the anti-graft agency and business associations to advocate for the removal of red tape and promotion of transparency in public procurement procedures.

While the National Anti-Corruption Commission is the primary constitutional body vested with powers and duties to counter corruption in the public sector, several different agencies have jurisdiction over corruption issues, and clear jurisdictional responsibilities and differing bureaucratic structures mean their actions are not always complementary. Investigative and prosecutorial capacity is limited and Thai laws focus predominantly on abuse of office as opposed to financial or asset-related malfeasance. Anticorruption mechanisms continue to be employed unevenly, and the lack of transparency in many government administrative procedures facilitates corruption.

In October 2015, the Anti-Money Laundering Office implemented the Anti-Money Laundering Act No. 5 to help law enforcement and financial institutions better address evolving money laundering techniques and situations, increase enforcement efficiency, and conform to international standards. Through the updated act, Thailand has expanded the responsibilities and scope of the Anti-Money Laundering Office, allowing the organization more flexibility and authority in coordinating action plans with other agencies as well as a more streamlined reporting structure.

TUNISIA

TRADE SUMMARY

The U.S. goods trade surplus with Tunisia was $16 million in 2015, a 94.9 percent decrease ($295 million) over 2014. U.S. goods exports to Tunisia were $560 million, down 32.7 percent ($272 million) from the previous year. Corresponding U.S. imports from Tunisia were $544 million, up 4.4 percent. Tunisia was the United States' 92nd largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Tunisia (stock) was $360 million in 2014 (latest data available), a 3.4 percent increase from 2013.

IMPORT POLICIES

Tariffs

Agricultural products are generally subject to high import duties, with an applied tariff on most vegetables, fruits and cereals of 36 percent. Some agricultural goods are subject to quotas. Tariffs on industrial goods range from zero to 20 percent. Passenger cars also are subject to a consumption tax at the border, which for luxury cars (that is, cars with engine size greater than 2.7 liters) is 267 percent.

Tunisia is party to several bilateral free trade agreements – including with Egypt, the European Union, Jordan, and Morocco – and it gives preferential tariff rates to goods pursuant to those agreements.

Customs Procedures

The 2009 Customs Code has shortened clearance delays and improved some procedures, but customs procedures remain cumbersome. Inconsistent application of customs processes within the Tunisian Customs Administration can be a significant obstacle for importers. For example, importers have experienced extended delays in customs clearance while Tunisian Customs assesses whether goods meet technical standards required for importation.

In 2015, Tunisia launched a modernization plan designed to implement customs reforms over the period 2016 to 2018. The Ministry of Finance also proposed simplification of customs tariffs in the 2016 Budget Law, but the proposed simplification has yet to be approved by parliament.

Nontariff Barriers

Tunisia has import licenses and quotas on certain consumer goods that compete against local products. A major category is passenger cars. Quota allotments, which apply to small-engine cars, are based partly on the amount of Tunisian-produced automobile components used in the automobiles built by the foreign manufacturers. Importers have to request an allotment from the government to receive an import license. Tunisian consumers find it difficult to import foreign vehicles privately because of foreign exchange controls.

GOVERNMENT PROCUREMENT

Since 1989, a comprehensive law designed to regulate each phase of public procurement has governed the public sector. In 2009 Tunisia established the Higher Market Commission to supervise the tender and award process for major government contracts and has stated its support for a transparent process. Public tenders require bidders to provide a sworn statement that they have not and will not, either themselves or through a third party, make any promises or give gifts with a view to influencing the outcome of the tender and realization of the project. Despite the law and related processes established by the government, there are allegations of corruption in government tenders. Tunisia has stated that reforming the government procurement system is a 2016 priority.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Tunisia is a member of the World Intellectual Property Organization (WIPO) and signatory to the UNCTAD Agreement on the Protection of Patents and Trademarks. The agency responsible for patents and trademarks is the National Institute for Standardization and Industrial Property (INNORPI). Tunisia is party to the Madrid Protocol for the International Registration of Marks. Foreign patents and trademarks are required to be registered with INNORPI. Since 2009, Tunisia has been updating its laws to meet the requirements of the WTO TRIPS Agreement. Copyright protection is the responsibility of the Tunisian Copyright Protection Organization (OTPDA), which also represents foreign copyright organizations.

Smuggling of counterfeit or infringing items takes place through Tunisia's porous borders. However, if a copyright violation is suspected, customs officials have authority to inspect and seize suspect goods. Print, audio, and video media are considered particularly susceptible to copyright infringement.

SERVICES BARRIERS

Telecommunications

Most Internet Service Providers (ISPs) can access the Internet only via the government-run Tunisian Internet Agency (ATI), whose service does not always meet industry standards. Limited exceptions are permitted. Two telecommunication operators were granted exceptions in 2013 and are not required to go through ATI for an international broadband connection.

INVESTMENT BARRIERS

The family-owned structure of many Tunisian businesses can make it difficult for U.S. companies to establish joint ventures. Local partners are resistant to ceding management control to foreign investors, and foreign firms often find it difficult to change local distributors or agents after entering into contractual relationships. In addition, provisions in Tunisian commercial legislation designed to protect minority shareholder interests may confer disproportionate influence on Tunisian minority partners.

Investors have complained of delays, lack of transparency regarding rules and fees, and other bureaucratic complications in the process of registering a business.

Entering the Tunisian market is difficult. Foreign investment is limited to 49 percent in most sectors, and the process of establishing an investment can be particularly challenging in areas that are not government priorities (*e.g.* where there is no public tender). Every joint venture with a foreign investor must be approved by the Tunisian government, which assesses the potential benefit to the Tunisian economy.

Foreign investors are prohibited from engaging in the wholesale and retail distribution sector.

ELECTRONIC COMMERCE

Tunisia imposes burdensome restrictions on foreign exchange. One result of these restrictions is that Tunisian credit cards and debit cards cannot be used for international electronic commerce transactions.

OTHER BARRIERS

Although the government of Tunisia is making efforts to expand opportunities for businesses, U.S. companies report that cumbersome, time consuming government processes and inconsistent regulatory practices can make it difficult to enter and participate in the Tunisian market.

Due to foreign exchange restrictions, Tunisian purchasers are prohibited from using foreign currency to pay for imported goods until customs confirms that the goods are actually imported. This has been the source of confusion and difficulty for some U.S. companies.

TURKEY

TRADE SUMMARY

The U.S. goods trade surplus with Turkey was $1.7 billion in 2015, a 59.7 percent decrease ($2.6 billion) over 2014. U.S. goods exports to Turkey were $9.6 billion, down 17.9 percent ($2.1 billion) from the previous year. Corresponding U.S. imports from Turkey were $7.8 billion, up 6.4 percent. Turkey was the United States' 27th largest goods export market in 2015.

Sales of services in Turkey by majority U.S.-owned affiliates were $4.5 billion in 2013 (latest data available), while sales of services in the United States by majority Turkey-owned firms were $78 million.

U.S. foreign direct investment (FDI) in Turkey (stock) was $4.4 billion in 2014 (latest data available), a 0.4 percent increase from 2013. U.S. direct investment in Turkey is led by manufacturing, wholesale trade, and finance/insurance.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Pharmaceuticals - Good Manufacturing Practices Certification

In late 2009, Turkey’s Ministry of Health (MOH) issued a Regulation to Amend the Regulation on the Pricing of Medicinal Products for Human Use, which took effect on March 1, 2010. The regulation requires foreign pharmaceutical producers to secure a good manufacturing practices (GMP) certificate based on a manufacturing plant inspection by MOH officials before their products can be authorized for sale in Turkey.

This requirement (previously, the MOH recognized GMP inspections performed by the U.S. Food and Drug Administration or the European Medicines Agency) has led to severe delays in many pharmaceutical products receiving GMP certifications because the MOH’s inspection backlog has grown significantly. U.S. manufacturers report that these delays are effectively closing the Turkish market to the registration of some new innovative drugs because delays in GMP inspections have prolonged MOH’s already lengthy processes for granting final approvals to place these products on the Turkish market. In response to repeated U.S. Government requests (including at senior levels) to speed up overall market access approval time frames, the MOH authorized “parallel submission” (versus sequential submission) of GMP inspection and marketing approval applications for “Priority One” pharmaceuticals imported from U.S. and EU firms. While a positive step, the MOH has not yet formalized this approach and does not yet apply it to all pharmaceutical product applications. On March 16, 2015, the Turkish Medicine and Medical Devices Institution announced that the duration of GMP certificate validity had been extended from three to four-and-a-half years.

Testing of Imported Toys

In early 2015, Turkey began onerous testing of all imported toys, causing delays in shipping and excessive costs to importers. Every import shipment was detained at the port of entry, where three or four representative samples were taken from every stock keeping unit and sent to a laboratory for phthalates and flame retardant testing, even if importers could demonstrate that similar testing was done prior to export. This practice threatened to affect not only U.S. direct exports of $14 million annually, but also products from large U.S. companies manufacturing toys in third countries. Following repeated interventions by the U.S. Embassy with the Ministry of Economy, and efforts by the U.S. delegation to raise the issue in meetings of the WTO TBT Committee, Turkish authorities announced in January 2016 that the testing had been discontinued.

Testing of Imported Footwear

U.S. footwear producers have reported delays at the Turkish border due to burdensome testing and inspection of their products – actions which, according to industry, far outpace typical import procedures in many other countries, including the United States and the EU. Following interventions by the U.S. Embassy, the delays appear to have been reduced from a matter of months to weeks.

Food and Feed Products – Mandatory Biotechnology Labeling

In 2010, Turkey enacted the comprehensive Biosafety Law, which, *inter alia*, mandates the labeling of food and/or feed derived from agricultural biotechnology if the biotechnology content exceeds a certain threshold. In addition, the Biosafety Law requires that "GMO" labels on certain food products contain health warnings. The Turkish government has provided no scientific basis for imposing these requirements.

In addition to the labeling requirements, the Biosafety Law mandates onerous traceability procedures for all movement of biotechnology-derived animal feed, including a requirement that each handler maintain traceability records for 20 years.

Alcoholic Beverages – Labeling

Turkey notified a draft regulation on alcoholic beverage warning statements to the WTO on August 6, 2013, providing a three-day comment period. The regulation requires alcoholic beverages to carry the warning statement, "Alcohol is not your friend." In comments submitted by the U.S. Government, dated August 8, 2013, the United States requested that Turkey explain the rationale underlying this requirement. The regulation went into effect on January 1, 2014, but Turkey has yet to respond to the U.S. request.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

The United States has repeatedly raised concerns with Turkish officials, including at senior levels, about specific provisions of the 2010 Biosafety Law and its implementing regulations.

In addition to requiring mandatory biotechnology labeling, the Biosafety Law, upon entering into effect, immediately negated the approvals of agricultural biotechnology products granted under Turkey's previous biotechnology regulation. This initially had the effect of stopping all trade with the United States in products derived from agricultural biotechnology (primarily soy and corn products).

Though it originally notified the Biosafety Law to the WTO prior to enactment, the Turkish government has failed to notify subsequent revisions of the law and its implementing regulations. Turkey also has not informed its trading partners before implementing various regulatory controls for biotechnology traits. Trading partners often learn of changes only when products are blocked at Turkish ports.

U.S. agricultural biotechnology developers continue to be reluctant to seek regulatory approvals in Turkey for individual biotechnology traits due to onerous liability requirements imposed by the Biosafety Law, unclear procedures for the assessment of individual biotechnology traits, and concerns regarding the protection of applicants' confidential information.

The Biosafety Board established under the Biosafety Law thus far has rejected applications for approval of a number of corn and soybean biotechnology traits and has generally operated in a nontransparent manner. To date, a total of 32 traits, of which seven are soybean and 25 are corn, are approved for use in animal feed in Turkey. Twenty-four traits are still undergoing risk and socio-economic assessments. The Biosafety Board has not provided any scientific justification for approvals or rejections.

Turkey adopted a threshold for unapproved biotechnology traits in September 2011, and allows for up to 0.1 percent presence in animal feed shipments of agricultural biotechnology products that are still under review or whose approval has expired.

On May 29, 2014, Turkey published an amendment to the "Regulation on GMO and Its Products" that defines "contamination" in feed and establishes a 0.9 percent threshold under which products are considered "contaminated." However, the amendment does not clearly explain how "contamination" affects products with unapproved biotechnology traits.

Turkey has imposed onerous biotechnology-focused testing requirements for certain U.S. food and feed imports. Turkish authorities in 2013 began requiring 100 percent testing for any biotechnology content in U.S. wheat imports following a single detection in Oregon of an unapproved wheat biotechnology trait. The testing has been limited to U.S. wheat imports even though biotechnology wheat is not commercialized anywhere in the world and wheat imports from any country are equally likely to test positive for trace amounts of unapproved biotechnology traits. This has negatively affected U.S. wheat imports. In October 2014, the Turkish government implemented a 100 percent biotechnology-focused testing regime for all imports of animal feed. As a result, U.S. corn co-products currently can enter Turkey only on a limited basis, and they face a high risk of rejection by Turkish authorities.

Also in October 2014, Turkey began requiring certifications from the country of origin that products exported to Turkey have not been produced using enzymes or microorganisms derived from agricultural biotechnology. As no government in the world regulates the use of such enzymes or microorganisms, many products that may have been produced using them, ranging from wine and cheese to breads, pet food, and livestock nutritional supplements, subsequently have been rejected at Turkish ports for lack of the required certifications. On May 5, 2015, Turkey excluded enzymes from the scope of the Biosafety Law and thus from the certification requirement. However, Turkey continues to require government-issued certifications in the case of microorganisms.

Food Safety

Turkey's efforts to conform its national food safety laws to EU measures have been inconsistent, often resulting in non-transparent regulatory requirements and unpredictable enforcement actions. Turkish authorities frequently have implemented changes without notification or consultation with trading partners, increasing costs to exporters. Chapter 11 of Turkey's European Union accession process, which deals with agriculture and rural development, is currently blocked by the European Council and France, but could conceivably bring greater transparency in this area. Chapter 12, dealing with food safety and phytosanitary policy, is currently open and under negotiation between the EU and Turkey.

The importation of live animals and animal products requires a control certificate from Turkey's Ministry of Food, Agriculture and Livestock. The issuance of this certificate is not guaranteed.

Turkey has been sporadically rejecting imports of unmilled rice due to detection of white tip nematode, which is considered by Turkey to be a quarantine pest. Turkish action is inconsistent with international standards for a quarantine pest as this pest is widely distributed in Turkey and not under official control. Because of the risk of a positive detection of the nematode upon arrival, many exporters have stopped shipping to Turkey.

Animal Health

In June 2013, Turkey began to require dioxin-free certification for imports of animal feed and pet food products. This requirement negated a 2006 bilateral agreement under which Turkey accepted that imports of animal feed and pet food products from the United States did not require this certification. Turkey has not provided any evidence that products from the United States contain dioxins.

Turkey is an important transit point for U.S. poultry flowing to Iraq and the Middle East. Following the United States' avian influenza outbreak in 2015, the Ministry of Food, Agriculture and Livestock banned poultry from affected U.S. states. According to the OIE, countries are recommended to resume trade three months after stamping out of the outbreak, and the subsequent cleaning and disinfection of affected establishments (and continued surveillance), but Turkey is interpreting this as three months after the final report closing out the outbreak has been submitted to the OIE. In practice though, Turkey has not lifted the bans even after both of these dates have passed. Turkey also bans, in a manner inconsistent with OIE guidelines, poultry products from U.S. states with identified cases of avian influenza in wild birds (endemic in wild birds) and low pathogenic avian influenza (mitigations should be put in place).

IMPORT POLICIES

Tariffs

In accordance with its customs union agreement with the EU, Turkey exempts from tariffs non-agricultural products imported from the EU and applies the EU common external tariff to third-country non-agricultural imports, including those from the United States. Turkey also exempts from tariffs non-agricultural products imported from other trading partners with whom it has concluded free trade agreements. Turkey has bound just over half of its tariff lines under the WTO Agreement, a relatively low percentage for an economy of its size.

Turkey recently has taken advantage of the substantial difference in its tariff schedule between applied and WTO bound rates to significantly increase tariffs across multiple sectors without violating its WTO commitments. Since mid-2014, Turkey has increased tariffs by an average of 26 percent on products classified in 17 HS chapters, covering over $96.9 million of U.S. exports. A wide range of sectors are affected, including furniture, medical equipment, tools, footwear, carpets, and textiles. Turkey raised import tariffs on steel rebar to 30 percent in October 2014 and maintains high tariffs on many other steel products.

Turkey continues to maintain high tariff rates on many imported food and agricultural products. Tariffs on fresh fruits range from 15.4 percent to 145.8 percent. Tariffs on processed fruit, fruit juice, and vegetables range from 19.5 percent to 135.9 percent. The Turkish government also levies high tariffs, excise taxes, and other domestic charges on imported alcoholic beverages and tobacco products that increase wholesale prices for these products considerably. Most grain import tariffs are set at 130 percent.

Tariffs on Imported Footwear

On August 10, 2014, Turkey began levying an "additional customs tax" (ACT) on imported footwear. The ACT added an additional 30 to 50 percent tax, or a minimum of $3 to $5 per pair, to the cost of the imported products. In addition, duties paid are added to the base value of imported products for purposes of calculating the eight percent valued-added tax (VAT) due on footwear, resulting in higher VAT charges on imports than on domestically produced goods.

Import Licenses and Other Restrictions

Turkey requires import licenses for some agricultural products and various products that need after-sales service such as photocopiers, advanced data processing equipment, and diesel generators. U.S. firms complain that lack of transparency in Turkey's import licensing system results in costly delays, demurrage charges, and other uncertainties that inhibit trade. Turkish documentation requirements for food imports are onerous, inconsistent, and non-transparent, often resulting in shipments delayed at Turkish ports. U.S. exporters of rice, dried beans, pulses, sunflower seeds, wheat, and walnuts, have reported concerns with valuation of their products by Turkish customs authorities.

Turkey in 2015 banned the import of nearly all refurbished parts, which affects products in several sectors, including computer equipment and medical devices.

GOVERNMENT PROCUREMENT

Turkey is not a signatory to the WTO Agreement on Government Procurement (GPA) but has participated as an observer in the WTO Committee on Government Procurement since 1996.

Turkish government contracting officials are authorized to issue tender documents with provisions that restrict foreign companies' participation and that award price advantages of up to 15 percent (particularly for high technology products) to domestic bidders. Additionally, Turkish procurement law sometimes requires government contracting agencies to accept only the lowest-cost bids in response to tenders. In a scenario involving the procurement of highly technical goods or services, this may prevent consideration of bids from firms with the highest capacity and best abilities (including U.S. firms) – *i.e.*, those that provide a greater number of services, lower life cycle costs, and higher quality products.

Several other features of the Turkish procurement system have the effect of severely limiting the ability of U.S. companies to participate in government tenders. First, Turkish contracting agencies are able to impose "unlimited liability" clauses on successful bidders. Such clauses render contractors liable for any loss or damage resulting from design or application errors or lack of supervision. Second, Turkish procurement law mandates the use of model contracts, which many government procuring agencies refuse to modify. These standard contracts make it difficult for U.S. companies to formulate proposals that are fully responsive to procuring agencies' requirements. Third, foreign companies (including those with Turkish subsidiaries) have reported difficulties complying with onerous documentation requirements imposed by contracting agencies.

Turkish military procurement policy generally mandates the inclusion in contracts of various "commercial offset" requirements. These specifications typically encourage localization commitments regarding foreign direct investment and technology transfers. Such requirements can dramatically increase costs for bidding firms and have discouraged participation by some U.S. companies in Turkish commercial defense tenders.

In February 2014, the Turkish parliament adopted an Omnibus Bill that gives civilian government ministries authority to impose commercial offset requirements in procurement contracts. Similar to the military offset requirements, this law, once implemented, will require a foreign company that wins a Turkish government procurement contract to produce locally in order to provide its products and services. The government is in the process of implementing regulations for commercial offset requirements in the pharmaceutical, medical devices, and commercial aircraft sectors, among others. Another draft law under consideration would mandate that all government procurement tenders exceeding $5 million require 30 percent local content, with local content levels for tenders exceeding $100 million to be set by an inter-ministerial body on an *ad hoc* basis.

SUBSIDIES

Turkey employs a number of incentives related to exports. Subsidies ranging from 2 to 14 percent of a product's export value are granted in 16 agricultural or processed agricultural product categories. These subsidies take the form of tax credits and provisions for debt forgiveness, and are paid for by taxes on exports of primary products such as hazelnuts and leather. Additionally, the Turkish Grain Board generally purchases domestic wheat at intervention prices (above world prices) and then sells it at world prices to Turkish flour, biscuit, and pasta manufacturers for use in exports. U.S. exporters have expressed serious concerns about the adverse impact subsidized Turkish wheat flour exports have had on their sales in certain third country markets.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Turkey remained on the Watch List in the 2015 Special 301 Report.

U.S. industry sources report significant problems involving the export from and trans-shipment through Turkey of counterfeit goods, as well as software piracy, piracy of printed works, and online piracy. In some reports, Turkish law enforcement and other authorities' efforts to improve IPR enforcement appear to have lagged in the past year, and the judicial system as a whole (including judges, prosecutors, and police) has increasingly failed to deter IPR-related crime adequately.

SERVICES BARRIERS

In the area of professional services, Turkish citizenship is required to practice as an accountant, a certified public accountant, or a lawyer representing clients in Turkish courts.

INVESTMENT BARRIERS

Energy Sector

Despite legislation requiring a phased transfer of 80 percent of its gas purchase contracts to the private sector by the end of 2009, Turkey's state pipeline company, BOTAS, still controls over 75 percent of such contracts and remains dominant in gas importation. The Turkish government has introduced an amendment to the natural gas market law that has been pending for several years. The draft amendment would break up BOTAS into three different companies charged with transportation, trading, and storage.

ELECTRONIC COMMERCE

The Information and Communication Technologies Authority (BTK), which is affiliated with the Ministry of Transportation, Maritime Affairs, and Communications, is responsible for enforcing bans on Internet content determined by Turkish courts to be offensive. BTK has on several occasions used its authority to block access to various Internet-based service providers, including U.S.-based suppliers.

On February 6, 2014, the Turkish Parliament passed amendments to Turkey's Law No. 5651 (the "Internet Law") that expanded the government's authority to restrict Internet access. The amendments created the Internet Service Providers Association, which, upon notification from the government, must shut down websites within four hours or face large fines. The amendments attracted opposition from a wide range of journalistic freedom advocates and business interests, both domestic and foreign. In October 2014, following government-ordered blocking of access by Turkish users to the YouTube and Twitter websites, the Turkish Constitutional Court annulled certain aspects of the amendments, which had enhanced the government's ability to block such access. In 2015, the Turkish Parliament adopted a new amendment to the Internet Law that allows the government to block websites without a court order on the basis of national security, public order, or prevention of crime. The Constitutional Court upheld the new amendment in a December 2015 ruling.

A draft Personal Data Protection law currently under review by the Ministry of Justice would bar e-payment companies from the Turkish market if they do not localize personal data banks in Turkey. Such localization requirements would inhibit the further development and expansion of creative electronic services such as electronic invoicing, electronic general assembly and executive board meetings, electronic bookkeeping, and new electronic payment and electronic money services.

OTHER BARRIERS

Corruption

Despite Turkey having ratified the OECD anti-bribery convention and passed implementing legislation that makes bribery of foreign and domestic officials illegal, many foreign firms doing business in Turkey perceive corruption of some government officials and politicians to be a problem. The judicial system is also perceived by many observers to be susceptible to external influence (both inside and outside the government) and on occasion to be biased against foreigners. Based on anecdotal evidence, government-related corruption in the construction sector in particular appears to be worsening.

Taxes

In January 2014, Turkey raised its special consumption tax to between 45 percent and 145 percent on all motor vehicles based on engine size. Previously, the rate range was 37 percent to 130 percent. This tax has a disproportionate effect on automobiles imported from the United States.

Pharmaceuticals – Official Exchange Rate for Government Purchases

U.S. pharmaceutical companies have complained that their business operations in Turkey are being adversely impacted by the Turkish government's refusal to adjust the official exchange rate used for government purchases of imported pharmaceutical products. In 2009, companies negotiated with the MOH to sell their products in Turkey using an exchange rate of Turkish Lira (TL) 1.95 = Euro (€) 1.00; the government codified this arrangement in statute. The government also agreed in that statute to adjust the exchange rate if it went up or down by over 15 percent compared to the 2009 baseline. The Lira has depreciated significantly against the Euro in foreign exchange markets since 2009. According to U.S. industry, the exchange rate shift exceeded 15 percent of the baseline in 2011, resulting in an effective price discount in the Turkish market for their products of over 50 percent. Despite multiple Turkish court rulings against the government that obliged it to respect the rate adjustments provided for in the 2009 law, the government refused to implement the rulings until 2015. Even then, the government arbitrarily chose to reimburse companies for 70 percent of the previous year's average daily market exchange rate, a practice that has already been challenged by additional industry lawsuits

UKRAINE

TRADE SUMMARY

The U.S. goods trade surplus with Ukraine was $11 million in 2015, a 96.3 percent decrease ($294 million) over 2014. U.S. goods exports to Ukraine were $860 million, down 30.7 percent ($380 million) from the previous year. Corresponding U.S. imports from Ukraine were $848 million, down 9.2 percent. Ukraine was the United States' 83rd largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Ukraine (stock) was $717 million in 2014 (latest data available), a 22.6 percent decrease from 2013.

The United States-Ukraine Trade and Investment Cooperation Agreement

The United States and Ukraine signed a Trade and Investment Cooperation Agreement (TICA) on April 1, 2008, establishing a forum for discussion of bilateral trade and investment relations. The TICA established a joint United States-Ukraine Trade and Investment Council (TIC), which addresses a wide range of trade and investment issues, including market access, intellectual property rights protection, value-added tax issues, and specific business disputes. The TIC seeks to increase commercial and investment opportunities by identifying and working to remove impediments to trade and investment flows between the United States and Ukraine. The TIC met most recently in Ukraine on May 28, 2015. In this fifth meeting of the TIC, Minister of Economic Development and Trade (MEDT) Aivaras Abromavicius highlighted the Government of Ukraine's immediate focus on deregulation, reform of state-owned enterprises, tax reforms, and anti-corruption efforts specific to the Anti-Monopoly Committee and in the Customs Authority.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Inaccurate Labeling of Products

Ukrainian labeling laws with respect to GMOs are insufficiently precise, which has led to widespread inaccurate labeling of Ukrainian products. For example, Law No. 1602-VII Amending Some Legislative Acts ("Law No. 1602") allows companies to label their products "Without GMO" without providing any supporting information to establish that these products do not contain biotech ingredients, and many companies are reportedly taking advantage of this loophole in the law. The use of these labels – particularly through their inconsistent application – may incorrectly promote the misconception that products that lack the label endanger human health or more generally that products without GMOs are somehow safer, although there is no scientific evidence to support such a view. Ukraine also continues to require that food product labels indicate whether there is any Genetically Engineered (GE) content if a product contains GE materials that exceed 0.9 percent of all ingredients.

Sanitary, Veterinary and Phytosanitary Barriers

Establishment Lists

Pursuant to Order No. 118 (April 1, 2014), Ukraine accepts only shipments of animal products from establishments allowed to ship to the EU (with the exception of U.S.-produced beef and pork, which are allowed to be sold in Ukraine due to special provisions in the bilateral U.S.-Ukraine veterinary certificates). As a result, many U.S. producers of all other animal products cannot ship to Ukraine until they complete the costly and time-consuming EU approval process, are inspected by Ukrainian Veterinary Service specialists, or undergo a country-wide food safety systems audit.

Use of Scientifically Unjustified Food Safety Criteria

On September 20, 2015, Ukraine enacted Law No. 1602, which mandates the use of Ukrainian food safety standards rather than international standards, without providing a risk assessment for those Ukrainian standards that deviate from international standards. The Law further provides that if Ukraine does not have a national standard, then the international standard may be used. In the absence of an international standard, the EU standard is to be used. U.S. exporters (primarily exporters of products of animal origin) are concerned that the adoption by Ukraine of standards that are not in line with international standards could make it significantly more difficult to export to Ukraine.

International Certificate Requirement

Law No. 1602 also introduced the requirement that all importers of food products present an "international certificate or other document issued by the competent authority of country of origin", and permits only a narrow range of certificates to meet this requirement. For example, a U.S.-Ukraine bilaterally-agreed veterinary certificate qualifies as an "international certificate", allowing U.S. exporters of animal and fish products to maintain market access. On the other hand, a producer's "certification of safety and wholesomeness", or a "certificate of free sale" issued by states, local municipalities, or associations, have not been officially accepted by Ukraine but are the only types of certificates available to U.S. exporters of processed food products. Because these alternative certificates are not officially accepted by the Ukrainian competent authority, this new requirement potentially excludes U.S. exports of processed foods from the Ukrainian market.

Export of Certain Animal Products without Bilateral Certificates

Imports of non-processed products of animal origin (including live animals) for which no bilateral certificate has been negotiated continue to be governed by Order 71 (June 14, 2004). This Order lists numerous, product-specific requirements that are not science-based. Because the U.S. competent authorities are not able to certify to these non-science-based criteria, U.S. exports of such products are virtually shut out of the market.

IMPORT POLICIES

Tariffs and Customs Issues

U.S. exports are subject to Ukraine's most-favored nation (MFN) applied tariff rate. The average applied rate for imported goods is 4.5 percent. For agricultural goods, the average rate is 9.2 percent, while for industrial goods, it is 3.7 percent. Most MFN customs tariffs are levied at *ad valorem* rates, and only 1 percent of tariff lines (down from 5.97 percent prior to Ukraine's WTO accession) are subject to specific rates of duty. These specific rates apply to some agricultural goods such as wine and tobacco. Ukraine applies preferential tariff rates to imports from its FTA country-partners (including the EU as of January 1, 2016).

Sampling and Testing Practices

Importers of U.S. products have complained that inspection officials at ports of entry take for laboratory testing larger samples of products than necessary. Cabinet of Ministers Decree #833 (June 14, 2002) defines "uniform allotment" (*i.e.*, batches identified for sampling) and establishes sample sizes and sampling time.

However, the definition of allotment is arbitrary, not risk-based, and results in an artificially large number of allotments sampled and tested. Sampling and testing, particularly of expensive products such as caviar, fish, or chilled meat, and the associated testing fees can pose a significant burden on the importer.

Customs Valuation

While Ukraine's MFN applied tariff rates are relatively low, U.S. businesses have raised concerns that the State Fiscal Service (SFS) (formerly the Ministry of Revenues and Duties) assigns higher customs values to imports, including food, agricultural products, and pharmaceuticals, than are provided in the import documentation. In September 2015, the Cabinet of Ministers passed Resolution No. 724 on the use of customs value benchmarks. U.S. businesses have raised concerns that this resolution instructs the SFS to base customs valuation on historic prices registered by the SFS, rather than on the contract price as set out in the WTO Agreement on Customs Valuation and Ukraine's Customs Code. Among other problems, businesses fear that Resolution 724 could result in increased rejections of declared values, disregard for differences among imported products in establishing imported value, and improper manipulation of declared value by disreputable and non-transparent importers.

Since May 2012, Ukraine has collected duties on royalties paid on imported theatrical and home entertainment products. The procedures for assessing the value of the royalties, governed by the Cabinet of Ministers Resolution No. 446, are, according to U.S. stakeholders, both burdensome and costly. Moreover, U.S. stakeholders assert although the Ukrainian Supreme Court has ruled that royalties are not dutiable, Ukrainians Customs continues to collect duties on royalties.

GOVERNMENT PROCUREMENT

On November 12, 2015, the World Trade Organization's Committee on Government Procurement approved the Government Procurement Agreement (GPA) accession terms for Ukraine. Ukraine has until May 11, 2016, to adopt implementing legislation and deposit its instrument of accession. The GPA will enter into force for Ukraine 30 days after it accedes.

Government procurement of goods and services has long been associated with alleged corruption in Ukraine. With the total value of public procurements estimated at 250 billion UAH per year, or 15 to 20 percent of GDP, the scale of potential corruption is significant and previous attempts at comprehensive public procurement reform faced many challenges.

EXPORT BARRIERS

A variety of products remain subject to licensing by the Ministry of Economic Development and Trade. Products that require a license prior to export from Ukraine include: precious metals (silver and gold); natural gas of Ukrainian origin; scrap metal; slag and ash containing zinc and copper; printers' ink; optical polycarbonates for laser reading systems; optical disc manufacturing equipment; paper with watermarks; ozone depleting substances, pharmaceuticals; paints and lacquers; dyes; cosmetic products; pedicure and manicure products; hygiene products including shampoos, toothpaste, and detergents, shaving aerosols and deodorants; lubricants; waxes; shoe polishes; insecticides; solvents; silicone; fire extinguishers and the chemicals that fill extinguishers; refrigerators and freezers; air conditioners; humidifiers; aerosols used for self-defense; fungicides; insecticides; herbicides; plant growth enhancers and regulators; and other selected industrial chemical products. The government has eliminated most export duties, with the notable exception of duties on natural gas, livestock, raw hides, some oil seeds (in particular sunflower seed, flaxseed and linseed), and scrap metal.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2015 Ukraine was listed as a Priority Watch List country in the annual Special 301 Report. The need to improve its protection and enforcement of IPR was a major theme of the 2015 U.S.-Ukraine Trade and Investment Council meeting chaired by USTR and Ukraine's Ministry of Economy in May 2015. However, Ukraine continues to host some of the largest Internet piracy sites in the world. Ukraine is a key country in the region exporting copyright piracy, especially digital piracy, by serving infringing content to European Union markets, other countries in the Commonwealth of Independent States, and as far away as India. The United States remains extremely concerned about the unfair, nontransparent administration of the system governing royalty collecting societies; widespread and admitted use of infringing software by the Ukrainian government; and Ukraine's failure to implement an effective and transparent system to combat online piracy.

SERVICES BARRIERS

Audiovisual Services

Ukrainian law requires film prints and digital encryption keys to be produced in Ukraine. This requirement is a significant impediment for distributors of foreign films.

INVESTMENT BARRIERS

Value Added Tax (VAT)

Companies report that Ukraine's value-added tax (VAT) system is a major obstacle to doing business in Ukraine. In recent years, delays in the payment of VAT refunds to foreign invested exporters have been a problem. Although the State Fiscal Service has instituted an automated system for VAT refunds, nontransparent criteria have prevented many firms, and particularly smaller firms, from receiving their refunds. While overall VAT refund volumes increased in 2013, suggesting some improvement in the VAT refund system, Ukraine's inability to refund VAT in a timely manner remains a problem. Delays in reimbursement have become an important cost factor for many foreign companies.

The government of Ukraine continues to accumulate substantial new arrears in VAT refunds to U.S. and other companies. It is also demanding prepayment of the corporate profits tax in exchange for the same amount of refunds, writing-off claimed VAT payments for spurious reasons, and distributing VAT refunds in an arbitrary fashion that appears to favor companies connected to, or otherwise favored by, the government. Ukraine did not make due on its commitment to pay off VAT refund arrears in the amount of $152 million by December 31, 2015.

Privatization

The State Property Fund oversees the privatization process in Ukraine. Privatization rules generally apply to both foreign and domestic investors, and, in theory, a relatively level playing field exists. Observers claim, however, that the terms of a privatization contest are often arbitrarily adjusted to fit the characteristics of a pre-selected bidder.

Corporate Raiding

Ukraine continues to have high-profile problems with corporate raiding activities. In 2015, at least 10 separate Information Technology (IT) companies experienced corporate raids from the State Security Service, State Fiscal Service (Tax Police), and Ministry of Internal Affairs on grounds related to piracy, terrorism, and tax arrears. This practice continues to harm Ukraine's investment climate and undermines the ability to do business in the country. Although reform-minded ministers from the Ministry of Economic Development and Trade, along with advisors to the President, engage regularly with the IT community on this issue, the government has taken no legal action to date to stop it.

Local Content

In 2012, Ukraine adopted amendments to its Law on Electricity, applicable to all new investments in energy power plants, which set a 50 percent "local component requirement" for the fixed assets of the plant, services acquired by the plant's owners, and all material inputs used in power production. The amendments also introduced a Feed-In-Tariff for the production of electricity from renewable sources, granting of which is conditioned on fulfillment of the same local content requirement prescribed for the production of such electricity.

UNITED ARAB EMIRATES

TRADE SUMMARY

The U.S. goods trade surplus with United Arab Emirates was $20.5 billion in 2015, a 6.5 percent increase ($1.3 billion) over 2014. U.S. goods exports to United Arab Emirates were $23.0 billion, up 4.1 percent ($910 million) from the previous year. Corresponding U.S. imports from United Arab Emirates were $2.5 billion, down 12.5 percent. United Arab Emirates was the United States' 16th largest goods export market in 2015.

Sales of services in United Arab Emirates by majority U.S.-owned affiliates were $7.4 billion in 2013 (latest data available), while sales of services in the United States by majority United Arab Emirates-owned firms were $2.8 billion.

U.S. foreign direct investment (FDI) in United Arab Emirates (stock) was $15.0 billion in 2014 (latest data available), a 28.3 percent increase from 2013. U.S. direct investment in United Arab Emirates is led by mining, finance/insurance, and wholesale trade.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization (GSO), issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Member States, and to clarify requirements of manufacturers." U.S. and GCC officials continue to discuss concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

In March 2015, the UAE Federal National Council (FNC) passed a new federal law on food safety, which will be applicable nationwide, including in free-trade zones. The new law requires the final endorsement of the UAE's President before it will enter into force. Under the law, no food may be imported for the first time without Ministry of Environment and Water (MEW) approval. Penalties under the new law include: a minimum jail term of three months and/or a 2 million Dirham ($544,514) fine for those found to be endangering food safety, including by trade in defective or rotten food; a minimum one-month jail term and a fine of up to 500,000 Dirham ($136,129) for those that deal in food or products that contain pork, alcohol or any of their by-products without permission; a jail term of up to two years and/or a fine of 100,000-300,000 Dirham ($27,226-81,677) for dealers in confiscated food; and fines of 10,000-100,000 Dirham ($2,723-$27,226) for attempts to mislead consumers by publishing a false description of food or using incorrect labels. Penalties are doubled if offenses are repeated.

In April 2015, the Cabinet issued Resolution No. 14 of 2015, adopting mandatory standards for Islamic animal slaughter, and general requirements for halal foods and energy drinks. In June 2015, the Cabinet passed Resolution No. 20 of 2015, which regulates materials that come into contact with food. The resolution's provisions apply to all goods and materials that come into contact with food, such as boxes, bottles, cans, bags, paper, glass cooking materials, aluminum products, plastic, and material used in production lines.

GCC Member States notified WTO Members in June 2014 of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. Due to concerns about implementation of the Guide, Member States have not implemented it but are reviewing the current version. Stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also could impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States raised concerns about the current version of the Guide in 2014 and 2015, and GCC Member States delayed entry into force until food safety experts have an opportunity to address these concerns. The United States continues to engage in discussions with the GCC and its Member States regarding their import requirements for food and agricultural products.

IMPORT POLICIES

Tariffs

As a member of the GCC, the UAE applies the GCC common external tariff of five percent, with a limited number of GCC-approved country-specific exceptions. The UAE's exceptions include alcohol (50 percent) and tobacco (100 percent). A total of 811 items are exempt from customs duties, including imports of the diplomatic corps, military goods, personal goods, used household items, gifts, returned goods, and imports by philanthropic societies. In 2014, the UAE Ministry of Finance announced that it was conducting studies on the possibility of imposing new duties and taxes on tobacco products.

Import Licenses

Only firms with the required license are permitted to engage in importation, and only UAE-registered companies, which must have at least 51 percent UAE ownership, may obtain such a license. This licensing requirement does not apply to goods imported into free zones. Importation of some goods for personal consumption does not require an import license.

In October 2015, the Abu Dhabi Department of Economic Development introduced the "Express Trade License Renewal Application," a new electronic system to facilitate and speed up commercial and trade license procedures in Abu Dhabi.

Documentation Requirements

The UAE requires that documentation for all imported products be authenticated by the UAE Embassy in the exporting country. There is an established fee schedule for the authentication process. For U.S. exports, if validation is not obtained in the United States, customs authorities apply the fee when the goods arrive in the UAE.

GOVERNMENT PROCUREMENT

The UAE is not a signatory to the WTO Agreement on Government Procurement, and private sector stakeholders have raised concerns about a general lack of transparency in the UAE's procurement process.

UAE applies a set-aside of 10 percent of federal government procurement to support small and medium size enterprises (SMEs). This is in addition to the UAE's already existing 10 percent price preference for

GCC-established firms in federal government procurement. Under these rules, all procurement by ministries, governmental institutions, public bodies, and public companies with government ownership of at least 51 percent must include a clear requirement that suppliers or contractors purchase their materials from GCC producers.

The UAE requires companies to register with the government before they can participate in government procurement, and in order to be eligible for registration, a company must have at least 51 percent UAE ownership. This requirement does not apply to major projects or defense contracts where there is no local company able to provide the goods or services required.

The UAE's Tawazun Economic Council, previously known as the UAE Offset Program, requires defense contractors that are awarded contracts valued at more than $10 million to establish commercially viable joint ventures with local business partners that would be projected to yield profits equivalent to 60 percent of the contract value within a specified period (usually seven years). Stakeholders have raised concerns that the complexity of the offset program complicates implementation.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The UAE was not listed in the 2015 Special 301 Report. However, some challenges remain. Although the UAE federal government finalized a new law in 2014 regarding commercial fraud, which UAE officials assert requires the destruction of counterfeit goods while still allowing defective or substandard goods to be returned to their point of origin, Dubai Customs officials continue to allow the re-export and transshipment of many counterfeit products rather than seizing and destroying the goods as required under the federal law. In addition, in April 2015, the Gulf Central Committee for Drug Registration announced that it will establish a unified anti-counterfeit medicine mechanism, which includes returning counterfeit medicines to their point of origin.

In 2015, the UAE continued to work to improve protection of intellectual property rights (IPR) by launching public awareness campaigns and seizing counterfeit goods, including CDs, DVDs, TV and stereo sets, perfume, car parts, watches, garments, medicine, designer goods, smartphones, sunglasses, and printers, as well as shutting down social networking accounts that promoted counterfeit goods. U.S. rights holders have raised concerns regarding the lack of transparency and information exchange when UAE customs officials conduct raids and seizures of pirated and counterfeit goods. Stakeholders have also raised concerns about internet piracy, and the UAE has yet to provide for the establishment of collecting societies for copyright royalties.

As the six GCC Member States explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation and capacity-building programs on IPR policy and practice.

SERVICES BARRIERS

Agent and Distributor Rules

Provisions of the Commercial Agencies Law are collectively set out in Federal Law No. 18 of 1981 on the Organization of Commercial Agencies, as amended by Federal Law No. 14 of 1988 (the Agency Law), and apply to all registered commercial agents. Federal Law No. 18 of 1993 (Commercial) and Federal Law No. 5 of 1985 (Civil Code) govern unregistered commercial agencies. This legislation requires that non-GCC foreign principals distribute their products in the UAE through only exclusive commercial agents that are either UAE nationals or companies wholly owned by UAE nationals. The foreign principal may appoint one agent for the entire UAE or for a particular emirate or group of emirates. The Ministry of Economy handles registration of commercial agents. Only UAE nationals or companies wholly owned by UAE nationals or GCC citizens can register with the Ministry of Economy as local agents.

The UAE government allows some food products to be sold by foreign companies without a local agent in order to stabilize the prices of these products. These food products include livestock, dairy products, fats and oils, honey, eggs, fruit juices, salt, yeast, animal feed, detergents, and hygiene products.

Federal Law Number 2 of 2010 prevents the termination or non-renewal of a commercial agency unless the foreign principal has a material reason to justify such an action. In addition, the foreign principal may not re-register a commercial agency in the name of another agent even if the previous agency was for a fixed term, unless: (1) it is amicably terminated by the principal and the previous agent; (2) termination or non-renewal is for justifiable reasons that are satisfactory to the Commercial Agencies Committee; or (3) a final judicial judgment is issued ordering the cancellation of the agency.

Telecommunications

The UAE currently has two telecommunications companies, both of which are subject to significant government ownership: Emirates Telecommunications Corporation (Etisalat), the former telecommunications monopoly, and Emirates Integrated Technology Company (which operates under the trade name Du). These two companies are the only internet service providers and the only mobile phone operators in the UAE. In June 2015, the UAE announced plans to partially lift restrictions on foreign ownership of Etisalat, opening up the UAE's largest telecommunications operator to foreign investors for the first time. This step will allow foreign ownership for up to 20 percent of capital. However, Etisalat reports that the removal of restrictions is subject to regulatory approval, the timeline for which has not yet been announced.

The UAE restricts the provision of Voice over Internet Protocol (VoIP) services to licensed telecommunications companies. U.S. providers of VoIP services have raised concerns that the UAE limits their ability to provide these services by licensing only the two current telecommunications companies; other companies using this technology are subject to having their services blocked.

Transportation

Federal Law Number 9 of 2011 on Land Transport and Public Roads restricts licenses of all commercial transport vehicles, including those used by couriers, to UAE citizens only. The law has been implemented in three phases: (1) a vehicle licensing mechanism, including issuance of custom pass cards and truck data; (2) operations and classification of trucks; and (3) supervision.

Insurance

Foreign insurance companies may operate only as branches in the UAE. Domestic UAE insurance companies must be public joint stock companies, and foreign equity is limited to 25 percent. Since 2008, new UAE insurance licenses have been issued only to UAE and GCC firms. Many domestic insurance companies do not permit any foreign ownership.

The Emirate of Abu Dhabi limits insurance coverage for construction projects and companies under the Abu Dhabi National Oil Company to Abu Dhabi-based national insurance companies.

In late 2013, the UAE government issued a new law on insurance brokerage, bringing significant changes to paid-up capital from $272,257 to $816,771, in addition to raising professional indemnity requirements. The new law caused closure of many brokerage companies.

INVESTMENT BARRIERS

The UAE generally does not provide national treatment for foreign investors, and foreign ownership of land and stocks is restricted. The UAE limits foreign investment through restrictive agency, sponsorship and distribution requirements.

Non-GCC owned companies established in the UAE, except those established in free zones, are generally required to have a minimum of 51 percent UAE national ownership, although profits and management control may be apportioned differently and often are negotiated at fixed amounts. Branch offices of non-GCC foreign companies are required to have a national agent with 100 percent UAE national ownership, unless the foreign company has established its office pursuant to an agreement with the federal or an emirate-level government.

Provisions in the 2015 Federal Commercial Companies Law (Law No. 02, 2015) that would have relaxed the foreign ownership limit were rejected by the FNC and reportedly will be addressed in a separate investment law that is currently in draft form. A provision to allow 100 percent foreign ownership outside of free zones would reportedly be restricted to certain sectors, such as high technology projects, and would require Cabinet approval on a case-by-case basis.

Under the new law, expected to enter into force in July 2016, 51 percent UAE ownership will not be required when a public joint stock company is listed, although there is a 51 percent GCC ownership requirement. UAE nationals must chair and be the majority of board members of any public joint stock company. The new commercial law also eases the process for forming a limited liability company by requiring one to seventy-five shareholders (the prior requirement was two to fifty shareholders).

Foreign investors may purchase 105 of the 138 issues on the UAE's two stock markets, the Abu Dhabi Securities Market and Dubai Financial Market. The remaining 33 issues are primarily those of government-related entities, such as the national telecommunications and oil companies. Companies on the exchanges are subject to the Federal Commercial Companies Law; thus, foreign investors are allowed to own up to 49 percent of a company.

U.S. companies have raised concerns about lengthy delays and burdensome procedures in receiving payment for projects undertaken in the UAE, particularly for work done on behalf of certain government entities, as well as concerns about the difficulty of collecting on arbitration awards. Foreign investors have also raised concerns about the resolution of investment disputes. Among other issues, they are concerned that pursuing arbitration in disputes with a local company may jeopardize business activities in the UAE. They have also raised concerns about a lack of impartiality and the length of dispute resolution proceedings within the domestic court system. Both the federal government and the Dubai government have taken steps to address these concerns. The federal government is drafting a new commercial arbitration law, and the Dubai International Financial Center courts are expanding their jurisdiction to include commercial parties not located within the center. Additionally, a new arbitration center is anticipated for the planned Abu Dhabi Global Market (ADGM) financial free zone. The chambers of commerce in different emirates have also established centers for commercial reconciliation and arbitration to help address dispute resolution issues.

VENEZUELA

TRADE SUMMARY

The U.S. goods trade deficit with Venezuela was $7.2 billion in 2015, a 62.0 percent decrease ($11.8 billion) over 2014. U.S. goods exports to Venezuela were $8.3 billion, down 25.3 percent ($2.8 billion) from the previous year. Corresponding U.S. imports from Venezuela were $15.6 billion, down 48.5 percent. Venezuela was the United States' 31st largest goods export market in 2015.

U.S. exports of services to Venezuela were an estimated $6.2 billion in 2014 (latest data available), and U.S. imports were $721 million. Sales of services in Venezuela by majority U.S.-owned affiliates were $4.2 billion in 2013 (latest data available), while sales of services in the United States by majority Venezuela-owned firms were $557 million.

U.S. foreign direct investment (FDI) in Venezuela (stock) was $11.2 billion in 2014 (latest data available), a 16.4 percent decrease from 2013. U.S. direct investment in Venezuela is led by manufacturing, finance/insurance, and mining.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Venezuela bans all U.S. beef, beef products, and live cattle imports due to a 2003 directive related to b*ovine spongiform encephalopathy* (BSE), despite the fact that the World Organization for Animal Health (OIE) now classifies the United States as negligible risk for BSE.

Venezuela also effectively bans U.S. poultry meat. According to Venezuelan import regulations, poultry meat from any country that has had an occurrence of avian influenza is prohibited from importation into Venezuela. Venezuelan authorities have refused to meet with USDA sanitary regulatory officials to discuss how this ban is consistent with OIE guidelines.

U.S. producers are unable to export fresh potatoes or seed potatoes to Venezuela because the Venezuelan government has not established a protocol for the issuance of import permits for these products. Venezuela's Agricultural Research Institute conducted a pest risk analysis for U.S. potatoes and seed potatoes in 2005, but has not yet issued an import protocol.

IMPORT POLICIES

Venezuelan importers continue to complain about the Venezuelan government's unwillingness to approve import permits, requests for foreign exchange, and other documents for products from the United States. In 2015, the government increasingly centralized imports for the private and public sectors under CORPOVEX, a public sector entity under the currency control commission, responsible for managing import transactions. Private sector importers have indicated that CORPOVEX transactions reduce their flexibility to determine suppliers, quality standards, and price of the imported products. However, it appears that the overall impact of these policies has been limited because of other severe import barriers, including the overriding lack of foreign currency, the need for inputs, and the lack of supply from competing countries.

Public sector entities and state-owned enterprises are not required to present or maintain import licenses, to pay tariffs, or to present any documents or certificates related to the regulation of customs and duties, according to an executive resolution signed in March 2012. The Venezuelan government has stated that this measure was passed in order to simplify administrative procedures for import and export. However, it imposes significant competitive disadvantages on private sector entities, which are typically denied similar treatment. Venezuela has on occasion extended this treatment to private sector actors for short periods of time in order to facilitate imports of products it deems to be in shortage. The total shares of private sector imports decreased by 8.7 percent to 58.8 percent in the first six months of 2014 when compared to the same period in 2013. Figures were not available for 2015.

Tariffs

Venezuela's average applied tariff rates were 11.9 percent on agricultural goods and 13.0 percent on non-agricultural goods in 2014. Venezuela's average bound tariff rates were 55.3 percent on agricultural goods and 33.6 percent on non-agricultural goods.

MERCOSUR admitted Venezuela as its fifth full member on July 31, 2012. Venezuela has four years from its date of accession to adopt the MERCOSUR common external tariff (CET) and to provide duty-free treatment to its four MERCOSUR partners on all goods, with a two-year extension allowed for sensitive products. By April 1, 2014, Venezuela had adopted the CET for 50 percent of the goods in its tariff schedule. It will phase in the adoption of the remainder of the CET schedule on an annual basis, with full implementation of the CET expected in 2016.

Venezuela's customs authorities are empowered to establish reference prices for calculating import duties. The Customs Tariff Schedule establishes 11 levels of ad valorem import duty rates, ranging from zero to 20 percent, with some rates in certain sectors of up to 35 percent. In addition to import duties, importers must pay one percent of the value of goods as a customs service fee, as well as a value-added tax, which is currently 12 percent of the cost, insurance, and freight (CIF) value of the product.

Price Controls

In an attempt to regulate local production and control market prices of basic consumable products, Venezuela has instituted a number of laws and decrees that impose price controls, dictate product movements throughout the distribution chain, and limit profit margins of manufacturers and retailers. These measures have led to significant decreases in local production, forcing the government to increase imports to meet total demand. Total imports equaled roughly between 50 and 80 percent of total consumption in 2015, according to Venezuelan economists.

On January 24, 2014, President Maduro used decree authority to promulgate the Fair Costs and Prices Law, which imposed profit limits on the private sector and subjected companies to audits and penalties for failing to adhere to these limits. The law applies to any resident in Venezuela conducting any type of economic activity. The law created the National Superintendent for the Defense of Socio-Economic Rights (SUNDDE) and empowered it to decide whether prices are "fair" and to identify profit limits for businesses. Businesses that are found in compliance are given a "Certificate of Fair Prices," which is required to apply for hard currency through a currency exchange mechanism, the National Center for International Trade (CENCOEX). On October 2015, the law was revised to introduce more controls, including a maximum 60 percent price increase throughout the supply chain from importer to retailer, and increased sanctions, including longer jail sentences, for infractions.

Currency Controls

Venezuela continues to maintain strict currency controls that were implemented in 2003. The measures continue to pose a significant obstacle to most trade with Venezuela. Many companies report that they cannot obtain sufficient foreign currency to satisfy their business needs.

Venezuelan law has established three foreign exchange (FX) mechanisms to sell dollars to the private sector. From February 2003 to March 2014, the primary mechanism of Venezuela's FX regime was the Commission for the Administration of Foreign Exchange (CADIVI). In 2014, the Venezuelan government eliminated CADIVI and folded its responsibilities into CENCOEX.

CENCOEX oversees two of the Venezuelan government's three FX mechanisms. The first mechanism, called simply CENCOEX, operates much as CADIVI did, selling dollars at the official exchange rate of 6.3 bolivars/dollar for imports of specific goods and services deemed national priorities, including food, medicine, and medical supplies. As with CADIVI, firms and individuals soliciting dollars from CENCOEX must register with the body and obtain supporting documentation from various Venezuelan government ministries, *e.g.*, certificates of non-national production of the proposed imports and statements of good standing with the tax authorities. The second CENCOEX-operated mechanism, the Complementary System of Foreign Exchange (SICAD), periodically sells dollars to specific priority sectors at roughly 13.5 bolivars/dollar. SICAD convoked only two relatively small auctions in 2015, for a total amount of $500 million.

The Venezuelan central bank (BCV) oversees the third currency exchange mechanism, the Marginal Currency System (SIMADI), which replaced the Alternative System of Foreign Exchange (SICAD II) in February 2015. SIMADI allows for three distinct currency exchange activities undertaken by different authorized agents: wholesale currency trading for firms by commercial banks; retail foreign currency trading for individuals by commercial banks and exchange houses; and trading in dollar-denominated securities by commercial banks and stock brokers through the public-sector stock exchange. The BCV publishes daily SIMADI's exchange rate, which is a weighted average of the exchange rates realized through the wholesale of currency and securities-based transactions. The BCV controlled the SIMADI exchange rate, allowing it to depreciate gradually from roughly 170 to 199 bolivars/dollar during 2015. Venezuelan firms and financial analysts have reported that SIMADI has not been able to satisfy the market demand for hard currency, much like its predecessors SICAD I and SICAD II were also unable to do.

On February 17, 2016, President Maduro used his Emergency Economic powers to announce changes to Venezuela's foreign exchange mechanisms. The three-tiered exchange rate regime has been reduced to two tiers, with a 37 percent devaluation of the CENCOEX rate to 10.0 bolivars/dollar, allowing the replacement for the SIMADI rate to float, and eliminating the SICAD mechanism. On March 8, 2016, Vice President for the Economy Perez Abad announced the details of the new exchange rate regime and the elimination of the SICAD mechanism. The new preferential rate is called DIPRO and is reserved for "essential items" such as food and medicine. The SIMADI mechanism has been replaced by a floating exchange rate called "DICOM" and applies to all other FX transactions. DICOM started trading at 206.8 bolivars/dollar, but it remains to be seen whether it will be allowed to float.

Private sector firms and independent analysts report that sales through Venezuela's FX mechanisms are arbitrary and lack transparency. The time to receive authorization for foreign currency through the CENCOEX-operated mechanisms varies in length, but can take more than nine months from the beginning to the end of the process and requires the submission of various supporting documents by the Venezuelan importer, with the support or collaboration of the exporter. Businesses and individuals report rejections of applications after initial approval, approval of applications after rejection, and long delays in payment even after approval.

Local Content Requirements

Venezuela has maintained a 35 percent local content requirement on domestically assembled vehicles since 2013, which is actually a reduction from the previous local content requirement of 50 percent. The limited capacity of local industry to produce components makes satisfying the 35 percent local content difficult, and the general lack of hard currency to import inputs has reduced production levels severely. Furthermore, local motor assembly, which could contribute to meeting the local content requirement, is considered prohibitively expensive given the variety of motors and the size of production runs required. Since September 2012, Venezuela has required both domestically-produced and imported vehicles to use a Venezuela-specific vehicle identification number, contrary to international practice.

Tariff-Rate Quotas

Venezuela maintains the authority to impose tariff-rate quotas (TRQs) for up to 62 tariff lines. Venezuela administers TRQs for oilseeds, corn, wheat, milk and dairy, and sugar. The procedure for issuance of import licenses under these TRQs is not transparent, and the relevant rules are inconsistently applied by Venezuela authorities. For example, Venezuela has not published regulations establishing the TRQ mechanism for some eligible products, while for products that have established TRQ mechanisms, such as pork, the TRQ mechanism is not applied. This leads to great uncertainty for U.S. exporters, who face duties ranging from 8 percent to 20 percent depending on whether the TRQ is applied.

GOVERNMENT PROCUREMENT

Venezuela's government procurement law covers purchases by government entities, national universities, and autonomous state and municipal institutions. It is not clear to what degree the procurement law applies to joint ventures in which a state entity has a controlling interest. The law requires a procuring entity to prepare a budget estimate for a procurement based on reference prices maintained by the Ministry of Light Industry and Trade.

Although the law forbids discrimination between domestic and foreign suppliers, it provides that the President can mandate temporary changes in the bidding process "under exceptional circumstances," in accordance with "economic development plans" that promote national development or provide preferences to domestic goods and suppliers. These measures can include price preferences for domestic goods and suppliers, reservation of procurements for nationals, requirements for domestic content, technology transfer, or the use of local labor and other incentives to purchase from companies domiciled in Venezuela. For example, Government Decree 1892 establishes a 5 percent preference for bids from companies whose products have over 20 percent local content. In addition, half of that 20 percent of local content must be from small to medium domestic enterprises.

The Venezuelan government is increasingly awarding contracts directly, thus avoiding competition required by the government procurement law.

Venezuela is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Venezuela remained on the Priority Watch List in the 2015 Special 301 Report. Key concerns cited in the report relate to the deteriorating environment for the protection and enforcement of intellectual property rights (IPR) in Venezuela. Venezuela's reinstatement of the 1955 Industrial Property Law in 2008 has created uncertainty about the consistency of domestic laws and international obligations with respect to patent and trademark protections. The Autonomous Intellectual Property Service (SAPI), Venezuela's patent and trademark office, implemented new regulations in May 2015 that increase fees for patents and trademarks and require foreign rights holders to pay these fees in U.S. dollars calculated at an exchange rate that grossly overvalues the bolívar. The overall effect is a substantial increase in patent and trademark fees for foreign rights holders. Copyright piracy and trademark counterfeiting remain widespread, including piracy over the Internet. Other concerns include the lack of effective protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products. The World Economic Forum's 2014-2015 World Competitive Report ranked Venezuela last out of 144 countries in intellectual property protection. In order to make significant improvements to its regime for IPR protection, Venezuela must update and reconcile IPR-related laws and increase enforcement against counterfeiting and piracy, both physical and online.

SERVICES BARRIERS

Venezuela maintains restrictions on a number of services sectors, including professional services, audiovisual, and telecommunications services. Foreign employees are restricted to 10 percent of the work force of any enterprise with more than 10 workers, and Venezuelan law limits foreign employee salaries to 20 percent of the payroll.

Professional Services

Foreign equity participation in professional firms is restricted to a maximum of 19.9 percent. Only Venezuelan citizens may provide accounting and auditing services to government institutions and other government entities such as banks and hospitals. In addition, only Venezuelan citizens may act as accountants for companies in which the government has at least a 25 percent ownership interest. Foreigners are required to establish a commercial presence for the provision of engineering services.

Financial Services

Under a 2010 Venezuelan insurance law, at least half of the members of the board of insurance companies must be of Venezuelan nationality. In addition, all members of the board must be living in and have resident status in the country.

Under a 2011 banking law, foreign banks without subsidiaries in Venezuela may act only through their Venezuelan representatives. With respect to services of the foreign bank they represent, such representatives may only promote the services among companies of the same nature that operate in Venezuela; among individuals and companies interested in the purchase or sale of goods and services in foreign markets (for financing services); and among potential applicants for credits or external capital. In addition, the banking law expressly prevents representatives from carrying out operations and rendering services that constitute activities of the foreign bank that they represent; receiving funds and investing such funds directly or indirectly in Venezuela; offering or investing in securities or other foreign securities within Venezuela; or advertising their activities in Venezuela.

Audiovisual Services

Venezuela limits foreign equity participation to less than 20 percent for enterprises engaged in Spanish language TV and radio broadcasting. At least half of the TV programming must be dedicated to national programming. Additionally, half of both FM and AM radio broadcasting must be dedicated to Venezuelan-produced material. In the case of music, 50 percent of the Venezuelan-produced material must be traditional

Venezuelan songs. There is also an annual quota on the distribution and exhibition of Venezuelan films. The Venezuelan government film agency determines how many copies of foreign films shown in one year may be produced and sold for distribution in the following year. At least 20 percent of those authorized copies for distribution must be made in Venezuelan reproduction facilities.

INVESTMENT BARRIERS

The Venezuelan government continues to control key sectors of the economy, including oil, petrochemicals, and much of the mining and aluminum industries. Venezuela began an ambitious program of privatization under the Caldera administration (1994-1999), but under the Chavez administration (1999-2013), privatization was halted and the key sectors of the economy were re-nationalized. This policy of intervention has continued under President Maduro. According to the industry association CONINDUSTRIA (Confederación Venezolana de Industriales), there were 1,322 state interventions (expropriations, private property seizures, and nationalizations) in the private sector between 2002 and February 2015. Of these, approximately 40 percent related to the construction sector, 32 percent to the industrial sector (manufacturing, agro-industrial, agriculture or related industries), 17 percent to the oil sector, and 9 percent to the service and trade-related sectors. Other sectors affected include food, mining, chemical, and transport services.

Foreign investment continues to be restricted in Venezuela's petroleum sector. The exploration (except for offshore natural gas), production, refinement, transportation, storage, and foreign and domestic sale of hydrocarbons is reserved for the government. Private companies may engage in oil and gas production through joint ventures with the state-owned petroleum company, Petróleo de Venezuela, S.A. (PDVSA). Although Venezuelan law requires a competitive process for awarding stakes in exploration and production acreage to private partners for projects to be developed by PDVSA, the government may directly award contracts when the project is to be developed under special circumstances or is of national interest. Oil companies from politically strategic partner countries seem to be the preferred partners for the development of many new projects.

Government decisions to force international oil companies to accept the conversion of their projects to minority stakes in joint ventures without the right to operate, to impose windfall profits taxes, and other moves have increased uncertainty in the hydrocarbons sector. Companies that refused to transfer their investment stakes in oilfield projects had control of these investments taken over by the government, leading to international arbitration claims against Venezuela.

In January 2012, former President Chavez announced that Venezuela would not recognize any arbitral decision relating to one of these claims, and in July 2012, he officially withdrew Venezuela from the World Bank's International Center for Settlement of Investment Disputes (ICSID). At least twenty-five ICSID cases against Venezuela are currently pending, making Venezuela the country with the largest number of pending ICSID claims.

Venezuela also controls assets and services involved in gas compression and in the injection of water, steam, or gas into petroleum reservoirs. The government is required to have at least a 50 percent ownership stake in petrochemical companies. In August 2010, the National Assembly passed a law merging all electricity utilities under one central holding entity with 75 percent direct government ownership and 25 percent PDVSA ownership. The state-owned electric company, CORPOELEC, controls electric power generation, transmission, and distribution.

The state-owned Corporación Venezolana de Guayana controls steel and aluminum production, electricity generation, and mining. In 2012, the government failed to renew the concession for the Paso del Diablo coal mine, partly owned by U.S. firm Peabody Company, and Minera Loma de Nickel, a nickel mining concession owned by London-based Anglo-American Company. In 2010, then-President Chavez declared that he would order the Ministry of Basic Industry and Mines to cancel all mine concession agreements and expropriate gold and diamond mining activity taking place in the state of Bolivar. In practice, Venezuela has waited in some cases for concessions to expire and then has announced it would not renew them.

VIETNAM

TRADE SUMMARY

The U.S. goods trade deficit with Vietnam was $30.9 billion in 2015, a 24.4 percent increase ($6.1 billion) over 2014. U.S. goods exports to Vietnam were $7.1 billion, up 23.3 percent ($1.3 billion) from the previous year. Corresponding U.S. imports from Vietnam were $38.0 billion, up 24.2 percent. Vietnam was the United States' 37th largest goods export market in 2015.

U.S. foreign direct investment (FDI) in Vietnam (stock) was $1.5 billion in 2014 (latest data available), a 10.7 percent increase from 2013.

Trade Agreements

Trans-Pacific Partnership -- Vietnam is a U.S. partner in the Trans-Pacific Partnership (TPP) Agreement, with 10 other countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, and Singapore); the 12 TPP partners together represent 40 percent of the global economy. The TPP Agreement, which was concluded in October 2015 and signed in February 2016, will significantly advance U.S. economic interests in some of the fastest growing economies in the world, promoting U.S. exports of goods and services, and benefiting American workers, farmers, businesses, and consumers. Under the TPP Agreement, our TPP partners will cut over 18,000 import taxes imposed on Made-in-America products. The TPP Agreement will also open new markets for U.S. service suppliers; address nontariff barriers that unfairly block U.S. exports; promote digital trade and strong and balanced intellectual property rules for America's globally competitive IP-intensive industries; level the playing field for U.S. companies by fostering fair competition and good governance; establish high enforceable labor and environmental standards; help ensure fair and transparent regulatory policies that promote trade by U.S. innovators and exporters while helping to ensure consumer safety and privacy; and promote inclusive growth, including by supporting U.S. small businesses. The TPP Parties are now focused on completing their respective domestic approval processes so they can bring the agreement into force and so that their workers, farmers, businesses, and consumers can begin benefitting from the agreement as soon as possible.

Separately, Vietnam currently is party to nine free trade agreements (FTAs) with: the ASEAN (Association of Southeast Asian Nations), five ASEAN member countries, China, Japan, Chile, and the Republic of Korea. In 2015 Vietnam signed FTAs with the Eurasian Customs Union and the European Union, but these agreements have yet to enter into force.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Vietnam issued Decree 38, an implementing regulation for its comprehensive Food Safety Law, in 2012. It is broad in scope, containing regulations for a wide variety of horticultural, seafood, and meat products, and it applies to both foreign and domestic products. Its broad scope and uneven enforcement has led to uncertainty for U.S. exporters and Vietnamese importers. The United States will continue to raise these issues with Vietnam.

Food Safety

Offal Products

In September 2013, the Ministry of Agriculture and Rural Development (MARD) removed Vietnam's remaining ban on the importation of so-called "white offals," such as intestines, and in February 2014, it reached an agreement with the United States on the terms and conditions necessary to resume trade in those products, pending the registration of individual U.S. beef, pork, and poultry facilities used to produce white offal products for sale in Vietnam. Following a November 2014 audit that MARD conducted of the U.S. food safety inspection system for meat and poultry, MARD continued to maintain that "white offal" was high risk. At that time, MARD increased the rate of inspection of shipments of U.S. white offal products and stopped approving new U.S. facilities to export certain types of white offals to Vietnam. The United States continues to urge Vietnam to remove any remaining obstacles to trade in offal products.

Products of Plant Origin

On January 1, 2015, Vietnam implemented a new Plant Health Law and implementing decrees updating the overall guidance on the issues of plant health quarantine, pesticide regulation, and import and export of plant origin products. On January 27, 2015, Vietnam notified the International Plant Protection Convention that MARD was imposing a July 31, 2015 deadline for trading partners to submit Pest Risk Assessment information for historically traded products for which no such information had been sent to MARD. MARD subsequently extended the deadline twice and has stated that if pest risk assessment information is not submitted by June 30, 2016, it will no longer issue import permits. The U.S. Government continues to work with industry stakeholders to develop and submit PRA information for priority products ahead of the extended deadline to ensure U.S. exports can continue to enter Vietnam.

MARD also issued a decision (No. 2515/2015) in 2015 that subjects a number of products to plant quarantine inspection upon importation into Vietnam and requires a phytosanitary certificate from the exporting country to accompany any shipment of those products. The list of products subject to these requirements includes many pre-packaged, consumer-oriented, or highly-processed foods of plant origin for which such certificates are not normally issued nor required. The United States continues to engage with Vietnam on these requirements. Once in force, TPP will require that SPS certificates take into account international standards and should only require essential information related to phytosanitary risks.

IMPORT POLICIES

Tariffs

The majority of U.S. exports to Vietnam face tariffs of 15 percent or less, although consumer-oriented food and agricultural products continue to face generally higher rates. In recent years, Vietnam has increased applied tariff rates on a number of products, although rates for those products remain below Vietnam's WTO bound levels. Products affected by such tariff adjustments include sweeteners (such as fructose and glucose), shelled walnuts, ketchup and other tomato sauces, inkjet printers, soda ash, and stainless steel bars and rods. Most of the products for which tariffs have increased are also produced by local companies. In TPP, Vietnam has committed to permit the importation of remanufactured goods of interest to the United States, including medical equipment, computers, and cell phones.

Nontariff Barriers

Import Prohibitions

Vietnam currently prohibits the commercial importation of some products, including certain children's toys, second hand consumer goods, used spare parts for vehicles, used internal combustion engines of less than 30 horsepower, encryption devices and encryption software, and certain cultural products. In November 2015, the Ministry of Science and Technology issued Circular 23/2015/TT-BKHCN, on the importation of used machinery, equipment, and technology. The decree rolls back some restrictions on the importation of remanufactured equipment, and simplifies the documentation needed to establish the year of manufacture of used equipment, in line with TPP commitments.

In 2012, Vietnam's Prime Minister issued Directive 23, which banned the importation of a list of products, including some that are potentially harmful to the environment. In 2014, MOIT issued Circular 05/2014, provided a list of items subject to permanent and temporary bans for re-export under Directive 23, including chemicals, plastics and plastic waste, and certain types of machinery and equipment.

Automatic Import Licenses

Vietnam maintains tariff-rate quota regimes for salt, tobacco, eggs, and sugar. On June 12, 2015, the Ministry of Industry and Trade issued Circular 12/2015/TT-BCT, which subjects some steel products to import licensing.

On November 26, 2014, the Ministry of Information and Communications (MIC) issued Circular 18/2014/TT-BTTTT, which provides that importers of mobile phones, radio transmitters, and radio transmitter-receivers must submit import permit applications to the MIC. According to the circular, which went into effect on January 16, 2015, an import permit will be issued within seven working days after an application is submitted.

Vietnam's Decree 94 on "Wine Production and Wine Trading" entered into force in 2013 and established three types of licenses for alcohol: distribution, wholesale, and retail. The decree dictates that only enterprises with liquor distribution licenses are permitted to import liquor and establishes tight quotas for each category of trading license.

Price Registration and Stabilization

Under Vietnam's Price Law, the Ministry of Finance has the authority to apply price controls on a set list of products, including petroleum products, electricity, liquidized petroleum gas, nitrogen fertilizers, pesticides, animal vaccines, salt, milk products for children under the age of six, sugar, rice, and basic human medications.

In May 2014, the Finance Ministry published Decision 1079/2014/QD-BTC regarding the implementation of price stabilization measures for dairy products for children under six years old. The decision set maximum prices and required price reductions on a number of branded infant and children's formula products and also set the maximum wholesale-to-retail markup for these goods at 15 percent. In April 2015, the Finance Ministry extended the milk price ceiling through the end of 2016. The United States, along with other countries that export these products, continues to engage with Vietnam regarding these measures.

Customs

Vietnam has implemented the WTO Customs Valuation Agreement, but importers have reported concerns with the use of reference prices by Vietnam and other issues. The United States will continue to work with Vietnam on implementation of the WTO Customs Valuation Agreement. Once in force, TPP will require Vietnam to provide advance rulings on customs valuation and other customs matters before goods are shipped. Vietnam will also implement new commitments on remanufactured goods and origin procedures under the TPP and develop a risk management system that enables its customs administration to focus on high-risk goods while simplifying the clearance and movement of low-risk goods.

Vietnam's new Law on Customs came into effect on January 1, 2015. The law provides a legal framework for the National Single Window and institutes a number of improvements, including increased electronic filing of customs forms. It also allows for more self-certification by traders and for an expanded advance rulings system which permits advance rulings on classification, origin, and customs valuation. Pursuant to a memorandum of understanding signed on December 12, 2014, USAID supports the Vietnam Trade Facilitation Alliance, which the American Chamber of Commerce in Ho Chi Minh City and the Vietnam Chamber of Commerce and Industry lead, to help Vietnam implement its WTO Trade Facilitation Agreement commitments.

On November 27, 2015, Vietnam ratified the WTO Trade Facilitation Agreement.

Trading rights

Companies are allowed to import all goods except for a limited number of products which must be imported by state trading enterprises. These products include: cigars and cigarettes, crude oil, newspapers, journals and periodicals, and recorded media for sound or pictures (with certain exclusions). Vietnamese law provides that foreign-invested enterprises with export trading licenses can only buy agricultural products from local traders.

Export taxes

Vietnam applies export taxes on a wide range of goods, including minerals, ores, metals, rubber, wood, and hides. Export tax rates range from 5 to 40 percent. In TPP, Vietnam has committed to phase out most of its export taxes, including those of priority to the United States.

Other Nontariff Barriers

U.S. stakeholders continue to express concern about the impact on foreign firms of product registration requirements for imported pharmaceuticals. Ministry of Health Decision 2962, issued in 2012, contains elements that impede market access for international pharmaceutical companies. In TPP, Vietnam has agreed to commitments, including on tariff elimination, government procurement, and service and investment that will enhance market access for U.S. pharmaceutical exporters.

GOVERNMENT PROCUREMENT

Vietnam's 2013 Law on Procurement provides the basic framework for Vietnamese government procurement and promotes the purchase of domestic goods or services in government procurement, when they are available.

Under the TPP Agreement, Vietnam will open its government procurement to competitive bidding from U.S. suppliers and those of other TPP countries, and will extend national treatment to suppliers from TPP countries for covered procurement. Vietnam's government procurement commitments in TPP cover goods and services in contracts above agreed value thresholds with any of Vietnam's government ministries. Importantly, TPP also requires Vietnam to institute reforms to ensure complete and timely provision of information on upcoming procurements and fair and transparent procurement procedures for government contracts. TPP, along with Vietnam's FTA with the European Union which was negotiated concurrently with TPP, constitutes Vietnam's first binding international commitment on government procurement.

Vietnam is not a party to the WTO Agreement on Government Procurement. Since 2012, it has been an observer to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

While Vietnam has taken some positive steps to protect IPR and enhance its IPR legal framework, it remained on the Special 301 Watch List in 2015 reflecting concerns about Internet-based copyright piracy, and the increasing sale of counterfeit goods online and in physical markets. It relies on administrative actions and penalties to enforce IPR, rather than other more deterrent mechanisms. In addition, Vietnam's system for protecting against the unfair commercial use, as well as the unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products also needs clarification.

Under the TPP agreement, which sets strong and balanced standards on IPR protection and enforcement, Vietnam has committed to strengthen its IPR regime in these and other areas. The United States will work closely with Vietnam on TPP implementation, including through technical assistance and other trade capacity building. We also will continue to address IPR issues through bilateral engagement.

SERVICES BARRIERS

Advertising Services

Decree No. 181/2013/ND-CP, issued in 2013, introduced new restrictions with respect to online advertising. The decree requires Vietnamese advertisers to contract with a Vietnam-based advertising services provider in order to place advertisements on foreign websites, and requires any foreign websites with advertising targeting Vietnam to notify the Ministry of Culture, Sports and Tourism in writing of the name and main business lines of the Vietnamese agent who has facilitated the advertising service in Vietnam at least 15 days before publishing an advertisement. Vietnam did not take any reservations for advertising services in the TPP.

Audiovisual Services

Foreigners may invest in cinema construction and operation only through joint ventures with local Vietnamese partners. Films are subject to censorship before public viewing.

Broadcasting

Pursuant to Decision 20/2011/QD-TT, Vietnam requires that foreign pay-TV providers use a local agent to translate into Vietnamese all movies and programming on science, education, sports, entertainment, and music before they are screened. Decision 18a/2013/QD-TTG, issued in 2013, removed previously-existing requirements for news channels to translate their broadcasts and provide a summary of the content in Vietnamese in advance of airing, but still requires foreign content providers to secure the services of a local editing company for post-production work (including translation, content review, and payment of a placement fee) in order for advertisements to be approved for placement in a Vietnamese broadcast. The U.S. Government will continue to monitor the implementation of both pay-TV measures and raise concerns as appropriate.

Telecommunications - General

Vietnam permits foreign participation in the telecommunications sector, with varying equity limitations depending on the sub-sector. For instance, foreign ownership in suppliers of closed-user networks is permitted up to 70 percent, while foreign ownership in suppliers of facility-based basic services is generally capped at 49 percent. Vietnam also allows foreign equity of up to 65 percent for suppliers of non-facilities-based public telecommunications services. Facilities-based operators are required to be majority-State-owned firms, limiting the pool of potential joint venture partners.

In TPP, Vietnam agreed to liberalize its telecommunications market significantly within five years of entry into force of the agreement for Vietnam. Vietnam committed to allow up to 100-percent foreign ownership of non-facilities-based services and submarine-cable-based services (including facilities-based).

The Vietnamese government continues to allow access to the Internet only through a limited number of Internet service providers, all of which are state-controlled companies or companies with substantial state control. The Vietnamese government restricts or blocks access to certain websites that it deems politically or culturally inappropriate. In July 2013 Vietnam promulgated Decree 72/2013/ND-CP, which prohibits the use of Internet services to oppose the government; harm national security, social order, and safety; or propagandize war, terrorism, hatred, violence, or superstition. The United States has raised concerns about these Internet restrictions with the Vietnamese government and will continue to monitor this issue closely.

Circular 09/2014/TT-BTTTT "Detailing Management, Provision and Use of Information on Websites and Social Networks," which guides implementation of Decree 72, requires Vietnamese companies that operate general websites and social networks, including blogging platforms, to locate a server system in Vietnam and to store posted information for 90 days and certain metadata for up to two years. To date, enforcement of the decree appears to be very limited, and the MIC has not released guidance on how the decree will apply to foreign cross-border service providers.

Telecommunications - International Roaming

International roaming services in Vietnam are provided by all major wireless operators in Vietnam to foreign carriers seeking to offer their mobile subscribers service when visiting Vietnam. Price competition among Vietnamese telecommunications suppliers in recent years has lowered the international roaming rate. This raised concerns from some Vietnamese operators and Vietnam Telecommunications officials that certain local suppliers were "dumping" international roaming services. In response, in October 2014, the Vietnam Telecommunications Authority issued the Order for Promulgating the Average Tariff and Regulated Rate for Inbound International Roaming Services (1469/CVT-GCKM) setting a floor rate for wholesale roaming services for data, messages, and voice services, below which an operator is prohibited from offering services to a foreign operator. This measure has raised rates for foreign operators, and, likely their subscribers. As a result of this order, at least two U.S. operators have stopped offering data roaming services in Vietnam. The United States will continue to engage with the MIC on this issue.

Over-The-Top Services

Over-the-top (OTT) services are Internet-based voice and text services typically supplied via software applications over Internet networks managed by traditional operators, in competition with those operators' voice and data services. In October 2014, the MIC released draft regulations for OTT services for public comment. The draft included a requirement for OTT voice and messaging services suppliers to enter into an undefined commercial relationship with a licensed telecommunications supplier in Vietnam as a condition of supplying OTT voice and messaging services in Vietnam. The United States will continue to urge Vietnam not to go forward with this proposed requirement.

Distribution Services

Foreign investors who seek to open additional retail establishments beyond the first store in Vietnam's retail sector are subject to an economic needs test, which is evaluated by the local authorities and approved by the MOIT. The MOIT issued Circular 8 in April 2013, which provides additional details on the application of the economic needs test, which was first introduced in 2007. The only companies exempt from the economic needs test requirement are small and medium sized retail outlets (less than 500 square meters) located in commercial zones. Under the TPP, this economic needs test will be eliminated.

Foreign Contractor Tax

Effective October 1, 2014, MOF Circular 103 requires local entities to withhold taxes of up to 2 percent when they provide most services for foreign contractors. Previously, withholdings were only required for revenue generating services, but the withholding requirement now applies to services that are generally deductible for local businesses, such as advertising and after-sale warrantee services.

Banking and Security Services

Foreign investors may own 100 percent of a foreign-owned bank, or may take ownership interests in domestic "joint stock" banks (commercial banks with any amount of private ownership) or "joint venture" banks (banks set up by joint venture agreement, typically between domestic and foreign partners). Total equity held by foreign and domestic institutions and individual investors in domestic "joint stock" banks is limited to 30 percent, while total equity held by a foreign strategic investor is limited to 20 percent. Foreign equity in "joint venture" banks is permitted up to 49 percent. Foreign bank branches and representative offices of all foreign bank and credit institutions continue to face geographic network restrictions that are not imposed on joint stock banks or joint venture banks, such as being limited to one office per province.

Foreign securities companies are permitted to establish 100 percent foreign-owned subsidiaries in Vietnam. Although there is no foreign ownership limit for local securities companies and fund management firms, no majority stakes have been sold thus far and further clarity in implementing regulations regarding such sales may be warranted.

Under TPP, Vietnam will remove limits on internal expansion by bank subsidiaries and on the scope of activity by foreign bank branches and ensure that U.S. financial institutions have non-discriminatory access to its capital markets.

INVESTMENT BARRIERS

Vietnam's National Assembly passed a new Investment Law on November 26, 2014. This law went into effect on July 1, 2015. Under the law, Vietnam changed from a "positive list" approach to a "negative list" approach in permitting foreign investment so that all sectors and activities are now open to foreign investors except where explicitly prohibited or restricted. In addition, U.S. investors will be guaranteed market access consistent with the commitments in the new "negative list" for investment and services negotiated in the TPP Agreement.

Vietnam allows foreigners with a valid visa, foreign companies, and international organizations to obtain a certificate of land use rights for 50 years. However, only the Vietnamese government is allowed to own real property in Vietnam. Foreign entities can mortgage the structures on land for which they have land use rights, as well as the value of the land use rights.

ELECTRONIC COMMERCE

Electronic commerce is growing rapidly in Vietnam. In 2013, the Vietnamese government issued Decree 52 to regulate electronic commerce activities in Vietnam and in 2014 the MOIT issued a circular to provide further guidance for the implementation of Decree 52 related to electronic commerce websites (Circular 47/2014/TT-BCT). Both the decree and the circular regulate entities in Vietnam only. In the area of cloud computing services, stakeholders raised concerns over a MIC draft IT services decree, which would impose licensing and registration requirements on IT service providers, but the MIC has reportedly shelved the draft decree. The United States will continue to monitor this issue closely.

After more than four years of discussion, collection of public comments, and amendments, the Law on Network Information Safety No. 86/2015/QH13 was promulgated in November 2015 and will come into effect on July 1, 2016. This law includes provisions related to spam, unauthorized collection and distribution of personal information, hackers, and other areas. The new law defined "network information safety" as the protection of network information and network information systems from the unauthorized access, use, disclosure, interruption, amendment or sabotage in order to ensure the confidentiality and usability of the information on the network system. Companies that produce ICT products have expressed concerns about the law's ambiguous language, specifically in the chapter on "civil cryptography products," a term that has not been defined.

OTHER BARRIERS

Lack of transparency and accountability and governance issues continue to be concerns in Vietnam. With the assistance of the United States and other donors, Vietnam is in the process of implementing a public administration reform program and continuing to enhance overall transparency. The United States will continue to work with Vietnam to support these reform efforts and to promote greater transparency. TPP contains enhanced transparency and anti-corruption disciplines that will further significantly improve Vietnam's efforts to reform these areas.

As a signatory to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, Vietnam is required to recognize and enforce foreign arbitral awards within its jurisdiction, with very few exceptions. However, in 2012, dozens of Vietnamese companies signed purchase contracts with U.S. cotton suppliers but failed to execute the contracts when world cotton prices fell. In compliance with standard contract provisions, international cotton traders referred the defaults to the International Cotton Association (ICA) for arbitration. The ICA rendered arbitration awards for the defaults valued at $76 million, but Vietnamese courts have not recognized the validity of these awards.

APPENDIX I

APPENDIX I

Report on Progress in Reducing Trade-Related Barriers to the Export of Greenhouse Gas Intensity Reducing Technologies

This Appendix provides an update on progress the Administration has made in reducing trade-related barriers to the export of greenhouse gas intensity reducing technologies (GHGIRTs), as called for by the Energy Policy Act of 2005. In October 2006, pursuant to section 1611 of the Act,[11] USTR prepared a report that identified trade barriers that U.S. exporters of GHGIRTs face in the top 25 greenhouse gas (GHG) emitting developing countries and described the steps the United States is taking to reduce these and other barriers to trade.[12] The Act also calls for USTR to report annually on progress made with respect to removing the barriers identified in the initial report. USTR submitted the first annual progress report in October 2007; this report, as well as the initial report, are available at http://ustr.gov/about-us/policy-offices/press-office/reports-and-publications. USTR will continue to submit further annual progress reports as part of the NTE Report.

As described in the initial 2006 GHGIRT report, barriers to the exports of GHGIRTs are generally similar to those identified in the NTE with respect to other exports to the 25 developing countries: *e.g.*, lack of adequate and effective intellectual property rights protections; lack of regulatory transparency and sound legal infrastructure; state-controlled oil and energy sectors, which are often slower to invest in new technologies; cumbersome and unpredictable customs procedures; corruption; import licensing schemes; local content requirements; investment restrictions, including requirements to partner with domestic firms; and, in some countries, high applied tariff rates. Progress in removing such barriers is noted in the appropriate country chapters of this NTE Report. The reader is also referred to USTR's "Special 301" report pursuant to section 182 of the Trade Act of 1974. The "Special 301" report describes the adequacy and effectiveness of intellectual property rights protection and enforcement of U.S. trading partners; the 2016 report will be released later this year.

Increased trade in environmental technologies, such as GHGIRTs, is an important part of President Obama's Climate Action Plan, a key objective of U.S. leadership in global trade policy, and a potential driver of job growth here at home.

In APEC, the United States continued its leadership role in reducing barriers to trade in GHGIRTs. Pursuant to APEC Leaders' commitment to reduce applied tariffs on a list of 54 environmental goods to 5 percent or less by the end of 2015, all APEC economies submitted implementation plans for making the required tariff cuts in their national tariff schedules. Over 300 tariff lines have been cut across the APEC region as a result of APEC Leaders' commitment to liberalization of green technologies, including GHGIRTs, such as solar panels and wind turbines. In addition, in May 2015, the Public-Private Partnership on Environmental

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[11] Section 1611 of the Act amends the Global Environmental Protection Assistance Act of 1989 (Public Law 101-240) to add new Sections 731-39. Section 732(a)(2)(A) directs the Department of State to identify the top 25 GHG emitting developing countries for the purpose of promoting climate change technology. The Secretary of State has submitted its report to Congress identifying these 25 countries. Section 734 calls on the United States Trade Representative "(as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements) [to] (1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and (2) negotiate with foreign countries for the removal of those barriers."

[12] These 25 countries were identified in the Department of State's 2006 **"**Report to Congress on Developing Country Emissions of Greenhouse Gases and Climate Change Technology Deployment." They are: Algeria; Argentina; Azerbaijan; Bangladesh; Brazil; Chile; China; Colombia; Egypt; India; Indonesia; Iraq; Kazakhstan; Libya; Malaysia; Mexico; Nigeria; Pakistan; Philippines; South Africa; Thailand; Turkmenistan; Uzbekistan; Venezuela; and Vietnam.

Goods and Services (PPEGS) held its second meeting in Boracay, Philippines, in which representatives from APEC governments and the private sector convened to discuss ways that non-tariff barriers to trade in environmental goods and services have been successfully addressed in the APEC region. In 2016, the United States will seek to build on the outputs of this meeting by advancing work to address barriers to trade and investment in sustainable materials management solutions, which include GHGIRTs.

Also in 2015, the United States and the 16 other WTO Members participating in the Environmental Goods Agreement (EGA) negotiations made significant progress over the course of eight negotiating rounds to develop a list of environmental technologies, including GHGIRTs, that will be subject to tariff elimination. Under the EGA, participating WTO Members will eliminate tariffs on a broad range of environmental technologies, building on the APEC list of 54 environmental goods. Global trade in environmental goods is estimated at nearly $1 trillion annually, and some WTO Members charge tariffs as high as 35 percent on these goods. The United States exported $135 billion of environmental goods in 2014, and U.S. exports of environmental goods have been growing at an annual rate of 8.4 percent since 2009. By eliminating tariffs on these products, we can improve access to the technologies that the United States and other countries need to protect our environment, while unlocking opportunities for U.S. exporters and spurring innovation in green technologies. In addition to the United States, Australia, Canada, China, Costa Rica, the European Union, Hong Kong, Iceland, Israel, Japan, Korea, New Zealand, Norway, Singapore, Switzerland, Chinese Taipei, and Turkey are participating in the EGA negotiations. China has remained the top GHG emitting developing country since the first GHGIRTs report in 2006, and stands to benefit significantly from an ambitious, comprehensive EGA. The United States will continue its leadership in the EGA negotiations this year, working closely with China and others with the aim to conclude a commercially significant and environmentally credible agreement in 2016.

Finally, the landmark Trans-Pacific Partnership (TPP) includes high standard commitments on environmental goods and services, including immediate duty-free treatment for GHGIRTs, substantial new market access for environmental and related clean energy services, and elimination of problematic local content requirements. In addition, the TPP Environment Committee to be established to oversee implementation of TPP's environmental commitments will consider potential non-tariff barriers to trade in environmental goods and services, including GHGIRTs, thus offering an important regional forum for discussion of these issues. Among the twenty-five developing countries in the original GHGIRTs report, Chile, Malaysia, Mexico and Vietnam are TPP signatories.

APPENDIX II

APPENDIX
US Data for Given Trade Partners in Rank Order of US Goods Exports
(Values in Millions of Dollars)

	Trade Balance		Change	Exports*	Exports*	Change 2014-15		Imports**	Imports**	Change 2014-15		FDI***	FDI***	% Change	
Country	2014	2015	2014-15	2014	2015	Value	Percent	2014	2015	Value	Percent	2013	2014	2013-14	FDI Area
World	-727,153	-736,172	-9,019	1,620,532	1,504,914	-115,618	-7.1	2,347,685	2,241,086	-106,599	-4.5	4,693,348	4,920,653	4.8	Nonbank Holding Co, Finance/Ins, Manuf
Canada	-35,377	-15,174	20,204	312,421	280,017	-32,404	-10.4	347,798	295,190	-52,608	-15.1	390,172	386,121	-1.0	Nonbank Holding Co, Manuf., Finance/Ins.
Mexico	-53,825	-58,364	-4,538	240,249	236,377	-3,871	-1.6	294,074	294,741	667	0.2	102,418	107,825	5.3	Nonbank Holding Co, Manuf., Finance/Ins.
China	-343,079	-365,695	-22,616	123,676	116,186	-7,489	-6.1	466,754	481,881	15,126	3.2	59,886	65,767	9.8	Manufacturing, Wholesale, Depository Inst.
Japan	-67,176	-68,648	-1,472	66,827	62,472	-4,356	-6.5	134,004	131,120	-2,884	-2.2	120,508	108,068	-10.3	Finance/Ins., Manufacturing, Wholesale
United Kingdom	-569	-1,452	-883	53,823	56,353	2,530	4.7	54,392	57,805	3,413	6.3	576,516	587,943	2.0	Nonbank Holding Co, Finance/Ins., Manuf.
Germany	-73,896	-74,193	-296	49,363	49,947	583	1.2	123,260	124,139	880	0.7	123,322	115,533	-6.3	Manuf., Nonbank Holding Co, Finance/Ins.
Korea	-25,047	-28,329	-3,282	44,471	43,499	-973	-2.2	69,518	71,827	2,309	3.3	33,036	34,896	5.6	Manufacturing, Finance/Ins., Wholesale
Netherlands	22,257	23,954	1,697	43,075	40,706	-2,369	-5.5	20,818	16,752	-4,066	-19.5	717,035	753,224	5.0	Nonbank Holding Co, Manuf., Finance/Ins.
Hong Kong	34,989	30,471	-4,517	40,858	37,174	-3,684	-9.0	5,869	6,703	834	14.2	60,001	66,240	10.4	Wholesale, Nonbank Holding Co, Finance/Ins.
Belgium	13,904	14,601	697	34,790	34,115	-675	-1.9	20,885	19,513	-1,372	-6.6	51,702	48,128	-6.9	Manufacturing, Wholesale, Finance/Ins.
Brazil	11,893	4,260	-7,632	42,429	31,666	-10,764	-25.4	30,537	27,405	-3,131	-10.3	69,335	70,457	1.6	Manuf., Nonbank Holding Co, Finance/Ins.
France	-15,573	-17,567	-1,994	31,301	30,077	-1,224	-3.9	46,874	47,644	770	1.6	77,690	76,823	-1.1	Manuf., Finance/Ins., Nonbank Holding Co
Singapore	13,811	10,421	-3,390	30,237	28,657	-1,581	-5.2	16,426	18,235	1,809	11.0	159,759	179,764	12.5	Nonbank Holding Co, Manuf., Finance/Ins.
Taiwan	-13,911	-14,779	-868	26,670	25,929	-741	-2.8	40,581	40,708	127	0.3	16,809	17,073	1.6	Manufacturing, Wholesale, Finance/Ins.
Australia	15,910	14,176	-1,734	26,582	25,038	-1,544	-5.8	10,672	10,862	190	1.8	169,917	180,315	6.1	Nonbank Holding Co, Finance/Ins., Mining
UAE	19,255	20,516	1,261	22,069	22,979	910	4.1	2,814	2,463	-351	-12.5	11,717	15,035	28.3	Mining, Finance/Ins., Wholesale
Switzerland	-9,015	-8,942	72	22,176	22,287	112	0.5	31,191	31,230	39	0.1	126,652	152,879	20.7	Nonbank Holding Co, Manuf., Finance/Ins.
India	-23,637	-23,212	425	21,608	21,530	-78	-0.4	45,244	44,741	-503	-1.1	25,036	27,963	11.7	Prof., Sci. & Tech., Manufacturing, Wholesale
Saudi Arabia	-28,336	-2,390	25,946	18,705	19,690	985	5.3	47,041	22,081	-24,960	-53.1	10,084	10,064	-0.2	Wholesale, Prof., Sci. & Tech., Information
Colombia	1,807	2,446	639	20,107	16,503	-3,603	-17.9	18,300	14,057	-4,243	-23.2	7,373	7,085	-3.9	Mining, Manufacturing, Finance/Ins.
Italy	-25,147	-27,756	-2,609	16,968	16,249	-719	-4.2	42,115	44,005	1,890	4.5	28,018	26,733	-4.6	Manufacturing, Wholesale, Finance/Ins.
Chile	7,039	6,707	-332	16,515	15,587	-927	-5.6	9,476	8,880	-596	-6.3	28,617	27,560	-3.7	Mining, Finance/Ins., Manufacturing
Israel	-7,879	-10,891	-3,012	15,083	13,562	-1,522	-10.1	22,962	24,452	1,490	6.5	9,758	10,801	10.7	Manufacturing, Information, Prof., Sci. & Tech.
Malaysia	-17,352	-21,536	-4,184	13,068	12,293	-776	-5.9	30,420	33,828	3,408	11.2	12,959	14,357	10.8	Mining, Manufacturing, Finance/Ins.
Thailand	-15,313	-17,348	-2,035	11,810	11,247	-563	-4.8	27,123	28,595	1,472	5.4	9,825	11,729	19.4	Manufacturing, Wholesale, Prof., Sci. & Tech.
Spain	-4,216	-3,841	375	10,200	10,249	49	0.5	14,416	14,090	-327	-2.3	34,146	36,363	6.5	Manufacturing, Wholesale, Finance/Ins.
Turkey	4,288	1,729	-2,560	11,645	9,556	-2,089	-17.9	7,357	7,828	471	6.4	4,366	4,384	0.4	Manufacturing, Wholesale, Finance/Ins.
Argentina	6,583	5,387	-1,195	10,826	9,336	-1,490	-13.8	4,243	3,948	-295	-6.9	13,447	13,418	-0.2	Manufacturing, Information, Mining
Ireland	-26,149	-30,410	-4,260	7,806	8,946	1,139	14.6	33,956	39,355	5,400	15.9	247,755	310,598	25.4	Nonbank Holding Co, Information, Manuf.
Peru	3,977	3,743	-234	10,054	8,811	-1,242	-12.4	6,077	5,069	-1,008	-16.6	5,364	6,486	20.9	Mining, Manufacturing, Nonbank Holding Co
Venezuela	-19,081	-7,246	11,835	11,138	8,317	-2,821	-25.3	30,219	15,564	-14,655	-48.5	13,365	11,169	-16.4	Manufacturing, Finance/Ins., Mining
Philippines	-1,691	-2,291	-601	8,453	7,909	-544	-6.4	10,144	10,200	56	0.6	4,180	5,071	21.3	Manufacturing, Wholesale, Prof., Sci. & Tech.
Panama	10,036	7,428	-2,608	10,467	7,836	-2,631	-25.1	431	408	-23	-5.3	4,636	4,687	1.1	Nonbank Holding Co, Wholesale, Manufacturing
Dominican Republic	3,402	2,474	-928	7,922	7,134	-788	-9.9	4,520	4,660	140	3.1	1,183	1,224	3.5	Manufacturing, Information, Wholesale
Indonesia	-11,077	-12,452	-1,376	8,284	7,123	-1,161	-14.0	19,361	19,575	214	1.1	11,250	13,536	20.3	Mining, Finance/Ins., Manufacturing
Russia	-12,905	-9,475	3,430	10,753	7,087	-3,666	-34.1	23,658	16,562	-7,096	-30.0	13,140	9,263	-29.5	Manufacturing, Wholesale, Information
Vietnam	-24,854	-30,921	-6,067	5,734	7,072	1,337	23.3	30,589	37,993	7,405	24.2	1,331	1,473	10.7	
Costa Rica	-2,536	1,681	4,217	6,964	6,150	-814	-11.7	9,500	4,469	-5,031	-53.0	998	955	-4.3	Manufacturing, Prof., Sci. & Tech., Information
Ecuador	-2,692	-1,547	1,145	8,164	5,892	-2,273	-27.8	10,856	7,439	-3,418	-31.5	581	650	11.9	Mining, Manufacturing, Wholesale
Guatemala	1,747	1,744	-3	5,964	5,864	-100	-1.7	4,217	4,120	-97	-2.3	1,103	1,158	5.0	
South Africa	-1,948	-1,876	72	6,370	5,459	-911	-14.3	8,318	7,335	-983	-11.8	6,377	6,181	-3.1	Manufacturing, Wholesale, Prof., Sci. & Tech.
Honduras	1,317	480	-838	5,961	5,238	-722	-12.1	4,643	4,759	115	2.5	772	754	-2.3	Manufacturing, Finance/Ins., Wholesale
Egypt	5,062	3,342	-1,720	6,473	4,748	-1,724	-26.6	1,410	1,406	-4	-0.3	18,795	21,320	13.4	

Qatar	3,431	2,926	-506	5,173	4,232	-942	-18.2	1,742	1,306	-436	-25.0	8,411	8,639	2.7	
Austria	-6,944	-7,242	-298	3,825	4,026	201	5.3	10,769	11,268	499	4.6	15,641	15,787	0.9	Manufacturing, Wholesale, Depository Inst.
Sweden	-5,926	-5,903	23	4,340	3,932	-408	-9.4	10,266	9,835	-432	-4.2	35,968	28,842	-19.8	Nonbank Holding Co, Manufacturing, Wholesale
Poland	-1,492	-1,862	-371	3,660	3,718	58	1.6	5,152	5,581	428	8.3	12,540	11,516	-8.2	Manufacturing, Wholesale, Finance/Ins.
New Zealand	279	-648	-927	4,258	3,634	-624	-14.6	3,979	4,282	304	7.6	7,646	7,760	1.5	Manuf., Finance/Ins., Nonbank Holding Co
Norway	-936	-1,137	-202	4,422	3,598	-823	-18.6	5,357	4,736	-622	-11.6	41,842	39,522	-5.5	Nonbank Holding Co, Mining, Manufacturing
Nigeria	2,129	1,495	-634	5,968	3,410	-2,557	-42.9	3,839	1,916	-1,923	-50.1	5,029	5,173	2.9	Mining, Prof., Sci. & Tech.
El Salvador	909	718	-191	3,304	3,258	-46	-1.4	2,396	2,540	145	6.0	2,863	2,810	-1.9	
Kuwait	-7,788	-1,934	5,854	3,649	2,751	-898	-24.6	11,437	4,685	-6,752	-59.0		315		
Oman	1,040	1,458	419	2,016	2,364	348	17.3	976	906	-70	-7.2		3,025		
Denmark	-5,143	-5,503	-360	2,361	2,224	-137	-5.8	7,504	7,727	224	3.0	13,605	14,108	3.7	Nonbank Holding Co, Manuf., Information
Czech Republic	-2,042	-2,484	-441	2,302	1,978	-324	-14.1	4,345	4,462	117	2.7	6,990	7,247	3.7	Manufacturing, Information, Prof., Sci. & Tech.
Algeria	-2,012	-1,495	517	2,617	1,876	-741	-28.3	4,629	3,372	-1,257	-27.2	4,675	5,202	11.3	
Pakistan	-2,160	-1,858	301	1,512	1,838	326	21.5	3,672	3,696	24	0.7	233	272	16.7	
Hungary	-3,441	-3,978	-537	1,843	1,714	-128	-7.0	5,284	5,692	408	7.7	6,189	5,879	-5.0	Manufacturing, Wholesale, Information
Morocco	1,110	598	-512	2,102	1,608	-494	-23.5	992	1,011	18	1.9	414	379	-8.5	
Finland	-2,865	-2,926	-61	2,150	1,572	-578	-26.9	5,016	4,499	-517	-10.3	1,919	1,784	-7.0	Manufacturing, Prof., Sci. & Tech., Wholesale
Ethiopia	1,462	1,245	-217	1,669	1,555	-114	-6.8	207	310	103	49.9	10			
Paraguay	1,919	1,341	-578	2,116	1,503	-612	-28.9	196	162	-34	-17.4		144		
Luxembourg	761	765	4	1,516	1,403	-113	-7.5	755	637	-117	-15.6	445,498	465,160	4.4	Nonbank Holding Co, Finance/Ins., Manuf.
Jordan	650	-125	-775	2,050	1,368	-682	-33.3	1,401	1,493	93	6.6	217	249	14.7	
Bahrain	94	372	277	1,060	1,274	214	20.2	965	902	-63	-6.5	857	765	-10.7	
Nicaragua	-2,095	-1,930	165	1,009	1,257	248	24.6	3,104	3,186	82	2.7	211	201	-4.7	
Angola	-3,681	-1,644	2,037	2,039	1,164	-876	-42.9	5,720	2,808	-2,912	-50.9	1,221	1,907	56.2	
Bangladesh	-4,164	-5,037	-873	1,113	948	-165	-14.8	5,278	5,985	708	13.4	413	465	12.6	
Portugal	-2,073	-2,317	-243	1,136	940	-196	-17.2	3,209	3,257	48	1.5	1,978	2,053	3.8	Wholesale, Manufacturing, Finance/Ins.
Kenya	1,050	371	-679	1,641	937	-704	-42.9	591	565	-25	-4.3	406	383	-5.7	
Ghana	915	578	-337	1,186	887	-299	-25.2	272	309	38	13.9	3,140		-100.0	
Ukraine	306	11	-294	1,240	860	-380	-30.7	934	848	-86	-9.2	926	717	-22.6	
Romania	-1,125	-1,381	-256	977	754	-223	-22.8	2,103	2,136	33	1.6	2,124	2,305	8.5	
Greece	-275	-625	-350	773	730	-44	-5.6	1,048	1,355	307	29.3	-583	-447	-23.3	Manufacturing, Wholesale, Information
Tunisia	311	16	-295	831	560	-272	-32.7	521	544	23	4.4	348	360	3.4	
Lithuania	-413	-530	-117	681	528	-153	-22.5	1,094	1,058	-36	-3.3				
Kazakhstan	-402	-290	112	1,009	509	-500	-49.6	1,411	798	-612	-43.4		15,582		
Malta	744	231	-513	918	471	-446	-48.6	173	240	67	38.8		902		
Cambodia	-2,519	-2,631	-112	328	392	64	19.6	2,847	3,023	177	6.2	63	77	22.2	
Slovakia	-1,655	-1,899	-244	445	381	-64	-14.5	2,100	2,280	180	8.6	720	749	4.0	
Sri Lanka	-2,326	-2,516	-190	350	372	22	6.2	2,676	2,888	212	7.9	102	111	8.8	
Slovenia	-398	-305	93	301	367	66	22.0	699	672	-27	-3.9				
Croatia	-123	-243	-120	340	332	-8	-2.3	463	575	112	24.3	143			
Latvia	154	-7	-161	428	295	-133	-31.1	275	302	28	10.0				
Bulgaria	-246	-305	-59	359	289	-69	-19.3	604	594	-10	-1.7	465	518	11.4	
Estonia	-254	-212	42	308	289	-20	-6.4	563	501	-61	-10.9	146	145	-0.7	
Brunei	517	114	-403	549	133	-416	-75.7	32	19	-12	-39.2	31			
Cyprus	88	70	-18	152	102	-50	-32.9	64	32	-32	-50.4	1,964	2,150	9.5	
Laos	-4	-21	-16	28	25	-4	-13.7	33	45	12	37.1				
European Union - 28	-142,058	-153,318	-11,259	276,142	272,688	-3,455	-1.3	418,201	426,006	7,805	1.9	2,402,905	2,514,771	4.7	Nonbank Holding Co, Finance/Ins, Manuf