

2022 Trade Enforcement Priorities Report



Office of the United States Trade Representative

FOREWORD

In accordance with section 601 of the Trade Facilitation and Enforcement Act of 2015 (section 310 of the Trade Act of 1974), the U.S. Trade Representative reports to the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives on acts, policies, or practices of foreign governments identified as trade enforcement priorities based on the consultations with those committees and the criteria set forth in paragraph (2) of section 310(a). The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report and gratefully acknowledges the contributions of USTR staff to the writing and production of this report.

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TABLE OF CONTENTS

FOREWORD	i
TABLE OF CONTENTS	ii
USTR ENFORCEMENT PRIORITIES	1
Executive Summary	1
Enforcement of U.S. Rights Under the United States-Mexico-Canada Agreement	4
Labor Monitoring and Enforcement Under the USMCA	4
Facility-Specific Rapid Response Labor Mechanism Matters & Petitions	4
Monitoring of Mexican Labor Reforms	6
Environment Monitoring and Enforcement Under USMCA	7
United States-Mexico Chapter 24 Environment Consultations	7
Work of the Interagency Environment Committee for Monitoring and Enforcement	8
Environment Attachés	10
U.S.-Mexico Environment Cooperation and Customs Verification Agreement	10
Dispute Settlement Related to Other USMCA Commitments	11
Section 301 Investigations	13
China’s Forced Technology Transfer	13
Vietnam’s Acts, Policies, and Practices Related to Currency Valuation	15
Vietnam’s Acts, Policies, and Practices Related to the Import and Use of Illegal Timber	16
Digital Services Taxes	17
Defense of U.S. Trade Remedies Laws	19
Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions	27
WTO Dispute Settlement Actions and Continued Enforcement Against Traditional Trade Barriers	27
Defense Against Other WTO Challenges	30
Enforcement Supporting Strategic Interests of the United States	34

USTR ENFORCEMENT PRIORITIES

Executive Summary

USTR is committed to strong trade enforcement of U.S. law and international agreements to further level the playing field and promote the interests of U.S. workers and businesses, manufacturers, farmers, ranchers, fishers, and underserved communities. Trade enforcement encompasses a broad range of activities including facility-specific rapid response labor mechanism actions under the United States-Mexico-Canada Agreement (USMCA), state-to-state dispute settlement, and section 301 investigations and actions. Trade enforcement also includes the monitoring of trade agreements, engagement in bilateral, plurilateral, multilateral, and regional fora (such as committees of the World Trade Organization), and direct engagement with trading partners on key trade barriers.

USTR's enforcement actions are critical to advancing the President's worker-centered trade policy and ensuring that foreign policy and trade combat unfair economic practices, defend American jobs and business, and create broad-based economic prosperity. This report highlights USTR's continuing commitment to enforcement and presents USTR's 2022 trade enforcement priorities:

- ***Enforcement of the United States-Mexico-Canada Agreement (USMCA).*** Enforcement of the USMCA is essential to ensuring that Canada and Mexico fully implement the agreement and live up to their commitments. Our enforcement actions also ensure that the agreement benefits American workers, manufacturers, farmers, fishers, businesses, families, and communities. For example, on July 20, 2022, USTR announced a request for dispute settlement consultations with Mexico relating to certain measures that undermine American companies and U.S.-produced energy in favor of Mexico's state-owned electrical utility and state-owned oil and gas company. On July 14, 2022, USTR announced the successful resolution of a labor matter raised under the agreement's Rapid Response Labor Mechanism (RRM) relating to an alleged denial of free association and collective bargaining rights at the Panasonic Automotive Systems de Mexico facility in Reynosa, Mexico. The United States has also taken broad and strategic measures that advance USMCA Environment chapter monitoring and enforcement, including requesting Environment Consultations with Mexico concerning the protection of the vaquita, the prevention of illegal fishing, and trafficking of totoaba, and working together with Mexico under the U.S.-Mexico Environment Cooperation and Customs Verification Agreement ("CVA") to investigate the potential import into Mexico and transshipment to the United States of timber illegally harvested in Colombia. USTR, for the second time, requested dispute settlement consultations with Canada under the USMCA challenging Canada's dairy tariff-rate quota allocation measures.
- ***Enforcement under Section 301.*** USTR has been engaged in several section 301 investigations to respond to unreasonable, unjustifiable, or discriminatory foreign

government practices that burden or restrict U.S. commerce, including : addressing China's forced technology transfer practices; monitoring Vietnam's implementation of its commitments and associated measures regarding its currency practices; enforcing Vietnam's commitments on keeping illegally harvested or traded timber out of the supply chain and protecting the environment and natural resources; and monitoring the implementation of the removal of unreasonable and discriminatory digital services taxes adopted in seven jurisdictions.

- ***Defense of U.S. Trade Remedies.*** USTR will continue to provide a stalwart defense of U.S. trade remedies, including China's numerous challenges to U.S. antidumping, anti-subsidy, and safeguard actions that counteract China's non-market economic distortions, as well as Canada's challenges to U.S. antidumping and anti-subsidy actions on softwood lumber.
- ***Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions.*** The United States will continue to work with WTO Members to implement necessary reforms to the WTO's substantive rules and procedures to address the challenges facing the global trading system. The United States has been engaging with WTO Members on fundamental reform with the aim of ensuring that WTO dispute settlement reflects the real interests of Members. The United States believes that dispute settlement is fundamentally about supporting parties in the resolution of a dispute, and dispute settlement should support rather than undermine the WTO's negotiating and monitoring functions. USTR will also work to pursue U.S. interests in dispute settlement actions.
- ***Enforcement Supports Strategic Interests of the United States.*** USTR will prioritize enforcement efforts with respect to key strategic priorities of the United States, including supporting the goals of Executive Order 14017 by leading the interagency Supply Chain Trade Task Force and identifying opportunities to use trade tools and agreements to make our supply chains more resilient. USTR will also continue to pursue a range of enforcement efforts to address IP protection and enforcement in other countries related to the trade in counterfeit goods; forced technology transfer (including government-sponsored cybertheft of IP) and preferences for indigenous IP; inadequate protection of trade secrets, undisclosed information, patents, and geographical indications; and online and broadcast piracy. To defend the rights of American workers, manufactures and businesses and ensure they can fairly compete on a level playing field, USTR will continue to address unjustified barriers stemming from technical regulations, standards, and conformity assessment procedures (standards-related measures) that discriminate against U.S. exports or do not otherwise comply with international commitments.

The priorities identified in this report reflect key areas of enforcement focus by USTR. The report does not attempt to catalog all trade enforcement priorities on which USTR is actively working. An inventory of trade barriers on which USTR and other agencies are currently

working is contained in the [2022 National Trade Estimate Report on Foreign Trade Barriers](#), and other enforcement-related priorities and objectives are discussed in the [2022 Trade Policy Agenda and 2021 Annual Report of the President of the United States on the Trade Agreements Program](#). These reports are available on the USTR website at www.ustr.gov.

Enforcement of U.S. Rights Under the United States-Mexico-Canada Agreement

On July 1, 2020, the United States-Mexico-Canada Agreement (USMCA) came into effect, containing significant improvements to worker protections, expanded market access, and improved dispute settlement procedures. The Administration will not hesitate to bring enforcement actions against trading partners that fail to respect and protect the rights of workers, discriminate against American businesses, or deny our producers market access.

Labor Monitoring and Enforcement Under the USMCA

USTR is committed to putting workers at the center of trade policy by using the USMCA to help protect workers' rights, and has pursued actions under the USMCA's Facility-Specific Rapid Response Labor Mechanism (RRM). Additionally, USTR, working with the Department of Labor (both co-chairs of the Interagency Labor Committee for Monitoring and Enforcement (ILC)), closely monitors implementation of Mexico's labor law reform and follows up on tips from the web-based hotline, which is intended to receive confidential information regarding labor issues directly from interested parties, including Mexican workers.

Facility-Specific Rapid Response Labor Mechanism Matters & Petitions

The USMCA contains a new, first-of-its-kind RRM that enables expedited enforcement of collective bargaining rights in Mexico at particular facilities. The United States continues to fully utilize this mechanism to support workers' rights to freedom of association and collective bargaining.

Review and Remediation of Workers' Rights Denial at Automotive Manufacturing Facility in Silao, Guanajuato

On May 12, 2021, USTR submitted a request to Mexico to review whether workers at a General Motors facility in Silao, State of Guanajuato, Mexico, were being denied the right of free association and collective bargaining in connection with an April 2021 worker vote on whether to approve their collective bargaining agreement. USTR self-initiated this action after becoming aware of information indicating serious violations of workers' rights.

On July 8, 2021, the United States and Mexico announced a course of remediation which sought to provide the workers of the General Motors facility in Silao, Mexico with the ability to vote on whether to approve (legitimize) their collective bargaining agreement in free and democratic conditions, and to remediate the denial of the right of free association and collective bargaining to workers at the facility.

As part of the course of remediation, Mexico agreed to, among other items:

- ensure that a new legitimization vote is held at the facility by August 20, 2021;

- have federal inspectors from the Secretariat of Labor and Social Welfare (STPS) present at the facility to prevent and address any intimidation and coercion occurring;
- permit, at and before the new legitimization vote, a robust presence of impartial international observers from the International Labor Organization to be at the facility, and permit domestic observers from a Mexican autonomous institution to be at the vote;
- distribute accurate workers' rights information at the facility;
- investigate and, as appropriate, sanction anyone responsible for the conduct that led to the suspension of the April vote and any other violation of law related to that vote that occurred before the vote, at the vote, after the vote, or in connection with the August vote; and,
- monitor an email address and create and staff a hotline phone number with STPS officials to receive and respond to complaints from workers about the voting process.

In August 2021, a new legitimization vote was held and workers overwhelmingly voted to reject their existing collective bargaining agreement. In February 2022, a new vote was held with an independent union and three other unions to determine which union would represent the workers in collective bargaining. The independent union won and then negotiated a new collective bargaining agreement with higher wages and benefits than the previous agreement, and in May workers voted to approve the new collective bargaining agreement.

Review of Alleged Freedom of Association and Collective Bargaining Violations at Automotive Parts Factory in Matamoros, Tamaulipas

In response to a petition from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and other groups, on June 9, 2021, USTR submitted a request that Mexico review whether workers at the Tridonex automotive parts facility were being denied the right of free association and collective bargaining. On August 10, 2021, USTR announced an agreement to address the allegations. As part of the agreement, Tridonex agreed to, among other things: provide severance and six months of backpay to at least 154 workers who were dismissed from the plant; support the right of its workers to determine their union representation without coercion; provide training to all Tridonex workers on their rights to collective bargaining and freedom of association; and remain neutral in any election for union representation at the facility. Tridonex has taken a number of steps to satisfy its commitments in the action plan, including executing payments to former workers, updating its human resources policies, distributing copies of the collective bargaining agreement to its workforce, and undertaking COVID-19 safety measures. On February 28, 2022, a union representation vote was held at the facility. The United States continues to monitor implementation of the action plan and the union representation process.

Review of Alleged Freedom of Association and Collective Bargaining Violations at Auto Parts Facility in Reynosa, Tamaulipas

In response to a petition from Sindicato Nacional Independiente de Trabajadores de Industrias y Servicios "Movimiento 20/32" (SNITIS) and Rethink Trade, on May 18, 2022, USTR requested Mexico to review whether workers at the Panasonic Automotive Systems de Mexico facility in Reynosa, State of Tamaulipas, were being denied the rights of free association and collective

bargaining. On July 14, USTR announced that the matter had been successfully resolved. Actions taken by the facility to address the matter included:

- Renouncing a collective bargaining agreement it had signed with a union that lacked lawful bargaining authority, and removing that union from the facility;
- Reimbursing workers for dues the company had deducted from workers' paychecks on that union's behalf;
- Remaining neutral in a representational vote that resulted in a landslide victory for the independent union, SNITIS;
- Recognizing SNITIS as the workers' bargaining representative, and granting SNITIS access to the facility;
- Offering reinstatement and backpay to 26 workers who were allegedly terminated for participating in union activity;
- Reimbursing workers for wages unpaid as a result of a work stoppage at the facility; and
- Negotiating a new collective bargaining agreement with SNITIS, which, if submitted by SNITIS to a worker vote and approved by workers, would result in a significant wage increase.

Review of Alleged Freedom of Association and Collective Bargaining Violations at Mexican Automotive Parts Factory in Frontera, Coahuila

On May 5, 2022, the United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO, and the National Union of Mining, Metallurgical, Steel and Similar Workers of the Mexican Republic¹ filed a petition regarding the Teksid Hierro de México (Teksid Hierro) auto parts facility in Frontera, Coahuila, alleging that workers at the facility are being denied the right of free association and collective bargaining. On June 6, USTR submitted a request that Mexico review whether workers at the Teksid Hierro facility are being denied the right of free association and collective bargaining. On June 15, 2022, Mexico accepted the request for review.

Review of Alleged Freedom of Association and Collective Bargaining Violations at Auto Parts Facility in Piedras Negras, Coahuila

On June 21, 2022, two Mexican labor organizations, La Liga Sindical Obrera Mexicana and Comité Fronterizo de Obreras, filed a petition alleging that workers at the Manufacturas VU automotive components facility in Piedras Negras, Coahuila, are being denied the right of free association and collective bargaining. On July 21, 2022, USTR submitted a request that Mexico review whether workers at the Manufacturas VU facility are being denied the right of free association and collective bargaining. On July 29, 2002, Mexico accepted the request for review.

Monitoring of Mexican Labor Reforms

¹ Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana.

USTR will continue to monitor closely Mexico's implementation and enforcement of its new labor legislation to ensure that Mexico meets its obligations under the USMCA. Among other matters, USTR is monitoring:

- The process under which previously negotiated collective bargaining agreements are voted on by workers in Mexico. As USTR's actions demonstrate, USTR will take appropriate action to ensure that workers can exercise the right of free association and collective bargaining throughout this process.
- Allegations of violence against workers and labor organizations. USTR understands that workers and labor organizations must be able to exercise their labor rights in a climate that is free from violence, threats, and intimidation, and that governments must not fail to address violence or threats of violence against workers who exercise or attempt to exercise their labor rights.
- Mexico's creation and implementation of labor courts, union registration institutions, and conciliation centers to ensure Mexico's compliance with USMCA obligations and timelines.
- The process by which unions amend their bylaws to incorporate requirements of secret-ballot voting and gender equity for union officer elections.

Environment Monitoring and Enforcement Under USMCA

The USMCA includes state-of-the-art provisions, including the most comprehensive set of environmental obligations of any U.S. trade agreement. The environmental commitments of the USMCA are fully enforceable through the Agreement's dispute settlement procedures, affirming the Parties' recognition that a healthy environment is an integral element of sustainable development and of a robust liberalized trading relationship. USTR is fully committed to effective monitoring and enforcement of the environmental obligations of the USMCA.

Since entry into force, the United States has taken broad and strategic measures that advance USMCA environment chapter monitoring and enforcement. These measures include actions related to the protection of the vaquita and trafficking of totoaba; *inter alia*, preventing and reducing marine litter; improving and promoting the conservation of priority marine species; and promoting sustainable forest management and the legal trade in timber, including through improved wood identification.

United States-Mexico Chapter 24 Environment Consultations

On February 10, 2022, USTR formally requested Environment Consultations with Mexico under USMCA Article 24.29.2 concerning Mexico's USMCA Environment Chapter obligations relating to the protection of the vaquita, the prevention of illegal fishing, and trafficking of totoaba. While Mexico has adopted environmental laws designed to prevent illegal fishing in the

Upper Gulf of California, to prevent trafficking of protected species such as the totoaba, and to protect and conserve the vaquita, available evidence raises concerns that Mexico may not be meeting a number of its USMCA environment commitments. The vaquita is a critically endangered species of porpoise endemic to the Upper Gulf of California in Mexico. The most recent data indicate that at least 6 but likely fewer than 19 vaquita remain. Even with such a small population, scientists maintain that the species continues to be biologically viable, if given the space to recover. Incidental bycatch from prohibited gillnets, primarily set to catch shrimp and totoaba, is the primary cause of vaquita mortality. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) prohibits commercial trade in both the vaquita and totoaba. While the vaquita is not traded, there is a high demand for the swim bladder of the totoaba, which is traded illicitly.

USTR led a first round of consultations meetings with the Government of Mexico in late March 2022, and a second round in mid-June. The consultations are ongoing, and USTR will continue to work closely with Mexico to obtain changes to strengthen Mexico's fisheries enforcement in the Upper Gulf of California.

Work of the Interagency Environment Committee for Monitoring and Enforcement

USTR chairs the USMCA Interagency Environment Committee for Monitoring and Enforcement ("IECME"), which was established by Executive Order 13907, dated February 28, 2020, 85 Fed. Reg. 12977. Since its creation, the IECME has served a central role in ensuring a whole-of-government approach to monitoring and enforcement of USMCA environmental obligations. The USMCA Implementation Act also provides that the IECME may request the Trade Representative to request consultations² with respect to a USMCA Party or request heads of Federal agencies to initiate monitoring or enforcement actions under specified domestic statutes³ with regard to USMCA environmental obligations.

Since the publication of the 2021 Report, USTR has convened the IECME, and its informal subsidiary body and working groups, to ensure effective coordination and execution of monitoring and enforcement activities. Pursuant to its mandate, the IECME has regularly reviewed information concerning Mexico or Canada and has analyzed that information in light of their USMCA environmental obligations. This information has come from various sources, including through public submissions directly to the IECME and from the Commission for Environmental Cooperation ("CEC") Submissions on Enforcement Matters ("SEM") process, which was originally established under the former North American Agreement on Environmental Cooperation and is currently operating pursuant to the Environmental Cooperation Agreement and the USMCA environment chapter.

Public Participation and Submissions

² See USMCA, Articles 24.29, 31.4, and 31.6.

³ See the USMCA Implementation Act, section 814(2).

The USMCA’s environment chapter provides for enhanced public participation and allows persons of any USMCA Party to file a submission with the trilateral CEC Secretariat asserting that a Party is failing to effectively enforce its environmental laws. Separate from, and parallel to the CEC submissions process, persons of a Party may submit information regarding a Party’s implementation of the environment chapter directly to USTR, as the IECME Chair. Through its website, USTR has provided for direct public engagement and inquiries regarding USMCA Chapter 24 implementation, establishing a dedicated email address to receive such submissions.

Since July 1, 2021, a number of public submissions have been filed. The first public submission was filed with the CEC by four non-governmental organizations (“NGOs”) asserting that Mexico is failing to effectively enforce its environmental laws, and as a result, has caused the near-extinction of the critically endangered vaquita porpoise, which is endemic to the Upper Gulf of California waters in Mexico. On April 1, 2022, the CEC Secretariat published a determination recommending the CEC Council approve the preparation of a factual record.

In June 2022, another public submission was filed with the CEC Secretariat by a group of Mexican NGOs asserting that Mexico is failing to effectively enforce environmental laws designed to protect the coastal ecosystem of Playa Hermosa, which is located in the municipality of Ensenada in the state of Baja California. On July 1, 2022, the CEC Secretariat determined that the SEM merits a response from Mexico. A response from Mexico is expected in September 2022.

Another CEC public submission was filed by Oceana, asserting that the United States is failing to effectively enforce its environmental laws to adequately protect the critically endangered North Atlantic right whale (“NARW”). As requested by the CEC Secretariat, the U.S. government (“USG”) submitted a response to the assertions made in the submission. On June 13, 2022, the CEC Secretariat published a determination recommending that the CEC Council approve the preparation of a factual record.

The IECME continues to collect and analyze information related to the issues raised in the submissions, including whether there is sufficient evidence to support a claim that Mexico or Canada is in breach of its environmental obligations under Chapter 24 of the USMCA. Further, the IECME continues to monitor the loggerhead sea turtle submission (SEM 20-001), submitted last year, as it goes through the CEC-SEM process.⁴

In addition to providing the public an opportunity to submit information directly to the IECME, USTR provides quarterly updates on USMCA implementation to its cleared advisors through the Trade and Environment Policy Advisory Committee.

USMCA Environment Annual Report

⁴ The IECME also reviewed five other SEMs that were filed before USMCA entry into force, including one completed factual record. Those SEMs were Radiation Exposure in Los Altares (SEM-19-001), Metrobus Reforma (SEM-18-002), Hydraulic Fracturing in Nuevo Leon (SEM-18-003), City Park Project (SEM-19-002), and Alberta Tailings Ponds II (SEM-17-001).

Pursuant to section 816 of the USMCA Implementation Act, USTR prepared its annual report in consultation with the heads of IECME member agencies. This report discusses the implementation of subtitles A and B of title VIII of the Act, summarizes efforts of Canada and Mexico to implement Chapter 24 of USMCA since the publication of the 2021 annual report on July 1, 2021, and describes additional efforts to be taken with respect to implementation of Canada's and Mexico's environmental obligations.

The annual report identified six priority areas that USTR, along with other U.S. agencies, will continue to actively monitor, and collaborate with Mexico and Canada on, including: (1) protection and conservation of the vaquita and totoaba in the Gulf of California in Mexico; (2) illegal fishing in the Gulf of Mexico; (3) sea turtle bycatch in Mexico; (4) the Maya Train project in Mexico, (5) coal mining effluent in Canada, and (6) oil sands extraction in Canada. USTR's monitoring and enforcement activities will also extend to issues outside of these priority areas.

The IECME, pursuant to the USMCA Implementation Act, has strengthened the United States' whole-of-government coordination of monitoring and enforcement of Mexico's and Canada's implementation of their USMCA environmental obligations. USTR, as chair of the IECME, is committed to leveraging all relevant environmental and trade legal tools and policy resources together to enhance bilateral and trilateral collaboration around the USMCA environmental commitments.

Environment Attachés

Per section 822 of the USMCA Implementation Act, three persons, one employee each from EPA, FWS, and NOAA, are detailed to USTR to serve as environment attachés to assist the IECME to monitor Mexico's compliance with its USMCA environmental obligations. The three environment attachés have been posted at the U.S. Embassy in Mexico City since March 2021, and continue to engage with relevant USG agencies, Government of Mexico officials, and NGO stakeholders in the United States and Mexico. The attachés provide quarterly updates to the IECME on their information gathering and monitoring efforts. The priority issue areas that they monitor include efforts related to vaquita and totoaba conservation and protection, marine litter prevention and mitigation, fisheries management, forestry management and timber legality, air quality improvement, lithium mining, and climate change.

U.S.-Mexico Environment Cooperation and Customs Verification Agreement

The U.S.-Mexico Environment Cooperation and Customs Verification Agreement ("CVA"), negotiated alongside the USMCA and implemented under section 813 of the USMCA Implementation Act, is a separate and additional bilateral tool to facilitate cooperation between the United States and Mexico regarding specific shipments of fisheries, timber, and wildlife (including live) products. It allows parties to request information to verify whether an importer has provided accurate and adequate documentation demonstrating a shipment's legality.

In March 2021, USTR made its first request under the CVA regarding the potential import into Mexico and transshipment to the United States of timber illegally harvested in Colombia. Mexico responded positively to the request, and the cooperation resulted in a useful exchange of trade information that allowed the United States to assess potential timber legality issues concerning imports from Mexico. Related to the issue raised in this first CVA request, CBP is utilizing its Commercial Targeting and Analysis Center (“CTAC”) to further monitor imports of Mexican timber products, and is planning a joint operation with FWS to target timber being imported from Mexico with fraudulent Lacey Act declarations. USTR will continue to monitor this issue and consider other potential uses of the CVA.

Dispute Settlement Related to Other USMCA Commitments

Canada – Dairy TRQ Allocation Measures (CDA-USA-2021-31-01)

On December 9, 2020, the United States requested consultations under Chapter 31 of the USMCA with respect to Canada’s allocation of dairy tariff-rate quotas (TRQs), specifically the set-aside of a percentage of each dairy TRQ exclusively for Canadian processors (so-called “processor pools”). These measures undermine the value of Canada’s dairy TRQs by limiting access to in-quota quantities negotiated under the USMCA. For all of its USMCA dairy TRQs, Canada set aside and reserved a percentage of the quota to be allocated to processors (80 or 85 percent), which the United States argued was inconsistent with several USMCA provisions on TRQ administration. Consultations were held on December 21, 2020.

On May 25, 2021, the United States requested and established a dispute settlement panel under Chapter 31 of the USMCA to review Canada’s administration of its dairy TRQs. The final panel report was released to the public on January 4, 2022. The panel agreed with the United States that Canada’s use of “processor pools” is inconsistent with Article 3.A.2.11(b) of the USMCA, and exercised judicial economy with respect to other claims that the United States had raised. Canada determined that, in response to the adverse findings of the panel, it will only make those changes to its dairy TRQ allocation measures that are necessary to achieve technical compliance with the panel’s findings, *i.e.*, Canada eliminated the “processor pools”, but Canada otherwise did not make changes to the allocation of its dairy TRQs that the United States sought.

Canada – Dairy TRQ Allocation Measures 2 (CDA-USA-2022-31-01)

On May 25, 2022, the United States requested consultations under Chapter 31 of the USMCA for the second time regarding Canada’s dairy TRQ allocation measures, specifically relating to the ineligibility of certain types of importers to apply for USMCA dairy TRQ allocations, the imposition of a 12-month activity requirement for TRQ allocation applicants and recipients, and the partial allocation of the calendar year 2022 dairy TRQs. Consultations were held on June 9, 2022.

Mexico – Measures Related to Energy

On July 20, 2022, the United States formally requested consultations with Mexico under Chapter 31 of the USMCA. The consultations relate to certain measures by Mexico that undermine

American companies and U.S.-produced energy in favor of Mexico's state-owned electrical utility, the Comisión Federal de Electricidad (CFE), and state-owned oil and gas company, Petróleos Mexicanos (PEMEX). Specifically, the United States is challenging a 2021 amendment to Mexico's Electric Power Industry Law that prioritizes CFE-produced electricity over electricity generated by all private competitors; Mexico's inaction, delays, denials, and revocations of private companies' abilities to operate in Mexico's energy sector; a December 2019 regulation granting only PEMEX an extension to comply with the maximum sulfur content requirements under Mexico's applicable automotive diesel fuel standard; and a June 2022 action that advantages PEMEX, CFE, and their products in the use of Mexico's natural gas transportation network. These measures appear to be inconsistent with several of Mexico's USMCA obligations, including under the Market Access, Investment, and State-Owned Enterprises chapters. Under USMCA Article 31.4.5, the parties shall enter into consultations within 30 days of the U.S. request, unless the parties decide otherwise. Under USMCA Article 31.6.1, if the parties do not resolve the matter through consultations within 75 days of the U.S. request, the United States may request the establishment of a panel.

United States – Crystalline Silicon Photovoltaic Cells Safeguard Measure (USA-CDA-2021-31-01)

On December 22, 2020, Canada requested USMCA Chapter 31 consultations with the United States regarding implementation of a safeguard measure on certain crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) (CSPV products) that are imported into the United States. The increased duties and tariff-rate quota pursuant to the safeguard measure apply to imports of CSPV covered products from all sources, including Canada. On December 30, 2020, Mexico requested to join the consultations under USMCA Chapter 31 as a third party. Consultations were held on January 28, 2021.

On June 21, 2021, Canada requested the establishment of a panel in this dispute. On June 25, 2021, Mexico filed a notification that it would participate as a third party in this dispute.

The panel circulated its final report on February 15, 2022. The panel found that the United States acted inconsistently with aspects of USMCA Chapters 2 and 10 by including imports of CSPV products from Canada in the safeguard measure. However, the panel rejected Canada's claim that a United States statutory provision vesting the President with authority to make exclusion determinations for imports from USMCA Parties in safeguard proceedings is facially inconsistent with USMCA Chapter 10.

On July 8, 2022, the United States and Canada signed an agreement on trade in CSPV products, which constituted a resolution of this USMCA dispute.

United States – Automotive Rules of Origin (USA-MEX-2022-31-01)

On August 20, 2021, Mexico formally requested USMCA Chapter 31 consultations with the United States over the interpretation and application of certain rules of origin provisions for autos under the USMCA. On August 26, 2021, Canada notified its intent to join the consultations.

Pursuant to Article 31.6 of the USMCA, Mexico requested and established a dispute settlement panel on January 6, 2022. Canada joined the dispute as a co-complainant on January 13. The panel proceedings are ongoing.

Section 301 Investigations

Section 301 of the Trade Act of 1974, as amended, may be used to enforce U.S. rights under bilateral and multilateral trade agreements or to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce.

China's Forced Technology Transfer

On August 18, 2017, USTR initiated an investigation into certain acts, policies, and practices of China related to technology transfer, intellectual property, and innovation. On March 22, 2018, USTR issued a detailed report and determined that the acts, policies, and practices of China under investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under section 301(b).

In particular, USTR determined that China had adopted actionable policies and practices: (1) requiring or pressuring U.S. companies to transfer technology to Chinese entities through joint venture requirements and other foreign ownership restrictions, administrative reviews, and licensing procedures; (2) using its technology regulations to force U.S. companies to license their technologies on non-market terms that favor Chinese recipients; (3) generating technology transfer from U.S. companies by directing or facilitating systematic investment in, and acquisition of, these U.S. companies and assets; and (4) stealing sensitive commercial information and trade secrets of U.S. companies through unauthorized intrusions into their computer networks.

On November 20, 2018, USTR issued another detailed report, explaining that China had not fundamentally altered the policies and practices that were the subject of the March 2018 report.

With respect to the second category of acts, policies, and practices (involving technology licensing regulations), the U.S. Trade Representative decided that relevant U.S. concerns could be appropriately addressed through recourse to WTO dispute settlement. (*For further information, see China – Certain Measures Concerning the Protection of Intellectual Property Rights (DS542)*).

Lists 1 and 2

With respect to the three other categories of acts, policies, and practices listed above, the U.S. Trade Representative, at the direction of the President, determined to impose an additional duty on certain products of China. The additional duties were imposed in two tranches, following public comment and hearings. In July 2018, an additional 25 percent duty was imposed on the first tranche, known as List 1, which covered 818 tariff subheadings with an approximate annual

trade value of \$34 billion. Subsequently in August 2018, an additional 25 percent duty was imposed on the second tranche, known as List 2, which covered 279 tariff subheadings with an approximate annual trade value of \$16 billion.

List 3

In September 2018, the U.S. Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional duties on products of China classified under 5,733 tariff subheadings with an approximate annual trade value of \$200 billion. The rate of the additional duty on these List 3 products was initially 10 percent ad valorem and was later increased to 25 percent ad valorem in May 2019, following public comment and hearing.

List 4

In August 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional 10 percent ad valorem duties on products of China classified under approximately 3,805 tariff subheadings with an approximate annual trade value of \$300 billion. The tariff subheadings subject to the 10 percent additional duties were separated into two lists with different effective dates: September 1, 2019 for the list in Annex A, known as List 4A, and December 15, 2019 for the list in Annex C, known as List 4B. Subsequently, at the direction of the President, the U.S. Trade Representative determined to increase the rate of the additional duties for products covered by List 4A from 10 percent to 15 percent, effective September 1, 2019. The rate of the additional duties was subsequently reduced to 7.5 percent.

Product Exclusions

For each of the four lists, USTR established processes by which stakeholders could request that particular products classified within a covered tariff subheading be excluded from the additional duties. Under these processes, USTR received approximately 50,000 exclusion requests and approved approximately 7,000 requests. Subsequently, USTR extended 549 of the granted exclusions. In 2021, USTR requested comments on the possible reinstatement of the 549 exclusions previously extended. In March 2022, USTR reinstated 352 of the previously extended exclusions. The reinstated exclusions expire at the end of 2022.

In 2020, USTR granted 99 exclusions for certain medical care products to address COVID-19. These exclusions were subsequently extended and scheduled to expire November 30, 2021. In November 2021, 81 of the COVID exclusions were extended to May 31, 2022. The 81 exclusions were subsequently extended to November 30, 2022.

Four-Year Review

In May 2022, the U.S. Trade Representative commenced the statutory four-year review of the two Section 301 actions taken. Under the statutory process, the first step is to notify representatives of domestic industries that benefit from the tariff actions of the possible termination of those actions and of the opportunity for the representatives to request continuation of the action. If USTR receives such a request, USTR will announce the continuation of the action, and undertake a review of the action. That review would include a consideration of the effectiveness of the actions in achieving the objectives of Section 301, other actions that could be taken, and the effects of such actions on the United States economy, including consumers. The review would include an opportunity for all interested persons to submit their views.

U.S.-China Economic and Trade Agreement

The United States and China signed the U.S.-China Economic and Trade Agreement on January 15, 2020 (the “Phase One Agreement”), which created binding commitments to address China’s technology transfer regime. The Phase One Agreement entered into force on February 14, 2020. The Technology Transfer chapter addresses some of the unfair non-market practices covered in the Section 301 investigation. In the Agreement, China commits not to coerce technology transfer. The commitment applies to both written measures and informal acts and practices of agencies and officials that may not be written into official policy. USTR is vigilantly monitoring China’s progress in implementing the commitments under the Phase One Agreement.

Vietnam’s Acts, Policies, and Practices Related to Currency Valuation

Policies of U.S. trading partners that result in the undervaluation of their currencies are an important area of concern. Interventions in the foreign exchange (FX) market to maintain an undervalued currency make it harder for U.S.-based producers to export, and make imports artificially cheaper. Addressing this type of problem is an important element of the Administration’s worker-centered trade policy.

On October 2, 2020, the U.S. Trade Representative initiated an investigation regarding whether Vietnam’s acts, policies, and practices related to the valuation of its currency are unreasonable or discriminatory and burden or restrict United States commerce. On January 15, 2021, the U.S. Trade Representative determined that Vietnam’s acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and burden or restrict U.S. commerce, and thus are actionable under section 301. The U.S. Trade Representative made this determination in consultation with the U.S. Department of the Treasury (Treasury), based on the information obtained during the investigation, and taking account of public comments and the advice of the Section 301 Committee and advisory committees. The determination was accompanied by a detailed public report.

The report evaluated the specific facts and circumstances examined in the investigation in light of widely-accepted norms, as evidenced in international agreements and U.S. law, that exchange rate policy should not be undertaken to gain an unfair competitive advantage in international

trade, should not artificially enhance a country's exports and restrict its imports in ways that do not reflect the underlying competitiveness, should not prevent exchange rates from reflecting underlying economic and financial conditions, and should not prevent balance of payments adjustment.

The report concludes that the specific facts and circumstances examined in the investigation, when considered in light of these norms, support a finding that Vietnam's acts, policies, and practices related to currency valuation, including excessive FX market intervention and other related actions, taken in their totality, are unreasonable under section 301. These facts and circumstances include the persistent undervaluation of Vietnam's currency over a course of several years; Vietnam's more recent, rapid, and significant purchases of FX, which have contributed to undervaluation; and the conditions surrounding Vietnam's FX market interventions including current account and goods trade surpluses (including with the United States).

The report also concludes that Vietnam's actions burden or restrict U.S. commerce. First, currency undervaluation effectively lowers the price of exported products from Vietnam into the United States, which undermines the competitive position of U.S. firms that are competing with lower-priced Vietnamese imports. Second, currency undervaluation raises the local currency price of U.S. exports to Vietnam, which undermines U.S. firms' competitive position in the Vietnamese market. Third, excessive FX market intervention undertaken while a country has a significant current account surplus also undermines U.S. export opportunities. Without FX market intervention, the value of Vietnam's currency would tend to appreciate in the context of a current account surplus, which would enhance domestic consumption in a manner more favorable to U.S. exports.

On July 19, 2021, Treasury and the State Bank of Vietnam (SBV) issued a joint statement that they had reached an agreement to address Treasury's concerns about Vietnam's currency practices as described in Treasury's Report to Congress on the Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States. On July 23, 2021, the U.S. Trade Representative found that the Treasury-SBV agreement and the measures of Vietnam called for in the agreement provide a satisfactory resolution of the matter subject to investigation and that no action under Section 301 was appropriate at that time. In coordination with Treasury, USTR will monitor Vietnam's implementation of its commitments under the agreement and associated measures. If USTR, in consultation with Treasury, subsequently considers that implementation is not satisfactory, the U.S. Trade Representative will consider further action under Section 301.

Vietnam's Acts, Policies, and Practices Related to the Import and Use of Illegal Timber

The import and use of illegally harvested or traded timber is detrimental to the environment, undermines an equitable trading system, and disadvantages workers and firms who rely on legal timber. Addressing illegal timber concerns is an important element of ensuring a level playing field for U.S. workers and firms.

Vietnam is a leading and rapidly growing producer and exporter of wood products, such as plywood and wooden furniture. The United States is Vietnam's largest export market, with 2019 imports of \$3.7 billion in wooden furniture from Vietnam alone. Vietnam relies heavily on timber imports. On October 2, 2020, the USTR initiated a section 301 investigation concerning Vietnam's acts, policies, and practices related to the alleged import and use of timber that is illegally harvested or traded. The notice of initiation explained that Vietnam relies on imports of timber harvested in other countries to supply the timber inputs needed for its wood products manufacturing sector, and evidence suggests that a significant portion of that imported timber was illegally harvested or traded. This was the first section 301 investigation to address environmental concerns.

On October 1, 2021, the United States and Vietnam signed an agreement that addresses U.S. concerns in the timber investigation. The agreement secures commitments that will help keep illegally harvested or traded timber out of the supply chain and protect the environment and natural resources. USTR will monitor Vietnam's implementation of the agreement. If the U.S. Trade Representative determines that Vietnam is not satisfactorily implementing the agreement or associated measures, then the U.S. Trade Representative will consider further action under section 301.

Digital Services Taxes

On July 10, 2019, USTR initiated an investigation of France's Digital Services Tax (DST). France's DST imposes a three percent tax on annual revenues generated by companies providing certain digital services to, or aimed at, French users. The tax applies only to companies with annual revenues from the covered services of at least €750 million globally and €25 million in France. In December 2019, USTR released a detailed report and determined that France's DST was unreasonable or discriminatory under section 301. In January 2020, France agreed to postpone the collection of its DST. In July 2020, USTR determined to take action in the form of tariffs in this investigation and deferred imposition of the tariffs for up to six months. In January 2021, USTR determined to further suspend the action in the French investigation to allow USTR to coordinate actions in all DST investigations.

On June 2, 2020, USTR initiated investigations into DSTs adopted or under consideration in ten jurisdictions: Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom.

In January 2021, following comprehensive investigations, USTR determined that the DSTs adopted by Austria, India, Italy, Spain, Turkey, and the United Kingdom discriminated against U.S. digital companies, were inconsistent with principles of international taxation, and burdened U.S. commerce.

In March 2021, USTR announced proposed trade actions in these six investigations, and undertook a public notice and comment process, during which it collected hundreds of public comments and held seven public hearings. At that time, USTR also terminated the remaining

four investigations (of Brazil, the Czech Republic, the European Union, and Indonesia) because those jurisdictions had not implemented the DSTs under consideration.

On June 2, 2021, USTR announced tariffs on certain goods from Austria, India, Italy, Spain, Turkey, and the United Kingdom, and immediately suspended the imposition of those tariffs while multilateral negotiations on international taxation at the OECD and in the G20 continue.

On October 8, 2021, the United States and 135 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting reached a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy.

On October 21, 2021, Treasury issued a joint statement with Austria, France, Italy, Spain, and the United Kingdom on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1. Based on these countries' commitment to remove their DSTs pursuant to Pillar 1 and on their political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of the DSTs in Austria, France, Italy, Spain, and the United Kingdom. In coordination with Treasury, USTR is monitoring implementation of the removal of the DSTs in Austria, France, Italy, Spain, and the United Kingdom as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

On November 22, 2021, Treasury issued a joint statement with Turkey regarding a transitional approach to Turkey's Digital Service Tax prior to entry into force of Pillar 1. The joint statement reflects a political agreement that DST liabilities accrued during the transitional period will be creditable in defined circumstances against future taxes due under Pillar 1. Based on the commitment of Turkey to remove its Digital Service Tax pursuant to Pillar 1 and on Turkey's political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of Turkey's DST. In coordination with Treasury, USTR will monitor implementation of the removal of Turkey's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

On November 24, 2021, India and the United States issued statements describing a transitional approach to India's DST prior to entry into force of Pillar 1. These statements reflect a political agreement that, in defined circumstances, the DST liability that U.S. companies accrue in India during the interim period will be creditable against future taxes accrued under Pillar 1 of the OECD Agreement. Based on the commitment of India to remove its DST pursuant to Pillar 1 and on India's political agreement to this transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of India's DST, as of November 28, 2021. In coordination with Treasury, USTR will monitor implementation of the removal of India's DST as provided for under Pillar 1 and the transitional approach agreed to by India.

Defense of U.S. Trade Remedies Laws

For decades, Congress has maintained laws designed to prevent unfair practices such as injuriously dumped or subsidized imports, or harmful surges of imports, from distorting the U.S. market. These laws represent a critical bargain between the U.S. Government and American workers, farmers, ranchers, and businesses (large and small) that underpins USTR's worker-centric trade policy. These laws reflect the core principles and legal rights of the international trading system since its founding in 1947 with the *General Agreement on Tariffs and Trade* (GATT). Article VI of the GATT, in the strongest language possible, states that injurious dumping "is to be condemned." Trade remedies are fundamental to the implementation of the WTO agreements and the prevention of market distortions from unfair trade practices.

Consistent with the strong textual foundation in the GATT and WTO Agreement, Title VII of the Tariff Act of 1930 authorizes the U.S. Department of Commerce (USDOC) to impose antidumping and countervailing duties on imports that are either "dumped" (sold at less than their fair value) or subsidized – if the U.S. International Trade Commission (USITC) finds that such imports cause or threaten material injury to a domestic industry. The antidumping duty (AD) and countervailing duty (CVD) laws are fully consistent with WTO obligations – and, indeed, the WTO agreements specifically provide for such laws. For decades, domestic producers could seek relief under U.S. AD or CVD laws, or both. The USDOC also has the authority to self-initiate such cases if circumstances warrant.

USTR will continue to vigorously enforce U.S. rights to impose antidumping and countervailing duties to counteract injurious dumping or subsidies and defend against actions brought by foreign governments at the WTO. Over the last ten years, a significant share of WTO challenges to U.S. actions were to U.S. trade remedies actions. Foreign governments have challenged U.S. laws and practices in addition to specific trade remedies orders related to specific products and countries.

In this context, USTR's primary objective is to defend USDOC's ability to apply appropriate antidumping and countervailing duties to combat distortions caused by China's unfair non-market economy system and government subsidies that are injuring U.S. workers and industries, as well as the unfair trade practices of other countries. The international solar, steel, and aluminum markets, for example, have experienced significant oversupply due in large part to production from excess and uneconomic capacity in China and increasingly in other countries as well. This oversupply has caused severe market distortions, including adverse effects on U.S. and global prices, and the displacement of U.S. exports in foreign markets. Trade remedies may assist U.S. workers and industry by counteracting some of the injury caused by unfairly traded imports into the United States from China and other countries. Trade remedies are, therefore, essential tools in combatting market distortions such as overcapacity.

Therefore, USTR will continue to aggressively defend all WTO and free trade agreement challenges to U.S. antidumping, anti-subsidy, and safeguard actions, including in the context of numerous ongoing disputes, such as:

United States – Measures Related to Price Comparison Methodologies (DS515)

European Union – Measures Related to Price Comparison Methodologies (DS516)

China requested consultations in December 2016, and again in November 2017, on the U.S. application of a non-market economy methodology in U.S. antidumping proceedings involving products from China. China alleges that this methodology is inconsistent with the AD Agreement and GATT 1994 and not authorized by provisions of China's WTO Accession Protocol. China also challenges section 773(e) of the Tariff Act of 1930 – the constructed value provision that applies to market economies – to the extent that it permits the use of “surrogate values.” Consultations were held in February 2017 and January 2018.

China pursued its panel proceeding against the European Union. The United States actively participated in China's dispute against the European Union. The United States and the European Union submitted a shared legal interpretation to the panel. Reading the text of Article VI:1 of GATT 1994, section 15 of China's Accession Protocol, the Second Note Ad Article VI:1, GATT accession documents, and other texts indicates that GATT Contracting Parties and WTO Members have always recognized that non-market prices or costs are not suitable for antidumping comparisons because they are not appropriate to use “in determining price comparability.” On May 7, 2019, following issuance of a confidential interim report, the panel received a request from China to suspend its work in this proceeding. On June 14, 2019, the panel informed the WTO Dispute Settlement Body (DSB) of its decision to grant China's request and suspend its work.

On June 15, 2020, the WTO Secretariat published a note indicating that the authority for the establishment of the panel in DS516 had lapsed because the panel had not been requested to resume its work. Despite being aware of the confidential outcome in DS516, China has not moved forward with a panel in its dispute against the United States.

United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (Recourse to Article 21.5 of the DSU by India) (DS436)

In 2012, India challenged several aspects of the U.S. CVD order on carbon steel flat products from India, as well as certain U.S. laws and practices. The United States successfully defended numerous claims regarding the application of facts available, specificity, and benchmarks, as well as certain factual aspects of the USITC's injury determination, and cross-cumulation in five-year reviews; India prevailed on its challenges to public body, other benchmarks and specificity claims, several applications of facts available, and one subsection of the U.S. statute governing cross-cumulation. The reports were adopted in December 2014, and the U.S. announced compliance in April 2016. In 2018, India requested a compliance panel to challenge findings by the USDOC in the section 129 determination regarding public body, specificity, benchmarks and new subsidies, and to challenge the USITC's Section 129 consistency determination, raising claims concerning the USITC's analyses of price effects, impact, and non-attribution, as well as the statute regarding cross-cumulation.

The compliance panel rejected the majority of India's claims that the United States failed to bring its CVD determination and injury determination into compliance. The United States prevailed on eight sets of claims, including on public body, benchmarks, calculation of benefit, new subsidies, disclosure of essential facts, the "appropriateness" of exceeding a terminated domestic settlement rate, waiver of several injury claims, and all but one aspect of the injury determination. The compliance panel found in favor of India on a certain aspect of specificity and one aspect of the USITC's non-attribution analysis. The compliance panel also found that the United States' failure to amend one subsection of the cross-cumulation statute (19 U.S.C. § 1677(7)(G)(i)(III)) was inconsistent with the DSB recommendation made in the original proceedings of the dispute.

On December 18, 2019, the United States notified the DSB of its decision to appeal issues of law covered in the report of the compliance panel and legal interpretations developed by the compliance panel. Because no division of the Appellate Body could be established to hear this appeal, the United States is conferring with India to seek a positive resolution in this dispute.

United States – Countervailing Measures on Certain Pipe and Tube Products (DS523)

On March 8, 2017, Turkey requested consultations challenging U.S. CVD orders on four categories of pipe and tube products from Turkey: oil country tubular goods, welded line pipe, heavy walled rectangular welded carbon steel pipes and tubes, and circular welded carbon steel pipes and tubes. Turkey challenged the USDOC's findings regarding public body, benchmarks, specificity, and facts available, as well as the USITC's "practice" of "cross-cumulation" and its application in the underlying proceedings. On December 18, 2018, the panel found against the United States on public body, specificity, the application of facts available, and cross-cumulation in original investigations, but rejected Turkey's claims regarding benchmarks, and cross-cumulation in five-year reviews. The United States appealed the issues of public body, specificity, the application of facts available, and cross-cumulation, and Turkey cross-appealed on the issue of public body. In December 2019, the appellate division communicated its decision to suspend its work on this appeal.

United States – Countervailing Measures on Supercalendered Paper from Canada (DS505)

In 2016, Canada challenged aspects of the U.S. CVD order on supercalendered paper involving the USDOC's initiation of the investigation, subsidy findings, specificity, and application of facts available. Canada also challenged the USDOC's "ongoing conduct" of resorting to facts available when undisclosed subsidies are discovered during verification. The panel found that certain aspects of the USDOC's determination were inconsistent with U.S. WTO obligations. The panel also found that the USDOC has engaged in "ongoing conduct" with respect to subsidies discovered during verification and that such conduct is inconsistent with U.S. WTO obligations.

In August 2018, the United States appealed the panel's findings related to the treatment of undisclosed subsidies discovered during the course of a CVD investigation. An appellate report was issued on February 6, 2020. However, no DSB recommendations were adopted because

there was no valid Appellate Body report, and there was no consensus for the DSB to adopt the report. In particular, the United States noted that one member serving on the appeal was affiliated with the government of China and therefore was not a valid member of the Appellate Body under Article 17.3 of the DSU.

On June 18, 2020, Canada requested that the DSB authorize Canada to suspend concessions for any future countervailing duties on Canadian imports attributed to the “ongoing conduct”. The United States objected to Canada’s request, referring the matter to arbitration under Article 22.6 of the DSU. On July 13, 2022, the arbitrator awarded Canada a formula to determine a future level of suspension of concessions or other obligations. The arbitrator’s award did not contain a monetary amount because Canada does not suffer from any present nullification or impairment.

United States – Countervailing Duty Measures on Certain Products from China (Recourse to Article 21.5 by China) (DS437)

In 2012, China challenged numerous U.S. CVD investigations.⁵ China alleged that the investigations made WTO-inconsistent findings with respect to, among other things, benefit, specificity, adverse facts available, and “public bodies.” At the panel stage, the United States largely prevailed with respect to the USDOC’s calculation of benchmarks, initiation of investigations, and use of facts available; however, the Appellate Body reversed these findings. In 2016, the USDOC issued redeterminations, and China challenged the revised findings with respect to “public bodies,” benchmarks, and input specificity. The compliance panel found that the USDOC’s revised “public bodies” findings are not inconsistent with U.S. WTO obligations, but found that certain aspects of the revised benchmarks and input specificity findings are inconsistent with U.S. WTO obligations. The United States and China appealed, and an appellate report was circulated on July 16, 2019. The appellate report upheld the compliance panel report, finding that the USDOC’s revised “public bodies” findings are not inconsistent with U.S. WTO obligations and that certain aspects of the revised benchmarks and input specificity findings are inconsistent with U.S. WTO obligations.

The report included a separate opinion, which dissented from the majority on the interpretation of the term “public body” and the majority’s conclusions and analysis concerning the other issues. The dissent criticized the interpretation of the term “public body” adopted by the majority and in prior appellate reports, and articulated an interpretation under which a public body is an entity that a government can control and through which it can transfer financial value. The dissent also strongly criticized the majority for exceeding its authority by acting as a fact finder, a role that the DSU assigns exclusively to panels and not the Appellate Body, and for articulating incoherent interpretations of the WTO Agreement on Subsidies and Countervailing

⁵ China challenged preliminary and final determinations in 17 CVD investigations from 2007-2012 for products including solar panels; wind towers; thermal paper; coated paper; tow behind lawn groomers; kitchen shelving; steel sinks; citric acid; magnesia carbon bricks; pressure pipe; line pipe; seamless pipe; steel cylinders; drill pipe; oil country tubular goods; wire strand; and aluminum extrusions.

Measures (SCM Agreement) that do not accord with customary rules of interpretation of public international law.

In October 2019, China requested authorization to suspend concessions or other obligations to the United States. The United States objected, referring the matter to arbitration under Article 22.6 of the DSU. In January 2022, the arbitrator decided that the level of suspension of concessions or other obligations should be no more than \$645.121 million annually.

United States – Antidumping Measures on Oil Country Tubular Goods from Korea (DS488)

On April 18, 2014, Korea requested consultations related to antidumping duties imposed on oil country tubular goods from Korea, as well as certain U.S. laws applied in those proceedings. Korea's claims include the USDOC's rejection of third-country sales, calculation of constructed value profit, selection of mandatory respondents, as well as several procedural issues. The United States successfully defended claims regarding the rejection of third-country sales to determine normal value, the selection of mandatory respondents, the calculation of constructed export price, and numerous procedural issues; Korea prevailed on certain aspects of its challenge to the calculation of constructed value profit. The WTO adopted the panel report on January 12, 2018.

On July 29, 2019, Korea informed the DSB that it considers that the United States has failed to implement the recommendations and rulings of the DSB in this dispute and requested pursuant to Article 22.2 of the DSU authorization to suspend concessions or other obligations with respect to the United States. On August 8, 2019, the United States informed the DSB that it objected to the level of suspension of concessions and related obligations under the GATT 1994 proposed by Korea in its July 29 communication. On February 6, 2020, the United States and Korea informed the DSB that they had reached agreement on subsequent procedures, including to accept adoption and not to appeal any compliance panel report. On May 7, 2020, the United States and Korea notified the WTO Secretariat that they had agreed to suspend the Article 22.6 proceeding.

United States – Certain Methodologies and their Application to Antidumping Proceedings Involving China (DS471)

In December 2013, China challenged antidumping measures imposed by the USDOC regarding a number of Chinese products. China challenged the USDOC's application of, among other things, targeted dumping, zeroing, the "Single Rate Presumption norm," and use of adverse facts available. Before the panel, China prevailed on the majority of its claims (for example, on zeroing in certain investigations and on the rebuttable single entity presumption). In November 2016, China appealed certain of the panel's findings regarding the USDOC's "targeted dumping methodology" and the issue of adverse facts available. The Appellate Body's report was circulated on May 11, 2017. The United States prevailed on nearly every claim appealed by China. The reports were adopted on May 22, 2017. Following expiry of the reasonable period of time for implementation of the DSB's recommendations, in September 2018, China requested authorization to suspend concessions or other obligations. The United States objected to China's

request, referring the matter to arbitration under Article 22.6 of the DSU. In November 2019, the arbitrator decided that level of suspension of concessions or other obligations should be no more than \$3.579 billion annually.

United States – Countervailing Measures on Softwood Lumber from Canada (DS533)

On November 28, 2017, Canada requested consultations regarding the USDOC's CVD determination on softwood lumber products from Canada. Canada challenges the USDOC's benchmark and specificity determinations, the USDOC's calculation of the benefit of subsidies, and the USDOC's countervailing of log export restraints. The United States and Canada held consultations in January 2018. At Canada's request, the WTO established a panel in April 2018. The panel circulated its report on August 24, 2020. The panel found that the USDOC's determinations regarding benchmarks for stumpage, log export permitting processes, and non-stumpage programs were inconsistent with the SCM Agreement. The panel effectively applied the WTO Appellate Body's flawed test for using out-of-country benchmarks in its analysis of benchmarks from within Canada that the USDOC used to measure the benefit of subsidies. The panel also applied a heightened level of scrutiny in its review of the USDOC's determination, in essence putting itself in the place of the investigating authority, contrary to the terms of the SCM Agreement.

On September 28, 2020, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Antidumping Measures Applying Differential Pricing Methodology to Softwood Lumber from Canada (DS534)

In 2018, Canada challenged aspects of the USDOC's AD determination on softwood lumber products relating to the USDOC's use of a differential pricing analysis and zeroing in connection with the application of the alternative, weighted average-to-transaction comparison methodology provided in the second sentence of Article 2.4.2 of the AD Agreement. In April 2019, the panel circulated its report, finding that the use of "zeroing" when applying a targeted dumping methodology is not inconsistent with Article 2.4.2 of the AD Agreement and that one aspect of the differential pricing methodology (the inclusion of higher-priced sales in the identified pattern) is not inconsistent with that provision. The panel also found that another aspect of the differential pricing methodology (the aggregation of sales across different categories (purchaser, region, and time period) to find one pattern) is inconsistent with Article 2.4.2.

This is the sixth time a WTO panel has rejected claims that "zeroing" is inconsistent with the WTO Agreement. In June 2019, Canada nonetheless appealed the panel's report. In December 2019, the appellate division communicated its decision to suspend its work on this appeal.

United States – Certain Systemic Trade Remedies Measures (DS535)

On December 20, 2017, Canada requested consultations concerning certain laws, regulations, and practices that Canada claims are maintained by the U.S. in its AD and CVD proceedings. The consultation request alleges claims regarding: liquidation of duties and failure to refund cash deposits in excess of WTO-inconsistent rates; retroactive collection of provisional AD and CVD

duties following preliminary affirmative critical circumstances determinations; treatment of export controls as a financial contribution in CVD proceedings; calculation of benefit in CVD proceedings involving the provision of goods for less than adequate remuneration; the USDOC's effective closure of the evidentiary record before the preliminary determination; and the USITC's tie vote provision. No panel request has been made.

United States – Antidumping Measures on Fish Fillets from Vietnam (DS536)

On January 8, 2018, Vietnam requested consultations concerning antidumping duty measures pertaining to frozen fish fillets from Vietnam. The consultation request alleged claims regarding zeroing, revocation, application of adverse facts available and a government-wide entity rate, and the USDOC's determination pursuant to section 129 of the Uruguay Round Agreements Act. Consultations took place on March 1, 2018. At Vietnam's request, the WTO established a panel in July 2018. The panel report has not been circulated.

United States – Antidumping and Countervailing Duties on Certain Products and the Use of Facts Available (DS539)

On February 14, 2018, Korea requested WTO dispute settlement consultations regarding the USDOC's use of facts available in certain antidumping and countervailing duty measures against Korea, and certain laws, regulations, and other measures maintained by the United States with respect to the use of facts available in AD and CVD proceedings. The United States and Korea held consultations in March 2018. At Korea's request, the WTO established a panel in May 2018.

The panel circulated its report on January 21, 2021. The panel found that Commerce acted inconsistently with the AD Agreement or SCM Agreement in either resorting to facts available or selecting the replacement facts in the eight instances challenged by Korea. With respect to the "as such" claim against an alleged unwritten measure, the panel found that Korea failed to establish that such an unwritten rule even existed. This obviated the panel's need to evaluate whether such a rule (if it did exist) would breach the AD Agreement or SCM Agreement.

On March 19, 2021, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS545)

On May 14, 2018, Korea requested consultations concerning the United States' application of a safeguard measure on crystalline silicon photovoltaic products. The consultation request alleged claims under the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations. At Korea's request, a panel was established in September 2018.

United States – Safeguard Measure on Imports of Large Residential Washers (DS546)

In 2018, Korea challenged the U.S. safeguard measure on large residential washers as inconsistent with the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations.

The panel circulated its report on February 8, 2022. The panel rejected certain of Korea's claims, including against aspects of the USITC's serious injury investigation, the President's chosen form of the safeguard measure, and whether the United States timely notified key decisional points in the safeguard investigation. However, the panel found certain aspects of the ITC's serious injury determination were inconsistent with United States WTO obligations. The panel also found that the United States acted inconsistently with the WTO Agreement on Safeguards by not providing Korea with sufficient time to allow for the possibility, through consultations, for meaningful consultations between announcement of the final safeguard measure and the date it took effect.

To facilitate the resolution of the dispute, the United States and Korea jointly requested that the DSB defer the date for action on the panel report, and the DSB has extended this timeline to October 5, 2022.

United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS562)

In 2019, China requested a panel concerning the United States' application of a safeguard measure on crystalline silicon photovoltaic products, alleging claims under the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations.

The panel circulated its report on September 2, 2021, which rejected all of China's challenges in the dispute. The panel found that the United States established that solar imports had increased as a result of unforeseen developments, established a causal link between increased imports and serious injury to the domestic industry, and appropriately considered other factors besides increased imports that were allegedly causing injury to the domestic industry.

On September 16, 2021, China notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Antidumping and Countervailing Duties on Ripe Olives from Spain (DS577)

In 2019, the European Union challenged AD and CVD measures on ripe olives from Spain, alleging claims regarding specificity, subsidy pass-through analysis, the manner in which final subsidy rates were calculated, and injury.

On November 19, 2021, the panel circulated its final report. The panel found that the United States acted inconsistently with the SCM Agreement and GATT 1994 in calculating the final subsidy rate of one respondent, and in relying upon a provision of the Tariff Act of 1930 to attribute benefits to downstream agricultural processors. The panel also found that certain factual findings related to USDOC's specificity determination were inconsistent with the SCM Agreement. The panel rejected the EU's other claims concerning specificity and rejected all of

the EU's claims concerning the USITC's injury determination. On December 20, 2021, the DSB adopted the panel report.

Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions

The Administration will continue to be a leader in international organizations, as demonstrated by its leading role in achieving consensus on key issues at the WTO's 12th Ministerial Conference. The United States will work with WTO Members to implement necessary reforms to the WTO's substantive rules and procedures to address the challenges facing the global trading system. The United States will continue to engage constructively in a Member-driven reform process that seeks fundamental reform of the WTO's dispute settlement system. The United States believes that a true reform discussion should aim to ensure that WTO dispute settlement reflects the real interests of Members. The United States will also work to pursue U.S. interests in dispute settlement actions.

WTO Dispute Settlement Actions and Continued Enforcement Against Traditional Trade Barriers

USTR has been actively engaged in numerous dispute settlement actions, including important offensive actions related to agricultural market access. USTR will continue to pursue actions to ensure U.S. workers and innovators, manufacturers, farmers, ranchers, fishers, and underserved communities obtain the market access they deserve, and which trading partners like China agreed to provide.

The United States recently entered into cooperative frameworks with the EU and the UK to address concerns and enhance cooperation following successful challenges to the massive subsidies to Airbus in the dispute ***European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint) (Recourse to Article 21.5 of the DSU) (DS316)***. In 2016 and 2018, compliance panel and appellate reports confirmed that the EU and four Member States failed to comply with the earlier WTO recommendation finding launch aid for twin-aisle and very large aircraft programs inconsistent with their WTO obligations.

In October 2019, the WTO arbitrator found that annual countermeasures of \$7.5 billion were commensurate with the adverse effects to the United States from the EU launch aid. The arbitrator calculated this amount based on the WTO's non-compliance findings of significant lost sales of Boeing large civil aircraft and exports of large aircraft being impeded to the EU, Australia, China, Korea, Singapore, and United Arab Emirates markets.

On April 12, 2019, the United States initiated an investigation under section 301 of the Trade Act of 1974 to enforce U.S. rights under the WTO Agreement denied by the EU and certain Member States. In response to the EU's failure to withdraw the WTO-inconsistent subsidies or remove their adverse effects, the United States imposed additional duties of 10 percent on large civil

aircraft and 25 percent on certain other products of the EU, effective October 18, 2019. USTR subsequently reviewed and modified this tariff action in accordance with the applicable provisions under Section 306 of the Trade Act.

On June 15, 2021, the United States reached an understanding with the EU on a cooperative framework that would suspend tariffs for five years, ensure that future government financing is on market terms, and provide for joint, concrete action to confront the emerging threat from China's and other non-market practices in this sector. On June 17, 2021, the United States reached a similar understanding with the United Kingdom. USTR proceeded to suspend for five years the tariff action in the Section 301 investigation involving the enforcement of U.S. rights in the LCA dispute.

USTR continues to monitor two challenges to China's agricultural policies relating to grains. In *China – Domestic Support for Agricultural Producers (DS511)*, the United States challenged China's provision of domestic support to wheat, rice, and corn producers in excess of its Aggregate Measure of Support commitments under the WTO Agreement on Agriculture. In 2019, a WTO panel agreed with the United States that China provided domestic support to its agricultural producers in 2012-2015, well in excess of its WTO commitments. Specifically, the panel found that China had provided support in excess of permitted levels for Indica (long-grain) rice, Japonica (short- and medium-grain) rice, and wheat, in every year. Each finding individually established that China breached its overall agricultural domestic support commitment for agricultural producers. Neither party appealed the report, and the DSB adopted the report on April 26, 2019. China and the United States agreed that the reasonable period of time for China to implement the WTO's recommendations would expire on June 30, 2020. China claimed that it had implemented the WTO's recommendation, but the United States was not in a position to agree with China's claim. On July 16, 2020, the United States requested authorization from the DSB to take countermeasures under Article 22.2 of the DSU. China objected to the level of countermeasures identified in the U.S. request, referring the matter to arbitration under Article 22.6 of the DSU.

The United States also challenged China's administration of its tariff-rate quotas (TRQ) for grains in *China – Tariff Rate Quotas for Certain Agricultural Products (DS517)*. The United States asserted that China's administration of its TRQs was not transparent, predictable, or fair; was not administered using clearly specified requirements or administrative procedures; inhibited the filling of the TRQs; and thus appeared inconsistent with commitments in China's WTO Accession Protocol and the GATT 1994. In 2019, a WTO panel circulated its report, and the United States prevailed on its claims that China's TRQ administration is inconsistent with WTO rules. Neither party appealed the report, and the DSB adopted the report on May 28, 2019. China and the United States agreed that the reasonable period of time for China to implement the WTO's recommendations would expire on December 31, 2019. On February 17, 2020, China notified the DSB that as of December 31, 2019, China had fully implemented the WTO's recommendations in this matter. To allow the United States time to evaluate China's compliance measures, China and the United States mutually agreed to modify the reasonable period of time to expire on June 29, 2021. On July 15, 2021, the United States requested authorization from the

DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. Also on July 15, China filed a request for the establishment of a compliance panel under Article 21.5 of the DSU.

In the dispute *Indonesia – Importation of Horticultural Products, Animals and Animal Products (DS478)*, the United States, together with New Zealand, successfully challenged Indonesia's import licensing regimes and restrictions on horticultural products, animal products (such as beef and poultry), and animals. The panel report was circulated in December 2016, and the United States prevailed on all claims. Indonesia appealed the panel report. In November 2017, the WTO upheld the original panel findings in the dispute that all 18 Indonesian measures challenged by the United States are inconsistent with Indonesia's WTO obligations and are not justified as legitimate public policy measures. Indonesia agreed that the reasonable period of time for implementation of the WTO's recommendations expired in July 2018. In August 2018, the United States requested authorization from the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. Indonesia objected to the United States' proposed level of suspension of concessions, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. The parties continue to discuss a resolution to the U.S. concerns.

In addition to the above-mentioned disputes, USTR will continue to prioritize the elimination of traditional trade barriers imposed by foreign governments to the detriment of U.S. workers, businesses, farmers, fishers, and other exporters. Such barriers include import licensing restrictions, non-science-based sanitary and phytosanitary measures, and other import restrictions affecting U.S. products, including food and agricultural products. Foreign governments also continue to provide both domestic and export subsidies to unfairly benefit their products and disadvantage U.S. exports and to use lack of transparency and procedural fairness as a means to protect home markets, such as in antidumping and countervailing duty investigations. USTR also will continue to monitor and enforce foreign export restrictions and discriminatory content requirements that reduce U.S. export opportunities.

In addition to addressing these concerns through bilateral and multilateral engagement, USTR has brought numerous challenges at the WTO to combat such measures. Examples of challenges to traditional trade barriers include:

India – Measures Concerning the Importation of Certain Agricultural Products (DS430)

The United States successfully challenged India's ban on poultry and other products. In June 2015, the DSB adopted panel and Appellate Body reports finding that India's ban on poultry and other products, allegedly to protect against introduction of avian influenza, is inconsistent with WTO rules. For example, the WTO found that India's restrictions are not based on international standards or a risk assessment that takes into account available scientific evidence and are more trade restrictive than necessary. Because India had not brought its measure into compliance by the end of the reasonable period of time for implementation, in July 2016, the United States requested authorization from the DSB to impose countermeasures worth more than \$450 million; India objected to the request, referring the matter to arbitration. In April 2017, India requested a

compliance panel to review whether new measures that India promulgated after the U.S. request for authorization to suspend concessions brought India into compliance. Both the countermeasures arbitration and the compliance proceeding remain pending while the United States seeks to ensure that India provides effective and timely market access for U.S. products.

India – Export Related Measures (DS541)

On March 14, 2018, the United States requested consultations with India regarding various Indian export subsidy programs. The consultation request alleges that these programs provide prohibited export subsidies inconsistent with the SCM Agreement. Consultations took place in April 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the U.S. request, in May 2018, the WTO established a panel. The panel held a hearing with the parties in February 2019 and concluded in a final report circulated on October 31, 2019, that the Indian export subsidies programs breached the SCM Agreement as prohibited export subsidies. India appealed the panel report in November 2019. Because no division of the Appellate Body could be established to hear this appeal, the United States is conferring with India to seek a positive resolution in this dispute.

Defense Against Other WTO Challenges

In addition to addressing traditional trade barriers, the United States is defending numerous WTO challenges of duties imposed to protect U.S. national security interests, and the United States has brought several challenges to retaliatory duties imposed by countries in response to those national security actions. Examples of these kinds of challenges include:

United States – Origin Marking Requirement (DS597)

On October 30, 2020, Hong Kong, China, requested consultations concerning certain measures affecting marks of origin with respect to imported goods produced in Hong Kong, China. The consultation request alleges that the measures appear to breach various provisions of the GATT 1994, the Agreement on Rules of Origin and the Agreement on Technical Barriers to Trade. Consultations took place on November 24, 2020. At the request of Hong Kong, China, the WTO established a panel on February 22, 2021. The United States has invoked Article XXI of GATT 1994, the essential security exception, explaining to the panel that the dispute concerns issues of essential security not susceptible to review or capable of resolution by WTO dispute settlement. Panel proceedings are ongoing.

United States – Tariff Measures on Certain Goods from China (DS543)

On April 4, 2018, China requested consultations with the United States concerning certain tariff measures on Chinese goods which would allegedly be implemented through section 301 of the Trade Act of 1974. The United States responded that it was willing to enter into consultations with China, without prejudice to its view that China's request did not satisfy the requirements of Article 4 of the DSU. China filed an addendum to its consultations request on July 9, 2018. Consultations took place in August and October 2018, but the parties were unable to reach a

mutually satisfactory resolution to the dispute. At China's request, the WTO established a panel in June 2019. The panel held hearings with the parties in October 2019 and February 2020.

The panel circulated its report on September 15, 2020. The panel concluded that the tariff measures at issue are inconsistent with Article I:1 of the GATT 1994 (MFN), because they fail to provide treatment for Chinese products that is no less favorable than that granted to like products originating from other WTO Members, and with Articles II:1(a) and (b) of the GATT 1994, because the additional duties are in excess of the bound rates found in the U.S. Schedule. On October 27, 2020, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Certain Measures on Steel and Aluminum Products (DS544)

On April 5, 2018, China requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from China. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At China's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS547)

On May 18, 2018, India requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from India. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At India's request, in December 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS548)

On June 1, 2018, the EU requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from the EU. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is

not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the EU's request, in November 2018, the WTO established a panel. Following the U.S.-EU arrangement announced on October 31, 2021, the panel proceedings were terminated and the matter was referred to arbitration proceedings that are suspended indefinitely.

United States – Certain Measures on Steel and Aluminum Products (DS552)

On June 12, 2018, Norway requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Norway. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Norway's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS554)

On June 29, 2018, the Russian Federation requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from the Russian Federation. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in August 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the Russian Federation's request, in November 2018, the WTO established a panel. In April 2022, following Russia's premeditated and unprovoked invasion of Ukraine in violation of international law, the United States suspended permanent normal trade relations with Russia and will continue to partner with other WTO Members to isolate and ostracize Russia in the WTO and other multilateral institutions.

United States – Certain Measures on Steel and Aluminum Products (DS556)

On July 9, 2018, Switzerland requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Switzerland. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is

not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in August 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Switzerland's request, in December 2018, the WTO established a panel. Panel proceedings are ongoing.

China – Additional Duties on Certain Products from the United States (DS558)

On July 16, 2018, the United States requested consultations concerning China's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appears inconsistent with Articles I and II of the GATT 1994 because China does not impose a similar duty increase on the products of other WTO Members and the applied duties are above China's bound rates. Consultations took place on August 29, 2018. At the U.S. request, the panel was established in November 2018. Panel proceedings are ongoing.

European Union – Additional Duties on Certain Products from the United States (DS559)

On July 16, 2018, the United States requested consultations concerning the EU's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appeared inconsistent with Articles I and II of the GATT 1994 because the EU did not impose a similar duty increase on the products of other WTO Members and the applied duties were above the EU's bound rates. Consultations took place on August 28, 2018. At the U.S. request, the panel was established in November 2018. Following the U.S.-EU arrangement announced on October 31, 2021, the panel proceedings were terminated and the matter was referred to arbitration proceedings that are suspended indefinitely.

Turkey – Additional Duties on Certain Products from the United States (DS561)

On July 16, 2018, the United States requested consultations concerning Turkey's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appears inconsistent with Articles I and II of the GATT 1994 because Turkey does not impose a similar duty increase on the products of other WTO Members and the applied duties are above Turkey's bound rates. Consultations took place on August 29, 2018. On October 18, 2018, the United States requested supplemental consultations that took place on November 14, 2018, regarding amendments to Turkey's additional measure. At the U.S. request, the panel was established in January 2019. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS564)

On August 15, 2018, Turkey requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Turkey. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant

to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in October 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Turkey's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

Russia – Additional Duties on Certain Products from the United States (DS566)

On August 27, 2018, the United States requested consultations concerning Russia's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appears inconsistent with Articles I and II of the GATT 1994 because Russia does not impose a similar duty increase on the products of other WTO Members and the applied duties are above Russia's bound rates. Consultations took place on November 9, 2018. At the U.S. request, the panel was established in December 2018. In April 2022, following Russia's premeditated and unprovoked invasion of Ukraine in violation of international law, the United States suspended permanent normal trade relations with Russia and will continue to partner with other WTO Members to isolate and ostracize Russia in the WTO and other multilateral institutions.

India – Additional Duties on Certain Products from the United States (DS585)

On July 3, 2019, the United States requested consultations concerning India's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measures that appears inconsistent with Articles I and II of the GATT 1994 because India does not impose a similar duty increase on the products of other WTO Members and the applied duties appear to be above India's bound rates. Consultations took place on August 1, 2019. At the U.S. request, the panel was established in October 2019. Panel proceedings are ongoing.

Enforcement Supporting Strategic Interests of the United States

USTR will prioritize enforcement efforts with respect to key U.S. values, such as promoting labor rights and environmental protection, and strategic priorities of the United States, including those identified under Executive Order 14017, America's Supply Chains, as well as pandemic response and readiness and post-pandemic economic recovery.

Environmental Enforcement under the US-Peru FTA

The United States actively enforces rules and norms relating to environmental protection, including under USMCA and our FTAs and through use of Section 301 and other mechanisms.

On July 26, the Office of the United States Trade Representative announced that the Interagency Committee on Trade in Timber Products ("Timber Committee") had directed United States Customs and Border Protection (CBP) to continue to block any timber imports from WCA until

the Government of Peru demonstrates that Inversiones WCA E.I.R.L. (WCA) has complied with all applicable laws, regulations, and other measures governing the harvest of and trade in timber. This order represents a continuation of a July 2019 order against WCA products.

In February 2018, pursuant to the United States-Peru Trade Promotion Agreement Annex on Forest Sector Governance, the Timber Committee requested the Government of Peru to verify the legality of three timber shipments to the United States. The Government of Peru carried out the verification and reported to the Timber Committee that timber products contained in a shipment exported by WCA were not harvested and traded in compliance with Peruvian laws, regulations, and other measures. On July 26, 2019, the Timber Committee directed CBP to deny entry to timber products originating from Peru that were produced or exported by WCA for the shorter of three years or until the Timber Committee notifies CBP that Peru has completed an examination that demonstrates that WCA has complied with all applicable laws, regulations, and other measures governing the harvest of and trade in timber products.

The original three-year denial of entry was set to expire on July 26, 2022. Over the three-year period of the order, the Government of Peru did not take administrative or judicial action against WCA in relation to the 2018 verification findings. Further, Peru provided no information in response to a June 8, 2022 request from USTR to provide information concerning WCA's compliance with relevant laws, regulations, and other measures governing the harvest and trade in timber products. For these reasons, a new denial of entry order was issued.

Supply Chains

As part of the Administration's whole-of-government approach to strengthen the resilience of critical supply chains, USTR leads the interagency Supply Chain Trade Task Force. The Supply Chain Trade Task Force will support the goals of Executive Order 14017 by identifying unilateral and multilateral trade actions we can bring to combat unfair foreign trade practices that undermine U.S. supply chains, as well as opportunities to use trade tools and agreements to make our supply chains more resilient. The Supply Chain Trade Task Force has focused on critical areas such as pandemic-related supplies, advanced batteries, semiconductors, pharmaceuticals/active pharmaceutical ingredients, and critical materials and permanent magnets. USTR will continue to work to develop durable solutions that strengthen the resiliency of critical supply chains, and to adapt this work to new developments, including the impact of Russia's premeditated and unprovoked invasion of Ukraine on food and energy supply chains.

Intellectual Property and Forced Technology Transfer

Consistent with USTR's 2022 Special 301 Report, USTR will continue to prioritize enforcement efforts with respect to key countries where IP protection and enforcement has deteriorated or remained at unacceptable levels and where market access for Americans who rely on IP protection has been unfairly compromised.

The United States has been closely monitoring China's progress in implementing its commitments under the Phase One Agreement, and China continues to be a major enforcement priority (*see also supra* Section 301 Investigations and Actions). In addition, USTR continues to

place China on the Priority Watch List, and section 306 monitoring remains in effect. China must provide a level playing field for IP protection and enforcement, refrain from requiring or pressuring technology transfer to Chinese companies at all levels of government, open China's market to foreign investment, and embrace open and market-oriented policies. Right holders continue to raise concerns about the adequacy of China's measures and their effective implementation, as well as about long-standing issues like bad faith trademarks, counterfeiting, and online piracy. China needs to complete the full range of fundamental changes that are required to improve the IP landscape in China.

USTR will also continue to pursue a range of enforcement efforts to address IP protection and enforcement in other countries. Outstanding challenges and trends relate to the trade in counterfeit goods; forced technology transfer (including government-sponsored cybertheft of IP) and for indigenous IP; inadequate protection of trade secrets, undisclosed information, patents, and geographical indications; and online and broadcast piracy. USTR is committed to addressing these and other priority concerns to encourage domestic investment in the United States, foster American innovation and creativity, and increase economic security for American workers and families.

Ensuring that Standards-Related Measures Do Not Create Unnecessary Obstacles to Trade

Standards-related measures are valuable tools that governments use to regulate in the public interest, for example, to protect health or safety, to provide consumer information, to protect the environment, or to prevent fraud or deception, among other aims. However, standards-related measures can be used as unfair trade barriers, such as when a regulation discriminates on the basis of national origin (e.g., when there is no rational relationship between the government's regulatory aim and the regulatory distinction drawn that affects domestic and imported goods differently). To ensure U.S. workers, manufacturers, and businesses can compete on a level playing field, USTR will continue to address unjustified barriers stemming from technical regulations, standards, and conformity assessment procedures (standards-related measures) that discriminate against U.S. exports or do not otherwise comply with international commitments.

USTR has intensified engagement with U.S. trading partners and increased monitoring of their practices to address measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports. During fiscal year 2022, in the three regularly scheduled World Trade Organization's Committee on Technical Barriers to Trade (WTO TBT Committee) and associated bilateral meetings, USTR raised 67 offensive specific trade concerns and responded to 18 specific trade concerns regarding U.S. standards related measures. Described below, the United States expressed particular concerns on the following:

- During the WTO TBT Committee meetings, USTR raised concerns about China's proposed cybersecurity and encryption laws, its implementing measures for cosmetics supervision, regulations and administrative measures relating to overseas producers of imported food.

- During the WTO TBT Committee meetings and with the United States-Mexico-Canada Agreement (USMCA) framework, USTR raised concerns about Mexico’s proposed standards and burdensome conformity assessment procedures for dairy products, including cheese, milk powder, yogurt and butter, and automotive standards, and telecom standards and regulations, as well as Canada’s single use plastics ban, transparency for its front of pack nutrition labeling, clean fuels regulation, and requirements for supplemental foods.
- During the WTO TBT Committee meetings and bilateral engagements with the EU, USTR raised concerns about a proposed artificial intelligence act, microplastics regulation, proposed changes to the machinery directive, the radio equipment directive, regulation of medical devices and in-vitro medical devices, the EU’s upcoming chemical strategy, sustained objections to the EU’s maximum residue limits policies for pesticides, and our unanswered applications for traditional terms for wine. With regard to specific EU Members, USTR raised concerns about the proposed circular economy regulations from France.
- During the WTO TBT Committee meetings and bilateral engagements with India, USTR raised concerns about proposed food safety regulations, genetically modified free certificates for food products, proposed in-country conformity assessment procedures for chemicals, telegraph equipment, and toys.
- During the WTO TBT Committee meetings and bilateral engagements, USTR raised concerns that the halal labeling and certification systems continue to be a source of concern in Egypt and Indonesia in terms of transparency, the breadth of products covered where no standards exist and limitations on available conformity assessment bodies to perform the certification requirements.

The United States has also worked independently and within various fora to implement capacity-building projects that will strengthen the skills of developing countries. For example, the five-year U.S. Standards Alliance project works to improve beneficiaries' national legal and regulatory frameworks, standards development, conformity assessment procedures, and private sector engagement in the regulatory process. The United States has implemented several projects within APEC to address issues related to new technologies and has developed new proposals for the 2023 U.S. host year.

Under Working Group 10 of the U.S.-EU Trade and Technology Council, USTR will lead U.S. efforts with the EU to identify and avoid new technical barriers to trade, including in standards, with a particular focus on new and emerging technologies.