V. TRADE ENFORCEMENT ACTIVITIES

A. Enforcing U.S. Trade Agreements

1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements to which the United States is a party and pursues enforcement actions using dispute settlement procedures and applying the full range of U.S. trade laws when appropriate. Vigorous investigation efforts by USTR and relevant agencies, including the U.S. Departments of Agriculture, Commerce, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. The Interagency Trade Enforcement Center (ITEC), led by USTR in close collaboration with the U.S. Department of Commerce, brings together research, analytical resources, and expertise from across the Federal Government into one organization, significantly enhancing the capability of the United States to investigate foreign trade practices that are potentially unfair or adverse to U.S. commercial interests.

Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. USTR seeks to achieve this goal through a variety of means, including:

- Asserting U.S. rights through the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO bodies and committees charged with monitoring implementation and surveillance of agreements and disciplines;

- Vigorously monitoring and enforcing bilateral and plurilateral agreements;

- Invoking U.S. trade laws in conjunction with bilateral, plurilateral, and WTO mechanisms to promote compliance;

- Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements such as the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and,

- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and use or threat of use of dispute settlement mechanisms, including with respect to labor and environmental obligations.

Through the vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in the protection of worker rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits for U.S. firms, farmers, and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO in 1994, the United States has filed 105 complaints at the WTO, thus far successfully concluding 72 of them by settling 29 disputes favorably and prevailing in 43 others through litigation before WTO panels and the Appellate Body. The United States has obtained favorable settlements and favorable rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements involving rules on trade in goods, trade in services, and intellectual property protection.

Satisfactory Settlements

By filing disputes, the United States aims to secure benefits for U.S. stakeholders rather than to engage in prolonged litigation. Therefore, whenever possible, the United States has sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

The United States has been able to achieve this preferred result in 29 disputes concluded so far, involving: Argentina’s protection and enforcement of patents; Australia’s ban on salmon imports; Belgium’s duties on rice imports; Brazil’s automotive investment measures; Brazil’s patent law; Canada’s antidumping and countervailing duty investigation on corn; China’s value-added tax; China’s use of prohibited subsidies for green technologies; China’s treatment of foreign financial information suppliers; China’s government support tied to promotion of Chinese brand names abroad; China’s subsidies for so-called Famous Brands; China’s support for wind power equipment; Denmark’s civil procedures for intellectual property enforcement; Egypt’s apparel tariffs; the EU’s market access for grains; an EU import surcharge on corn gluten feed; Greece’s protection of copyrighted motion pictures and television programs; Hungary’s agricultural export subsidies; Ireland’s protection of copyrights; Japan’s protection of sound recordings; Korea’s shelf-life standards for beef and pork; Mexico’s restrictions on hog imports; Pakistan’s protection of patents; the Philippines’ market access for pork and poultry; the Philippines’ automotive regime; Portugal’s protection of patents; Romania’s customs valuation regime; Sweden’s enforcement of intellectual property rights; and Turkey’s box office taxes on motion pictures.

Litigation Successes

When U.S. trading partners have not been willing to negotiate settlements, the United States has pursued its cases to conclusion, prevailing in 43 cases to date. In 2014, the United States prevailed in a dispute involving China’s countervailing and antidumping duties on automobiles from the United States and in a dispute involving China’s export restrictions on rare earths. The United States has also prevailed at the panel stage in a dispute on Argentina’s import licensing restrictions and other trade-related requirements and in a challenge to India’s ban on various U.S. agricultural products – such as poultry meat, eggs, and live pigs – allegedly to protect against avian influenza. In prior years, the United States prevailed in cases involving: Argentina’s tax and duties on textiles, apparel, and footwear; Australia’s export subsidies on automotive leather; Canada’s barriers to the sale and distribution of magazines; Canada’s export subsidies and an import barrier on dairy products; Canada’s law protecting patents; China’s charges on imported automobile parts; China’s measures restricting trading rights and distribution services for certain publications and audiovisual entertainment products; China’s enforcement and protection of intellectual property rights; China’s measures related to the exportation of raw materials; China’s countervailing and antidumping duties on grain oriented flat-rolled electrical steel from the United States; China’s measures affecting electronic payment services; China’s countervailing and antidumping duties on broiler parts from the United States; the EU’s subsidies to Airbus for large civil aircraft; the EU’s import barriers on bananas; the EU’s ban on imports of beef; the EU’s regime for protecting geographical indications; the EU’s moratorium on biotechnology products; the EU’s non-uniform classification of LCD monitors; the EU’s tariff treatment of certain information technology products; India’s import bans and other restrictions on 2,700 items; India’s protection of patents on pharmaceuticals and agricultural chemicals; India’s and Indonesia’s discriminatory measures on imports of U.S. automobiles; Japan’s restrictions affecting imports of apples, cherries, and other fruits; Japan’s barriers to apple imports; Japan’s and Korea’s discriminatory taxes on distilled spirits; Korea’s restrictions on beef imports; Mexico’s antidumping duties on high fructose corn syrup; Mexico’s telecommunications barriers; Mexico’s antidumping duties on rice; Mexico’s discriminatory soft drink tax; the Philippines' discriminatory taxation of imported distilled spirits; and Turkey's measures affecting the importation of rice.

USTR also works in consultation with other U.S. Government agencies to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and U.S. free trade agreements. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights protection and enforcement, and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems (*the application of these trade law tools is described in greater detail in Chapter V.B.*).

ITEC

In his 2012 State of the Union Address, President Obama called for increased efforts to investigate unfair trading practices in countries around the world, including creation of a new trade enforcement unit. On February 28, 2012, the President signed Executive Order 13601, establishing the Interagency Trade Enforcement Center, or ITEC. ITEC serves as the primary forum within the Federal Government for executive departments and agencies to coordinate enforcement of international and domestic trade rules. ITEC levels the playing field for American workers and businesses by bringing a more aggressive "whole-of-government" approach to addressing unfair trade practices and foreign trade barriers, and significantly enhances the Government's capabilities to challenge such barriers and practices around the world. ITEC increases the efforts devoted to trade enforcement, as well as leverages existing resources more efficiently across the Administration. Personnel from various contributing Government agencies comprise a deep pool of analytical support for trade enforcement efforts. In a close, collaborative effort, USTR and the U.S. Department of Commerce have assembled ITEC staff from a variety of agencies including the U.S. Departments of Commerce, Agriculture, State, Treasury, and Justice, as well as the International Trade Commission and the intelligence community. The staff brings a diverse set of language skills and expertise including intellectual property rights, subsidy analysis, economics, agriculture, and animal health science.

In 2014, ITEC continued its work to fulfill the President's goals. ITEC has played a critical role in providing research and analysis in support of multiple important WTO matters including Argentina's import licensing restrictions and other trade-related requirements, China's export subsidies in export bases for automobiles and automotive parts, Indonesia's restrictive import licensing, and India's local content restrictions on certain solar energy products. These WTO actions address practices that the United States believes are inconsistent with WTO rules and affect opportunities for U.S. exporters. In addition, ITEC also has provided research and analysis to assist in defending cases brought against the United States at the WTO including Argentina's action regarding beef and Indonesia's action regarding clove cigarettes.

ITEC provided an important monitoring and analysis function to evaluate China's compliance with the WTO decisions regarding the raw materials, rare earths, and electronic payment services cases. In addition, ITEC provided extensive analysis, translations, and other critical support for the case filed under the Dominican Republic – Central American Free Trade Agreement (CAFTA-DR) involving labor rights in Guatemala.

ITEC has also provided essential research and analysis leading to the U.S. counter-notification of certain Chinese subsidies to the WTO Committee on Subsidies and Countervailing Measures and the counter-notification of certain Chinese State Trading Enterprises to the WTO Council for Trade in Goods, both highlighting China's failure to abide by its reporting commitments.

ITEC is increasing its capabilities including the acquisition of additional foreign language-proficient trade experts. In coordination with other offices at USTR and other agencies, ITEC has identified priority projects for research and analysis regarding a number of countries and issues. ITEC staff has developed detailed work plans and is researching those projects intensively. These efforts are being supplemented by research activities conducted by other agencies in coordination with ITEC.

2. WTO Dispute Settlement

The United States had major enforcement successes in 2014. Most notably: (i) The United States successfully challenged China's export restraints on rare earths, tungsten and molybdenum – materials which are important inputs for a wide range of critical U.S. industries. The WTO panel found in favor of the United States on all claims, and the panel findings were upheld by the WTO Appellate Body. China has committed to bringing its measures into compliance. (ii) The United States prevailed in a challenge to China's antidumping and countervailing duties on U.S. automobiles. In 2013, China's trade-distorting duties applied to over $5 billion in U.S. exports. As a result of the dispute, China has removed the duties. (iii) The United States prevailed at the panel stage in a challenge to Argentina's sweeping import restrictions in the form of a non-automatic import licensing system and trade-balancing requirements. Argentina's restrictions potentially affect billions of dollars in U.S. exports each year. (iv) The United States prevailed at the panel stage in a challenge to India's ban on imports of various U.S. agricultural products – such as poultry meat, eggs, and live pigs – allegedly to protect against avian influenza. The panel agreed with the United States that India's ban breached India's obligations under the SPS Agreement, *inter alia* because the ban was imposed without a scientific basis.

The United States launched three WTO actions in 2014, requesting WTO consultations: with China regarding China's compliance with the WTO findings in the successful challenge by the United States to China's imposition of antidumping duties and countervailing duties on imports of U.S. grain oriented flat rolled electrical steel (GOES); with Indonesia on its revised licensing measures that restrict imports of horticultural products, animals, and animal products; and with India regarding its domestic content requirements for solar cells and solar modules in Phase II of its National Solar Mission.

Other ongoing enforcement actions include a compliance proceeding to determine whether the EU has complied with the WTO's recommendations regarding EU subsidies to Airbus, a manufacturer of large civil aircraft; and ongoing consultations with China regarding its automobile and automotive parts "export base" program, which appears to provide extensive prohibited export subsidies.

The cases described in Chapter II of this report further demonstrate the importance of the WTO dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website: http://www.ustr.gov/trade-topics/enforcement/overview-dispute-settlement-matters.

3. Other Monitoring and Enforcement Activities

Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies that have adverse effects not only in the importing country's market, but also in the subsidizing government's market and in third-country markets. Prior to the Subsidies Agreement coming into effect in 1995, the U.S. countervailing duty law was, in effect, the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global marketplace.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) and other authorities set out the responsibilities of USTR and the U.S. Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures and in WTO dispute settlement relating to subsidies disciplines; and leads the interagency team on matters of policy. The role of Commerce's Enforcement and Compliance (E&C), formerly known as Import Administration, is to enforce the countervailing duty (CVD) law, and in accordance with responsibilities assigned by the Congress in the URAA, to pursue certain subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The E&C's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether there is reason to believe they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit it to be reliably evaluated, USTR and Commerce confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During 2014, USTR and E&C staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by E&C officers stationed overseas (*e.g.*, in China), who help gather, clarify, and check the accuracy of information concerning foreign subsidy practices. State Department officials at posts where E&C staff are not present have also handled such inquiries.

The SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a CVD case or a WTO subsidies complaint. The website (http://esel.trade.gov) includes an overview of the SEO, helpful links, and an easily navigable tool that provides information about each subsidy program investigated by Commerce in CVD cases since 1980. This database is frequently updated, making information on subsidy programs quickly available to the public.

Monitoring and Challenging Foreign Antidumping, Countervailing Duty and Safeguard Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Subsidies Agreement permit WTO Members to impose antidumping (AD) duties or CVDs to offset injurious dumping or subsidization of products exported from one Member to another. The United States actively monitors, evaluates, and where appropriate, participates in ongoing AD and CVD cases conducted by foreign countries in order to safeguard the interests of U.S. industry and to ensure that Members abide by their WTO obligations in conducting such proceedings.

To this end, the United States works closely with U.S. companies affected by foreign countries' AD and CVD investigations in an effort to help them better understand Members' AD and CVD systems. The United States also advocates on their behalf in connection with ongoing investigations, with the goal of obtaining fair and objective treatment that is consistent with the WTO Agreements. In addition, with regard to CVD cases, the United States provides extensive information in response to questions from foreign governments regarding the subsidy allegations at issue in a particular case.

Further, E&C tracks foreign AD and CVD actions, as well as safeguard actions involving U.S. exporters, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of such actions. Information about foreign trade remedy actions affecting U.S. exports is accessible to the public via E&C's website at http://enforcement.trade.gov/trcs/index.html. The stationing of E&C officers to certain overseas locations and close contacts with U.S. Government officers stationed in embassies worldwide has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports. In addition, E&C promotes fair treatment, transparency, and consistency with WTO obligations through technical exchanges and other bilateral engagements.

During the past year, over 100 trade remedy actions involving exports from the United States were closely monitored, notable examples of which include: (Antidumping) Brazil's investigation of aluminum plates; China's separate investigations of cellulose pulp, solar-grade polysilicon, alloy steel seamless pipe and tube, and optical fiber preforms; the European Union's investigation of grain oriented electrical steel; South Korea's investigation of ethanolamine; Mexico's separate investigations of apples and carbon steel pipe; and Turkey's investigation of cotton; (Countervailing Duty) China's investigation of solar-grade polysilicon; the European Union's expiry review of biodiesel, (Safeguards) India's investigation of flexible slabstock polyol; Indonesia's investigation of coated paper and paperboard; Taiwan's investigation of high and linear low density polyethylene; and Turkey's investigation of printing, writing, and copying paper.

Members must notify, on an ongoing basis and without delay, their preliminary and final determinations to the WTO. Twice a year, WTO Members must also notify the WTO of all AD and CVD actions they have taken during the preceding six-month period. The actions are identified in semiannual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their AD and CVD laws and regulations. These notifications are accessible through the USTR and E&C website links to the WTO's website.

Disputes under Free Trade Agreements

CAFTA – DR: In the Matter of Guatemala – Issues Relating to the Obligations Under Article 16.2.1(a) of the CAFTA-DR

On July 30, 2010, the United States requested cooperative labor consultations with Guatemala pursuant to Article 16.6.1 of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). In its request, the United States stated that Guatemala appeared to be failing to meet its obligations under Article 16.2.1(a) with respect to the effective enforcement of Guatemalan labor laws directly related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. The request specifically stated that the United States had identified significant failures by Guatemala to enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade, including: (1) the Ministry of Labor's (MOL) failure to investigate alleged labor law violations; (2) the MOL's failure to take enforcement action once it had identified a labor law violation; and (3) the judicial system's failure to enforce labor court orders in cases involving labor law violations.

The United States and Guatemala held consultations on September 8-9, 2010, and on December 6, 2010, but were unable to resolve the matter. On May 16, 2011, the United States requested a meeting of the Free Trade Commission (FTC) under CAFTA-DR Article 20.5.2. The FTC met on June 7, 2011, but was unable to resolve the dispute.

On August 9, 2011, the United States requested the establishment of a panel under CAFTA-DR Article 20.6.1. The Panel was constituted on November 30, 2012. The members of the Panel are Mr. Kevin Banks, Chair; Mr. Theodore Posner; and, Mr. Mario Fuentes Destarac.

The Parties agreed to suspend the work of the Panel while they negotiated a Labor Enforcement Plan in which Guatemala agreed to take significant actions to strengthen its enforcement of its labor laws. On April 26, 2013, the Parties signed the 18-point Enforcement Plan and agreed to maintain the arbitral panel's suspension during its implementation and review.

On September 19, 2014, after having concluded that Guatemala had not achieved sufficient progress in realizing the commitments and aims of the Enforcement Plan, the United States proceeded with the dispute settlement proceedings. On November 3, 2014, the United States filed its initial written submission in the case. Guatemala filed its initial written submission in February 2015.

CAFTA – DR: United States – Dehydrated Ethyl Alcohol

On April 1, 2014, Costa Rica requested formal consultations under the dispute settlement provisions of the CAFTA-DR regarding the tariff treatment by the United States of ethyl alcohol (ethanol) dehydrated in Costa Rica from non-originating feedstock. On April 8, 2014, El Salvador notified the United States that it considers it has a substantial trade interest in the matter and would therefore participate in the consultations. Formal consultations were held on June 11, 2014. On September 29, 2014, Costa Rica requested a meeting of the Free Trade Commission, and the FTC meeting took place on November 6, 2014. The United States is continuing to engage with Costa Rica on the matter.

4. Monitoring Foreign Standards-related Measures and SPS Barriers

The Administration deploys significant resources to identify and confront unnecessary or unjustified barriers stemming from sanitary and phytosanitary (SPS) measures as well as technical regulations, standards, and conformity assessment procedures (standards-related measures) that restrict U.S. exports of safe, high quality products. SPS measures, technical regulations, and standards serve a vital role in safeguarding countries and their people, including by protecting health, safety, and the environment. Conformity assessment procedures are normal, legitimate day-to-day activities that contribute, *inter alia,* to increasing confidence between trading partners by ensuring that products traded internationally comply with underlying standards and technical requirements.

U.S. trade agreements provide that SPS and standards-related measures enacted by U.S. trading partners to meet legitimate objectives, such as the protection of health and safety as well as the environment, must not act as unnecessary obstacles to trade. Greater engagement with U.S. trading partners and increased monitoring of their practices can help ensure that U.S. trading partners are complying with their obligations. This engagement helps facilitate trade in safe, high quality U.S. products. USTR through its Trade Policy Staff Committee (TPSC) works to ensure that SPS and standards-related measures do not act as discriminatory or otherwise unwarranted restrictions on market access for U.S. exports.

USTR uses tools such as its annual reports, both the National Trade Estimate Report (NTE), as well as specialized reports on Technical Barriers to Trade and Sanitary and Phytosanitary Measures, to bring greater attention and focus to addressing SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports. Through these undertakings, USTR is able to support efforts to gain market access for U.S. farmers, ranchers, and businesses. In April 2014, USTR published its fifth TBT and SPS annual reports based on reporting by other U.S. Government agencies, including from commercial, agricultural, and foreign service officers stationed abroad, and submissions from industry and other interested stakeholders.

These reports describe the actions that the USTR and other agencies have taken to address the specific trade concerns identified through their outreach, as well as ongoing processes for monitoring SPS and standards-related actions that affect trade. USTR's activities in the WTO SPS Committee and the WTO TBT Committee are at the forefront of these efforts (*for additional information, see Chapter II.E.3 and Chapter II.E.8.*). USTR also engages on these issues with U.S. trading partners through mechanisms established by free trade agreements, such as the NAFTA, and through other regional and multilateral organizations, such as the APEC and the OECD.

In 2015, USTR will continue to deploy significant resources to identify and confront unjustified SPS and standards-related barriers, but will streamline reporting by integrating information about these efforts into the National Trade Estimate Report. The NTE Report will continue to highlight the increasingly critical nature of these issues to U.S. trade policy, to identify and call attention to problems resolved during the past year, in part as models for resolving ongoing issues, and to signal new or existing areas in which more progress needs to be made. These updates and the actions highlighted therein will continue to be based in part on the input USTR receives from stakeholders. In August 2014, USTR issued a *Federal Register* Notice (Docket USTR-2014-0014) requesting the public to submit views on SPS and standards-related measures that act as significant barriers to U.S. exports.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974 (Trade Act) is designed to address foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government act, policy, or practice that may be burdening or restricting U.S. commerce and take appropriate action. USTR also may self-initiate an investigation.

In each investigation, USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires USTR to use the dispute settlement procedures that are available under that agreement. Section 304 of the Trade Act requires USTR to determine whether the acts, policies, or practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the acts, policies, or practices are determined to violate a trade agreement or to be unjustifiable, USTR must take action. If they are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, USTR must determine whether action is appropriate and if so, what action to take.

Actions that USTR may take under Section 301 include to: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or USTR considers that the country fails to implement a WTO dispute panel recommendation, USTR must determine what further action to take under Section 301.

Developments during 2014

During 2014, USTR completed a Section 301 investigation of acts, polices, and practices of the government of Ukraine with respect to intellectual property rights. In addition, ongoing developments in the Section 301 investigation of EU measures concerning meat and meat products are summarized below.

Ukraine – Intellectual Property Rights

The May 1, 2013, Special 301 Report identified Ukraine as a priority foreign country due to Ukraine's denial of adequate and effective protection of intellectual property rights and its denial of fair and equitable market access to persons that rely on intellectual property protection (*see Chapter V.B.2 for a further discussion*). Pursuant to the Special 301 designation and to section 302(b)(2) of the Trade Act, on May 30, 2013, the Trade Representative initiated a Section 301 investigation of the acts, policies, and practices of the government of Ukraine that resulted in the identification of Ukraine as a priority foreign country. Simultaneously, USTR also proposed a determination that those acts, policies, and practices are actionable under section 301(b) of the Trade Act.

The investigation covers three categories of acts, policies, and practices with regard to intellectual property rights. The first category involves Ukraine's administration of its system of collecting societies, which are the entities responsible for collecting and distributing royalties to U.S. and other rights holders. The second category involves the use by Ukrainian government agencies of unlicensed software. The third category involves Ukraine's failure to implement an effective and systemic means to combat widespread online infringement of copyright and related rights.

In the notice of initiation, USTR invited written comments on the issues in the investigation and provided notice of a public hearing. The hearing was held on September 9, 2013.

On November 25, 2013, the Trade Representative determined pursuant to Section 304(a)(3)(B) of the Trade Act that the investigation involves complex or complicated issues that require additional time, and that the investigation would be extended by three months.

On February 28, 2014, the Trade Representative determined under Section 304(a)(1)(A) and (B) of the Trade Act that: (1) the acts, policies, and practices subject to investigation were unreasonable and burdened or restricted U.S. commerce, and were thus actionable under Section 301(b) of the Trade Act; and (2) in light of the current political situation in Ukraine, no action under Section 301(b) was appropriate at that time.

USTR remains committed to addressing the matters subject to investigation, and looks forward to further engagement with the Government of Ukraine at an appropriate time.

European Union – Measures Concerning Meat and Meat Products (Hormones)

A directive of the European Communities (EC) prohibits the import into the EU of animals and meat from animals to which certain hormones have been administered (the "hormone ban"). This measure has the effect of banning most imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EU's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but it failed to do so. Accordingly, in May 1999, the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT 1994. The EC did not contest that it had failed to comply with its WTO obligations, but it objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the EC and its Member States of tariff concessions and related obligations under the GATT 1994 covering trade up to $116.8 million per year. In a notice published in the *Federal Register* in July 1999, USTR announced that the United States was exercising this authorization by using authority under Section 301 to impose 100 percent *ad valorem* duties on a list of certain products of certain EC Member States.

In February 2005, a WTO panel was established to consider the EC's claims that it had brought its hormone ban into compliance with the EC's WTO obligations and that the increased duties imposed by the United States were no longer covered by the DSB authorization. The WTO panel concluded its work in 2008, and the panel report was appealed to the WTO Appellate Body. In October 2008, the Appellate Body confirmed that the July 1999 DSB authorization to the United States to suspend the application of tariff concessions and related obligations remained in effect.

In January 2009, USTR decided to modify the action taken in July 1999 by: (1) removing some products from the list of products subject to 100 percent *ad valorem* duties since July 1999; (2) imposing 100 percent *ad valorem* duties on some new products from certain EC member States; (3) modifying the coverage with respect to particular EC member States; and (4) raising the level of duties on one of the products that was being maintained on the product list. The trade value of the products subject to the modified action continued not to exceed the $116.8 million per year level authorized by the WTO in July 1999. The effective date of the modifications was to be March 23, 2009.

In March 2009, USTR decided to delay the effective date of the additional duties (items two through four above) imposed under the January 2009 modifications in order to allow additional time for reaching an agreement with the EC that would provide benefits to the U.S. beef industry. The effective date of the removal of duties under the January modifications remained March 23, 2009. Accordingly, subsequent to March 23, 2009, the additional duties put in place in July 1999 remained in place on a reduced list of products.

In May 2009, the United States and the EC announced the signing of an MOU in the EC-Beef Hormones dispute. Under the first phase of the MOU, which concluded in August 2012, the EC was obligated to open a new beef tariff-rate quota (TRQ) for beef not produced with certain growth-promoting hormones in the amount of 20,000 metric tons at zero rate of duty. The United States in turn was obligated not to increase additional duties above those in effect as of March 23, 2009. The MOU provides for a possible second phase in which the EU would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all additional duties imposed in connection with the Beef Hormones dispute.

On August 3, 2012, the United States and the EU, by mutual agreement, entered into the second phase of the MOU. USTR met the second phase obligations of the United States by terminating the remaining additional duties in May 2011, in advance of the second phase start date. As provided in the MOU, the EU in turn expanded the TRQ for beef produced without certain growth promoting hormones.

Under the MOU, phase two originally was to last for a period of one year. In August 2013, USTR announced that the United States and the EU planned to extend phase two for an additional two years, or until August 2015. In October 2013, the United States and the EU formally amended the MOU to reflect the extension of phase two. During 2014, USTR monitored the operation of the MOU, including with respect to whether the MOU is providing meaningful market access to U.S. producers.

The United States continues to have an authorization from the WTO DSB to suspend concessions on EU products. USTR will continue to monitor EU implementation of the MOU and other developments affecting market access for U.S. beef products. If EU implementation and other developments do not proceed as contemplated, USTR will consider additional actions under Section 301 of the Trade Act.

2. Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as "Priority Foreign Countries" (PFC), unless those countries are entering into good faith negotiations or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974, unless USTR determines that the investigation would be detrimental to U.S. economic interests.

In addition, USTR has created a Special 301 "Priority Watch List" (PWL) and "Watch List" (WL). Placement of a trading partner on the PWL or WL indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the PWL receive increased attention in bilateral discussions with the United States concerning problem areas.

Additionally, under Section 306 of the Trade Act of 1974, USTR monitors whether U.S. trading partners are in compliance with bilateral intellectual property agreements with the United States that are the basis for resolving investigations under Section 301. USTR may take action if a country fails to satisfactorily implement such an agreement.

The Special 301 list not only indicates those trading partners whose intellectual property protection and enforcement regimes most concern the United States, but also alerts firms considering trade or investment relationships with such countries that their IPR may not be adequately protected.

2014 Special 301 Review Results

On April 30, 2014, the United States Trade Representative announced the results of the 2014 Special 301 Review. The 2014 Special 301 Report reflects the Obama Administration's resolve to encourage and help maintain effective IPR protection and enforcement worldwide. The Report is the result of robust stakeholder input and interagency consultation.

In 2014, USTR continued to enhance public engagement in the Special 301 process, facilitate sound, well balanced assessments of IPR protection and enforcement efforts of particular trading partners, and help ensure that the Special 301 Review is based on a full understanding of the various IPR issues in trading partner markets. USTR requested written submissions from the public through a notice published in the *Federal Register* on January 3, 2014 (http://www.regulations.gov, Docket Number USTR-2013-0040). In addition, on February 24, 2014, USTR conducted a public hearing that provided the opportunity for interested persons to testify before the interagency Special 301 Subcommittee about issues relevant to the review. The hearing featured testimony from witnesses such as representatives of foreign governments, industry, and nongovernmental organizations. For the first time, USTR recorded and posted on its website the testimony at the Special 301 hearing, and also offered a two week post hearing comment period during which hearing participants and interested parties could submit additional information in support of, or in response to, hearing testimony. The 2014 *Federal Register* notice – and post hearing comment period – drew submissions from over 100 interested parties, including 21 trading partner governments.

The 2014 Special 301 Report marked the 25th year of the review. Over the past 25 years, the Special 301 Report has identified positive advances as well as areas of continued concern. The Report has reflected changing technologies, promoted best practices, and situated these critical issues in their policy context, underscoring the importance of intellectual property rights protection and enforcement to the United States and our trading partners.

During this period, there has been significant progress in a variety of countries. For instance, Korea, which appeared on the Priority Watch List in the original 1989 Fact Sheet, has since been removed from both the Priority Watch List and the Watch List. Korea has transformed itself from a country in need of intellectual property rights enforcement into a country with a reputation for cutting edge innovation as well as high quality, high tech manufacturing. Korea is now one of the top patent filers internationally and a U.S. trade agreement partner with state of the art standards of intellectual property rights protection and enforcement. Italy, which was first placed on the Watch List in 1989, was removed from the Watch List in 2014 in recognition of its latest effort, addressing copyright piracy over the Internet. Likewise, the Philippines, which was first placed on the Watch List in 1989, was removed from the Watch List in 2014 based on sustained actions that the Philippine government has undertaken to improve intellectual property rights protection and civil and administrative enforcement in the Philippines. There have also been important advances in many other markets over the past 25 years that have been reflected in the Special 301 Report, including in Australia, Israel, Japan, Qatar, Spain, Taiwan, the United Arab Emirates, and Uruguay.

Still, considerable concerns remain. In 2014, USTR received stakeholder input on nearly 100 trading partners, but focused the review on the 82 nominations that complied with the requirement in the *Federal Register* notice to identify whether a particular trading partner should be designated as PFC, or placed on the PWL or WL, or not listed in the Report, and that were filed by the deadlines provided in the notice. Following extensive research and analysis, USTR listed 10 countries on the Priority Watch List and 27 countries on the Watch List. Several countries, including Chile, China, India, Indonesia, Thailand, and Turkey, have been listed every year since the Report's inception. The 2014 listings are as follows:

Priority Watch List: Algeria; Argentina; Chile; China; India; Indonesia; Pakistan; Russia; Thailand; and Venezuela; and

Watch List: Barbados; Belarus; Bolivia; Brazil; Bulgaria; Canada; Colombia; Costa Rica; Dominican Republic; Ecuador; Egypt; Finland; Greece; Guatemala; Jamaica; Kuwait; Lebanon; Mexico; Paraguay; Peru; Romania; Tajikistan; Trinidad and Tobago; Turkey; Turkmenistan; Uzbekistan; and Vietnam.

The 2014 Report also provides an update on the results of the Section 301 investigation of Ukraine following Ukraine's designation as a Priority Foreign Country on May 1, 2013.

When appropriate, USTR may conduct an Out-of-Cycle Review (OCR) to encourage progress on IPR issues of concern. OCRs provide an opportunity for heightened engagement with trading partners and others to address and remedy such issues. In the case of a country specific OCR, successful resolution of identified IPR concerns can lead to a change in a trading partner's status on the Special 301 list outside of the typical time frame for the annual Special 301 Report. In some cases, USTR calls for the OCR; in others, the trading partner governments can request an OCR based on projections for improvements in IPR protection and enforcement. In 2014, USTR announced that it would conduct an OCR of Kuwait to assess needed improvements in enforcement and progress on copyright law modernization. The OCR concluded in November 2014 with Kuwait's movement to the Priority Watch List for failure to meet the announced benchmarks. The United States is continuing to work with Kuwait on our areas of concern. Although Spain is not listed in the 2014 Special 301 Report, USTR determined that the OCR first announced in 2013 and focused on whether Spain has met certain specific benchmarks related to tackling copyright piracy on the Internet should continue. USTR also announced that, upon successful conclusion of our bilateral IPR Memorandum of Understanding negotiations, it would remove Paraguay from the Watch List. The Spain and Paraguay reviews are ongoing.

USTR also conducts an OCR focused on online and physical marketplaces that are reportedly engaged in piracy and counterfeiting and have been the subject of enforcement action or that may merit further investigation for possible IPR infringements. USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin to publish the Notorious Markets List separately from the Special 301 Report, as an "Out-of-Cycle Review of Notorious Markets," in order to increase public awareness and guide related enforcement efforts. The results of the 2014 Notorious Markets OCR will be published in early 2015 and again highlight developments since the issuance of the previous Notorious Markets OCR in early 2014. Since publication of the first Notorious Markets List, several online markets closed or saw their business models disrupted as a result of enforcement efforts. In some instances, in an effort to legitimize their overall business, companies made the decision to close down problematic aspects of their operations; others cooperated with authorities to address unauthorized conduct on their site. Notwithstanding the progress that has occurred, online piracy and counterfeiting continue to grow, requiring robust, sustained, and coordinated responses by governments, private sector stakeholders, and consumers.

The Special 301 Review, including its country specific and Notorious Markets OCRs, serves a critical function by identifying opportunities and challenges facing our innovative and creative industries in foreign markets and by promoting the job creation, economic development, and many other benefits that effective intellectual property protection and enforcement support. The Special 301 Report and Notorious Markets List inform the public and our trading partners and can serve as a positive catalyst for change. USTR remains committed to meaningful and sustained engagement with our trading partners, with the goal of resolving these challenges. Information related to Special 301 (including hearing transcripts and video), Notorious Markets, and USTR's overall IPR efforts can be found at https://ustr.gov/issue-areas/intellectual-property.

3. Section 1377 Review of Telecommunications Agreements

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review by March 31 of each year the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, to telecommunications products and services of U.S. firms, mutually advantageous market opportunities in that country.

The 2014 Section 1377 Review focused on a range of concerns, including: restrictions on data flows, local content restrictions, unwarranted market caps on video services, and a variety of issues affecting the telecommunications equipment trade in Brazil, China, India, and Indonesia.

4. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the U.S. Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at "less than fair value") and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the Trade Agreements Act of l979, the Trade and Tariff Act of 1984, the Trade and Competiveness Act of 1988, and the 1994 Uruguay Round Agreements Act.

An antidumping investigation usually starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging, with respect to certain imports, the dumping and injury elements described above. If the petition meets the applicable requirements, Commerce initiates an antidumping investigation. In special circumstances, Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the allegedly dumped imports. If this preliminary injury determination by the USITC is negative, the investigation is terminated and no duties are imposed; if it is affirmative, Commerce will make preliminary and final determinations concerning the allegedly dumped sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries and require importers to post a bond or cash deposit equal to the estimated weighted-average dumping margin.

If Commerce's final determination regarding dumping is negative, the investigation is terminated and no duties are imposed. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the dumped imports, an antidumping order is issued and CBP collects antidumping duties on imported goods. If the USITC's final injury determination is negative, the investigation is terminated and the cash deposits are refunded or the bonds posted are released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO Antidumping Agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The United States initiated 19 antidumping investigations in 2014 and imposed 20 antidumping orders.

5. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930, as amended by subsequent legislation including the Uruguay Round Agreements Act. As with the antidumping law, the USITC and the U.S. Department of Commerce (Commerce) jointly administer the CVD law, and U.S. Customs and Border Protection (CBP) collects and enforces CVD orders on imported goods.

The CVD law's purpose is to offset certain foreign government subsidies that benefit imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a U.S. industry or an entity filing on its behalf. The USITC is responsible for investigating material injury issues. The USITC makes a preliminary finding as to whether there is a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination. If the USITC's final determination is affirmative, Commerce will issue a CVD order. CBP collects CVDs on imported goods.

The United States initiated 18 CVD investigations and imposed 6 new CVD orders in 2014.

6. Other Import Practices

Section 337

Section 337 of the Tariff Act of 1930, as amended, makes it unlawful to engage in unfair acts or unfair methods of competition in the importation of goods or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, such as U.S. patents and trademarks.

The United States International Trade Commission (USITC) conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the USITC. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. A limited exclusion order covers only certain imports from particular named sources, namely some or all of the parties who are respondents in the proceeding. A general exclusion order, on the other hand, covers certain products from all sources. Cease and desist orders are generally directed to entities maintaining inventories of infringing goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. The four public interest considerations are the order's effect on public health and welfare, on competitive conditions in the U.S. economy, on the production of similar or directly competitive U.S. products, and on U.S. consumers. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, President Bush assigned these policy review functions, which are set out in Section 337(j)(1)(B), Section 337(j)(2), and Section 337(j)(4) of the Tariff Act of 1930, to the USTR. The USTR conducts these reviews in consultation with other agencies. Importation of the subject goods may continue during this review process if the importer pays a bond set by the USITC. If the President (or the USTR, exercising the functions assigned by the President) does not disapprove the USITC's action within 60 days, the USITC's order becomes final. If the President or the USTR disapproves or formally approves an order before the end of the 60 day review period, the order is nullified, or becomes final, as the case may be, on the date the President or the USTR notifies the USITC. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit, with possible appeal to the U.S. Supreme Court.

The USITC is also authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe there has been a violation of Section 337.

During calendar year 2014, the USITC instituted 42 new Section 337 investigations, including three advisory proceedings. The USITC also issued remedial orders in seven investigations, as follows: *Certain Tires and Products Containing Same*, 337-TA-894; *Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof*, 337-TA-890; *Certain Electronic Devices Having Placeshifting or Display Replication Functionality and Products Containing Same*, 337-TA-878; *Certain Cases for Portable Electronic Devices*, 337-TA-867; *Certain Optoelectronic Devices for Fiber Optic Communications, Components Thereof, and Products Containing Same*, 337-TA-860; *Certain Rubber Resins and Processes for Manufacturing Same*, 337-TA-849; *Digital Models, Digital Data, and Treatment Plans for Use, in Making Incremental Dental Positioning Adjustment Appliances, the Appliances Made Therefrom, and Methods of Making the Same*, 337-TA-833. All of these orders became final after policy review.

Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief to a domestic industry if increased imports are a substantial cause of serious injury or the threat of serious injury. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry; it may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called "escape clause" – and the WTO Agreement on Safeguards.

As of January 1, 2015, the United States had no measures in place under Section 201. The United States did not impose any Section 201 measures during 2014, and did not commence any safeguard investigations.

7. Trade Adjustment Assistance

Overview and Assistance for Workers

The Trade Adjustment Assistance for Workers, Alternative Trade Adjustment Assistance, and Reemployment Trade Adjustment Assistance programs are authorized under Title II of the Trade Act of 1974, as amended. These programs, collectively referred to as Trade Adjustment Assistance (TAA), provide assistance to workers who have been adversely affected by foreign trade.

On October 21, 2011, President Obama signed the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) which ensures that workers harmed by foreign trade have the best opportunity to acquire skills and credentials to get good jobs. The TAA program offers trade-affected workers the best opportunity to retrain and retool for the 21st century economy, ensuring that these workers enjoy quality employment and obtain a middle class standard of living.

The TAA program currently offers the following services to eligible workers: training; out-of-area job search and relocation allowances, weekly income support (Trade Readjustment Allowances (TRA)); and wage insurance for some older workers (Alternative/Reemployment Trade Adjustment Assistance (A/RTAA). In FY 2014, $604,367,111 was allocated to State Governments to fund these benefits and services. This included $306,268,000 for “Training and Other Activities,” which includes funds for training, job search allowances, relocation allowances, employment and case management services and related state administration; $260,345,111 for TRA benefits; and $37,754,000 for A/RTAA benefits.

For a worker to be eligible to apply for TAA, the worker must be part of a group of workers that is the subject of a petition filed with the U.S. Department of Labor (DOL). Three workers of a company, a company official, a union or other duly authorized representative, or the American Job Center operator or partner may file a petition with the DOL. In response to the filing, DOL conducts an investigation to determine whether foreign trade was an important cause of the workers’ job loss or threat of job loss. If the DOL determines that the workers meet the statutory criteria for group certification of eligibility for the workers in the firm to apply for TAA, DOL will issue a certification.

The DOL administers the TAA program through the Employment and Training Administration (ETA), with state governments administering TAA benefits on behalf of the United States for members of TAA-certified worker groups. Once covered by a certification, individual workers apply for benefits and services through the rebranded American Job Center network. American Job Centers can be located on the Internet at http://www.servicelocator.org, http://www.jobcenter.usa.gov, or by calling 1-877-US2-JOBS. Most benefits and services have specific individual eligibility criteria that must be met, such as previous work history, unemployment insurance eligibility, and individual skill levels.

In FY 2014, DOL issued 646 certifications compared to 1,025 certifications in FY 2013 and an estimated 67,738 workers were eligible for TAA benefits compared to 104,158 in FY 2013. The ETA received 972 petition filings in FY 2014 compared to 1,480 petitions filed in FY 2013.[31]

Trade Adjustment Assistance for Farmers

On October 12, 2011, the U.S. Congress passed the Trade Adjustment Assistance Extension Act of 2011, which reauthorized the TAA for Farmers Program through December 31, 2014. However, the U.S.

[31] Data collected from OTAA’s Management Information System (MIS) Trade Act Participant Report (TAPR), as of 12/16/2014.

Congress did not appropriate funding for new participants for FY 2014 or the first quarter of FY 2015. As a result, USDA did not accept any new petitions or applications for benefits in FY 2014 or the first quarter of FY 2015.

c. Assistance for Firms and Industries

The U.S. Economic Development Administration's (EDA) Trade Adjustment Assistance for Firms Program (the TAAF Program) is authorized by chapters 3 and 5 of title II of the Trade Act of 1974, as amended (19 U.S.C. § 2341 et seq.) (Trade Act). Public Law 93-618, as amended, provides for trade adjustment assistance for firms and industries (19 USC §§2341-2355; 2391). The Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) (FY 2015 Omnibus Appropriations Act) authorizes the TAAF Program through December 31, 2015.

The TAAF Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the program, a firm must show that an increase in imports of like or directly competitive articles contributed importantly to the decline in sales or production and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of the U.S. Department of Commerce is responsible for administering the TAAF Program and has delegated the statutory authority and responsibility under the Trade Act to the U.S. Department of Commerce's Economic Development Administration (EDA). The U.S. Economic Development Administration's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and may be accessed at http://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-28806.pdf.

In Fiscal Year (FY) 2014, EDA awarded a total of $15 million in TAAF Program funds to its national network of 11 Trade Adjustment Assistance Centers, each of which is assigned a different geographic service area. During FY 2014, EDA certified 105 petitions for eligibility and approved 107 adjustment proposals.

Additional information on the TAAF Program, including eligibility criteria and application process, is available at http://www.eda.gov/about/investment-programs.htm.

8. United States Preference Programs

Overview[32]

The United States has a number of programs designed to encourage economic development in lower income countries by offering nonreciprocal reduced duty and preferential duty-free U.S. market access to imports from countries covered by these programs. Individual countries may be covered by more than one preferential market access program. In such countries, exporters may choose among programs when seeking preferential access to the U.S. market. U.S. imports benefiting from preferential access under these programs totaled an estimated $32.5 billion during 2014, down 33 percent from 2013. This compares to an overall 3.2 percent increase in total U.S. goods imports for consumption from the world over the same period. The decrease was largely due to a 52 percent decline ($13.0 billion) in the value of U.S. imports under AGOA (excluding GSP) due mainly in a decline in U.S. mineral fuel imports (mostly oil) (down 58 percent/$12.3 billion). Also there was a $2.6 billion decline in U.S. imports under the Andean Trade Preference Act (ATPA) because the ATPA expired on July 31, 2013, and as such there were no imports after that date.

[32] Although GSP authorization expired July 31, 2013, this section still includes GSP products if retroactive authorization is enacted.

As a share of total U.S. goods imports for consumption, imports under nonreciprocal preference programs decreased from 2.2 percent in 2013 to 1.4 percent in 2014. Again, the decrease would appear to be attributable largely to the decline in AGOA (excluding GSP) imports. Each program's respective share of total U.S. preferential imports in 2014 was as follows: GSP, 57 percent; AGOA (excluding GSP), 37 percent; Caribbean Basin Initiative (CBI), 4 percent; and Caribbean Basin Trade and Partnership Act (CBTPA); 2 percent. Trade under each program (AGOA, GSP, and CBI/CBTPA) decreased in 2014. See the sections below for more information on developments related to specific preference programs.

Generalized System of Preferences

History and Purposes

The U.S. Generalized System of Preferences (GSP) program was established by the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.). Authorization for the program expired on July 31, 2013. The Obama Administration continues to support reauthorization of the program by Congress at the earliest opportunity.

The GSP program is designed to promote economic growth in the developing world by providing preferential duty-free entry for a wide range of products imported from designated beneficiary countries and territories. An underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and an important means of sustaining momentum for economic reform and liberalization in these countries. The GSP program also helps to lower the cost of imported goods for U.S. consumers and businesses, including inputs used to manufacture goods in the United States.

Beneficiaries

Through various mechanisms, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) take steps to afford workers' internationally recognized worker rights; and (3) provide adequate and effective intellectual property rights protection and enforcement. U.S. industry has noted that a country's participation in the GSP program helps to promote a business and investment environment that benefits U.S. investors as well as the beneficiary countries.

As of January 1, 2015, there were 122 designated GSP beneficiary developing countries (BDCs) and territories, including 43 countries and territories that are "least-developed" beneficiary developing countries (LDBDCs), which are eligible for a broader range of duty-free benefits.

On May 7, 2014, the President notified Congress and the government of Russia of his intent to remove Russia from eligibility for GSP benefits based on a determination that Russia is sufficiently advanced in economic development and improved in trade competitiveness that continued preferential treatment under GSP is not warranted. The GSP statute requires that the President notify Congress and the subject beneficiary country at least 60 days in advance of the termination of a GSP beneficiary country's eligibility for GSP benefits. The President subsequently removed Russia from GSP eligibility by Presidential Proclamation on October 3, 2014.

Eligible Products

When the GSP program expired on July 31, 2013, approximately 5,000 products were eligible for duty-free treatment under GSP, with nearly 1,500 products reserved for LDBDCs only. The list of GSP-eligible products from all beneficiaries includes most dutiable manufactures and semi-manufactures; selected agricultural and fishery products; and many types of chemicals, minerals, and building materials that are not otherwise duty-free. The GSP statute precludes certain import-sensitive articles from receiving GSP treatment, including most textiles and apparel; watches; most footwear, handbags, and luggage; and some gloves and leather products. The products that receive preferential market access only when imported from LDBDCs include crude petroleum, certain refined petroleum products, certain chemicals, plastics, animal and plant products, prepared foods, beverages, rum, and tobacco products, as well as many other products.

Although GSP benefits for textiles and apparel are limited, certain handmade folkloric products are among the textile products eligible for GSP treatment. Currently, the United States has agreements providing for certification and GSP eligibility of certain handmade, folkloric products with the following BDCs: Afghanistan, Botswana, Cambodia, Egypt, Jordan, Mongolia, Nepal, Pakistan, Paraguay, Thailand, Timor-Leste, Tunisia, Turkey, and Uruguay.

Annual Reviews

The GSP Annual Review provides an opportunity to add or remove countries and/or products from eligibility under GSP based on petitions submitted by stakeholders and taking into account shifting market conditions (with respect to products) and concerns about individual beneficiaries' conformity with the statutory criteria for eligibility.

In view of the July 31, 2013 expiration of GSP's authorization, the 2013 Annual Review, launched shortly prior to GSP's expiration, was suspended. Product and country practice petitions submitted for the 2013 review will be considered, as appropriate, once GSP is reauthorized.

In 2014, USTR and the interagency GSP Subcommittee of the Trade Policy Staff Committee (TPSC) continued to engage with stakeholders involved in ongoing country practice reviews initiated in previous years. For example, USTR continued to engage closely with the government of Bangladesh and others on the worker rights and worker safety issues that led to the President's June 2013 decision to suspend Bangladesh from eligibility for trade benefits under GSP. In January 2015, USTR announced that the most recent interagency review of Bangladesh's efforts to address these issues found significant progress in several areas, including union registrations and factory inspections, but concluded that more improvements are needed to the legal framework for worker rights and the handling of unfair labor practices cases.

Other outstanding country practice petitions that remained under review at year's end include petitions on Indonesia, Ukraine, and Uzbekistan with respect to IPR protection; on Fiji, Georgia, and Iraq with respect to worker rights; on Niger and Uzbekistan with respect to concerns regarding forced or child labor; and on Ecuador with respect to enforcement of arbitral awards. In April 2014, following progress by the government of Philippines on worker rights issues, the Administration announced its intent to close the GSP review of worker rights in the Philippines without change to Philippines' benefits under GSP. For a complete list of the country practice petitions that remained under review as of December 2014, go to https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp/current-review-0. Country eligibility reviews for Burma and Laos launched in 2013 also remained pending at the end of 2014.

The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), enacted in 2000, is a key element of U.S. economic policy in and engagement with Africa, providing eligible sub-Saharan African countries with duty-free access to the U.S. market for over 1,800 products beyond those eligible under the GSP program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2014, 41 sub-Saharan African countries were eligible for AGOA benefits. For more information see https://ustr.gov/about-us/policy-offices/press-office/press-

releases/2013/December/Mali-Eligible-for-Trade-Benefits-Under-AGOA.
http://www.whitehouse.gov/the-press-office/2014/06/26/presidential-proclamation-agoa. (President Obama reinstates Madagascar Fact Sheet).

AGOA Eligibility Review

AGOA requires the President to determine annually which of the sub-Saharan African countries listed in the Act are eligible to receive benefits under the legislation. These decisions are supported by an annual interagency review, chaired by USTR, that examines whether each country already eligible for AGOA has continued to meet the eligibility criteria, and whether circumstances in ineligible countries have improved sufficiently to warrant their designation as an AGOA beneficiary country. The AGOA eligibility criteria include, among others, establishing or making continual progress in establishing a market-based economy, rule of law, poverty-reduction policies, a system to combat corruption and bribery, and protection of internationally recognized worker rights. AGOA also requires that eligible countries do not engage in activities that undermine U.S. national security or foreign policy interests, or engage in gross violations of international human rights. The annual review takes into account information drawn from U.S. Government agencies, the private sector, civil society, and prospective beneficiary governments. Through the AGOA eligibility review process, the annual AGOA Forum meeting (see below), and ongoing dialogue with AGOA partners, AGOA provides incentives to promote economic and political reform as well as trade expansion in AGOA-eligible countries. A special mid-term review of two countries resulted in President Obama reinstating The Republic of Madagascar, which in 2013 installed a democratically elected president following a coup that occurred in 2009. The midterm review also resulted in the withdrawal of The Kingdom of Swaziland as an AGOA beneficiary, effective January 1, 2015, in consideration of its lack of progress on eligibility criteria related to worker rights. The regular annual review in 2014 resulted in Guinea Bissau's being declared eligible for AGOA and the withdrawal of eligibility of both Gambia and South Sudan for human rights, governance, and rule of law issues.

AGOA Forum

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as the "AGOA Forum," is an annual ministerial-level meeting with AGOA-eligible countries. At the August 2014 AGOA Forum in Washington, D.C., U.S. Trade Representative Ambassador Michael Froman and senior officials from more than a dozen U.S. Government agencies met with numerous African trade ministers, leaders of African regional economic organizations, and representatives of the African and American private sectors and civil society to discuss issues and strategies for advancing trade, investment, and economic development in Africa as well as ways to increase two-way U.S.-African trade. During his remarks to Forum delegates, Ambassador Froman shared the results of the comprehensive review of the AGOA program, launched in 2013, and shared the Administration's proposals on ways to improve and modernize AGOA. Among the findings of the review, one of the central conclusions was that to unlock AGOA's potential it must be linked to a broader, comprehensive, coordinated trade and development strategy. To address this, an August 4, 2014 Presidential Memorandum established a Trade and Investment Capacity Building Steering Group to identify priority countries, regions, and sectors for targeted and coordinated assistance by U.S. Government agencies. The goal of this assistance is to increase African exports regionally as well as to the United States, including under AGOA. The Steering Group is to provide recommendations to the President. Other findings of the AGOA review informed the Administration's discussions with the U.S. Congress regarding the extension and modernization of the program.

Caribbean Basin Initiative and HOPE II

The Caribbean Basin Initiative (CBI) is the term used to describe a collection of legislation that offers duty-relief for Caribbean imports into the United States, providing Caribbean products with a tariff advantage over other competing producers from developed countries with which the United States does not have such tariff preference programs. During 2014, the Caribbean Basin Economic Recovery Act (CBERA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA) trade programs, collectively known as the CBI, remained a vital element in the United States' economic relations with its neighbors in Central America and the Caribbean.

At present, 17 countries and territories receive benefits under the program: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Curaçao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

Countries which have bilateral trade agreements with the United States cease to be designated as eligible under CBERA or CBTPA. For example, when CAFTA-DR went into force for Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, each country ceased to be designated as a CBERA and CBTPA beneficiary. The same occurred in the case of Panama when the United States-Panama Trade Promotion Agreement entered into force on October 31, 2012.

Since its inception, the CBERA program has helped beneficiary countries diversify their exports. On a region-wide basis, this export diversification has led to a more balanced production and export base and has reduced the region's vulnerability to fluctuations in markets for traditional products. In conjunction with economic reform and trade liberalization by these countries, the trade benefits of CBERA have contributed to their economic growth. In December 2013, USTR submitted its most recent biannual report to the U.S. Congress on the operation of the CBERA. The report can be found on the USTR website, http://www.ustr.gov/sites/default/files/CBERA%20Report%20Final.pdf.

The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II) affords preferential treatment for imports of apparel, textiles, and certain other goods from Haiti. To be eligible for preferential treatment under HOPE II, Haiti (i) implemented the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR**)** program (*see* http://www.ustr.gov/sites/default/files/06182014%20USTR%20Report%20Haiti%20HOPE%20II%202014.pdf); (ii) established a Labor Ombudsperson's Office; (iii) agreed to require producers of articles for which preferential tariff treatment may be requested to participate in the TAICNAR program; and (iv) developed a system to ensure participation by such producers, including by establishing a producer registry.

The U.S. Government has continued to work closely with the government of Haiti and other national and international stakeholders to promote the viability of Haiti's apparel sector, to facilitate producer compliance with labor-related eligibility criteria under HOPE II, and to ensure full implementation of the TAICNAR program in accordance with the provisions of HOPE II.