

# IV. OTHER TRADE ACTIVITIES

## A. Trade and the Environment

The Administration has enhanced work on environment and trade matters across multiple fronts, including through multilateral, regional, and bilateral trade initiatives. On the multilateral front, the United States has continued to be a global leader in seeking to discipline harmful fisheries subsidies and eliminate barriers to trade in environmental technologies and services, including clean energy technologies, through the WTO as part of the Doha Development Agenda (DDA) negotiations. During the course of 2010, the Administration continued to prioritize implementation of the free trade agreements currently in force. Additionally, the Administration advanced its cooperative efforts with key trading partners to address illegal logging and associated trade. The Administration also continues to advance cooperative work on environmental goods and services and other trade and environment priorities in APEC and with other like-minded countries. In keeping with the increased integration of environmental considerations across multiple multilateral, regional, and bilateral fronts, this report includes a detailed assessment of recent developments on trade and environment in specific sections devoted to these various fora.

### 1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States is active on all aspects of the DDA trade and environment agenda. In particular, the United States has worked closely with other countries to explore approaches for taking early action to liberalize trade in climate-friendly technologies in order to build momentum for broader DDA negotiations on environmental goods and services and to facilitate concrete action on the trade and climate change front. In the Rules Negotiating Group, the United States continues to lead in pressing for stronger disciplines on fisheries subsidies that contribute significantly to global overcapacity and overfishing. The Administration also has sought to orient activities in the OECD Joint Working Party on Trade and Environment to focus on value-added contributions to ongoing WTO work, as well as strong analytical research on the interface between trade and climate change policies.

USTR continues to participate in formulating and carrying out U.S. policy regarding various multilateral environmental agreements (MEA) to enhance compatibility between those activities and U.S. trade policy. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Commission for the Conservation of Atlantic Tuna (ICCAT), International Maritime Organization (IMO) conventions, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. USTR also participates in ongoing MEA negotiations, such as the United Nations Environment Program (UNEP) negotiations to develop a legally binding agreement on mercury, and the United Nations Framework Convention on Climate Change (UNFCCC) negotiations. At the UNFCCC Conference of the Parties in Cancun, Mexico, USTR, together with other U.S. agencies, worked closely with other countries to ensure that plans for long-term cooperative actions to combat climate change are consistent with existing international commitments on trade, including the protection of intellectual property rights, and that the United States maintains a full range of WTO-consistent options for addressing climate change.

USTR has been particularly active in two international commodity agreements to identify and pursue opportunities to facilitate increased international trade and sustainable development. In the International

Tropical Timber Organization (ITTO), USTR has led Administration efforts to promote increased market transparency and provide support for capacity building projects to facilitate tropical timber trade in the context of sustainable management of tropical forests. In the International Coffee Organization (ICO), USTR has led Administration efforts to revitalize this organization, particularly to strengthen the ICO's role in developing and implementing capacity building projects and in promoting the development and dissemination of innovations and best practices, such as in the area of finance.

## **2. Bilateral and Regional Activities**

The environment chapters of the trade agreements with Peru, Colombia, Panama, and Korea include obligations to implement and enforce provisions in a number of multilateral environmental agreements, such as those covering trade in endangered species, conservation of marine resources, and wetlands protection. In addition, the environment chapter in the Peru Trade Promotion Agreement includes an annex on forest sector governance that has enhanced Peru's management of its biodiversity-rich tropical forest resources. The individual FTA sections of this report provide detailed descriptions of the specific activities under each environment chapter during the last year with particular emphasis on enhanced bilateral and regional engagement to monitor implementation of FTA environmental provisions.

The Administration was very active in 2010 in building on initiatives to address illegal logging and associated trade. USTR, joined by the State Department, led a broadly representative interagency delegation to the U.S.-hosted third meeting of the Bilateral Forum under a 2008 Memorandum of Understanding (MOU) between the United States and China on combating illegal logging and associated trade. This MOU establishes a framework for bilateral cooperation on combating illegal logging and associated trade, particularly with respect to goods traded by either country. As a result of this meeting, the United States and China agreed to expand their regular exchange of trade data for forest products and to continue efforts to provide opportunities for public-private cooperation in promoting transparency and trade in legally-harvested forest products.

USTR also chairs a Working Group on Combating Illegal Logging and Associated Trade under the United States-Indonesia Trade and Investment Framework Agreement. The Working Group was created by a first of its kind MOU with Indonesia that was concluded in 2006. During the course of a meeting in Seattle, Washington in July 2010, the United States and Indonesia considered a joint public report of the Working Group, the exchange of information on bilateral timber trade, and CITES implementation related to forest products. Additionally, USTR led a multi-agency workshop on amendments to the Lacey Act with participation by the Indonesian government, private sector, and civil society groups.

In 2010 the Administration expanded the Asia-Pacific Regional Dialogue to Promote Trade in Legally-Harvested Forest Products, an initiative started in 2009. The Regional Dialogue builds on the bilateral agreements with China and Indonesia and reflects recognition that regional cooperation is essential in addressing the trade-related aspects of the issue of illegal logging. The first meeting of the Regional Dialogue, co-chaired by the United States and Indonesia, took place in September 2009 in Jakarta and included participation by trade and forestry officials from Australia, Brunei, Malaysia, Papua New Guinea, Singapore, the Solomon Islands, and Vietnam. The United States hosted the second meeting of the Regional Dialogue in July 2010; countries participating included the United States, Indonesia, Australia, Cambodia, China, Japan, Laos, Malaysia, Papua New Guinea, New Zealand, Philippines, Singapore, Solomon Islands, Thailand and Vietnam. At both meetings, the participating governments exchanged information, described their respective efforts and explored collaborative approaches to promoting legal trade and combating illegal trade in forest products. The Regional Dialogue illustrates the Administration's commitment to finding effective and creative solutions to trade-related environmental challenges.

This past year, APEC Leaders recognized the importance of cooperative work on key trade and environment issues, including enhancing cooperation on illegal logging and associated trade, and increasing the dissemination and utilization of environmental goods and services. In 2011 the United States will host APEC, and the Administration will take the lead in advancing cooperative action in these important areas.

### **3. The North American Free Trade Agreement (NAFTA)**

The Administration continues to work closely with Canada and Mexico to ensure that trade and environment policies in each of the three countries are implemented in a manner that is mutually supportive. In 2010, USTR led efforts to improve cooperation between the NAFTA Free Trade Commission (FTC) and the Commission for Environmental Cooperation (CEC) on these issues. These efforts included the *ad hoc* working group of senior trade officials exploring ways to contribute to and learn from CEC projects, including the project “Trade Flows in North American Used Electronics”. The *ad hoc* working group has provided valuable input into the negotiations on changes to the rules of origin for environmental goods. At its January 2011 meeting, the NAFTA Free Trade Commission agreed on a fourth set of changes to the rules of origin, which includes changes to a group of environmental goods whose annual trilateral trade is approximately \$6 billion. The *ad hoc* working group will continue to develop additional initiatives on trade and the environment during 2011. USTR continues to work actively with EPA and other agencies in representing the United States in addressing North American trade and environmental issues, including under the NAFTA environmental side agreement—the North American Agreement on Environmental Cooperation (NAAEC)—and the border environmental infrastructure agreements. These agreements were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement.

At its 2010 annual meeting, the CEC Council considered the proposed Strategic Plan for 2010–2015 to guide the CEC’s work over the next five years. The proposed Strategic Plan focuses on three priorities for the work of the CEC during the period 2010-2015: healthy communities and ecosystems; climate change and a low carbon economy; and greening the economy in North America. The Council also met with and obtained input from the public on various aspects of the CEC’s program including its trade and environment component. USTR is working actively with EPA and other agencies on projects to deliver on these priorities.

## **B. Trade and Labor**

The Administration’s trade policy agenda includes a strong commitment to ensuring that workers and their families in America and around the world benefit from trade. The Administration has continued its efforts to enhance U.S. Government engagement with trade partners to improve respect for labor rights and to increase monitoring and enforcement of free trade agreement (FTA) labor provisions. In 2010, the Administration invoked consultation provisions with respect to FTA labor rights obligations for the first time. In doing so, the Administration made clear that FTA labor obligations will be treated the same as commercial obligations and that the United States will expect our trading partners to meet their obligations on labor. Efforts to enhance engagement also included the holding of formal Labor Affairs Council and labor subcommittee meetings called for under the FTAs, as well as placing labor issues on the agendas of broader FTA free trade commission meetings. Additionally, the Administration continued efforts to increase monitoring of adherence to the worker rights provisions in U.S. trade preference programs and dialogue on labor rights with key trading partners.

To assist workers who have been adversely affected by imports and jobs being moved overseas, President Obama signed into law the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), as part of the American Recovery and Reinvestment Act of 2009. The TGAAA reauthorized Trade Adjustment Assistance (TAA) programs; expanded TAA coverage to more workers and firms, including workers and firms in the service sectors; made benefits available to workers whose jobs have been sent “off-shore” to another country (as opposed to covering a more limited set of shifts in production); improved workers’ training options; and increased the affordability of health insurance coverage. In FY 2010, the U.S. Department of Labor (DOL) certified 280,873 workers to receive TAA benefits, nearly double the number certified in previous years, and including 155,000 workers under the expanded coverage. Also in FY 2010, DOL allocated \$975,320,800 in TAA benefits to state governments, including training funds, job search support, and income support payments for workers. The TGAAA lapsed on February 12, 2011. *(For additional information, see Chapter V.B.7.)*

## **1. Multilateral and Regional Fora**

In the Ministerial Declaration adopted during the WTO Ministerial Conference in Singapore (1996), and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), the WTO Members renewed their commitment to the observance of internationally recognized core labor standards and took note of collaboration between the WTO and ILO Secretariats. In 2010, the WTO and the ILO continued their collaboration on issues of common interest with work on a joint book project on *Making Globalization Socially Sustainable*. The publication aims, through writings of academic experts, to analyze the various channels through which globalization affects jobs and wages in developed and developing countries and is targeted for publication in October 2011. *(For additional information, visit [http://www.wto.org/english/res\\_e/publications\\_e/ilo\\_wto\\_e.htm](http://www.wto.org/english/res_e/publications_e/ilo_wto_e.htm))*

The Administration has continued to promote the discussion of labor rights as one of the topics relevant to the effort to strengthen economic integration and to build high quality trade agreements in the Asia-Pacific region. As Asia Pacific Economic Cooperation (APEC) host for 2011, the United States will promote respect for labor rights as part of enhanced trade relationships among APEC economies. *(For additional information on APEC, see Chapter III.B.3)*

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere’s labor ministers, held approximately every two years under the auspices of the Organization of American States to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by heads of state in the Summit of the Americas process. *(For additional information on the IACML, visit [http://www.sedi.oas.org/ddse/english/cpo\\_trab.asp](http://www.sedi.oas.org/ddse/english/cpo_trab.asp))*

At the Sixteenth IACML, held in Buenos Aires, Argentina in October 2009, labor ministers unanimously adopted a Declaration that reaffirmed their obligations as members of the ILO and commitments to promote, respect, and realize principles with respect to the fundamental labor rights contained in the 1998 *ILO Declaration on Fundamental Principles and Rights at Work*. Labor ministers recognized the positive contribution of trade to the promotion of growth, employment, and development and committed to continue to analyze the labor dimension of free trade agreements. The ministers also endorsed a Plan of Action that, among other things, established a working group chaired by the United States on “decent work to face the global economic crisis with social justice for a fair globalization.” The working group’s responsibilities include addressing the social dimension of globalization, regional integration processes, and free trade agreements. In support of the Plan of Action in 2010, the IACML held a workshop on the *Labor Dimension of Globalization and Free Trade Agreements: Impacts and Labor Provisions* at which 26 OAS member governments and the European Union discussed the growing interdependence of

economies and labor markets and the increasingly common inclusion of labor provisions in trade agreements. *(For additional information, visit [http://www.sedi.oas.org/ddse/english/cpo\\_rial\\_globalizacion.asp](http://www.sedi.oas.org/ddse/english/cpo_rial_globalizacion.asp))*

## **2. Bilateral Agreements and Preference Programs**

### **a. FTAs**

U.S. FTAs contain obligations concerning the consistency of each party's labor laws with international standards (with recent FTAs obligating each party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*), not to fail to effectively enforce its labor laws, and not to waive or derogate from those laws in a manner affecting trade or investment. Additionally, the labor provisions obligate each party to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter and create labor cooperation and capacity building mechanisms through which the parties will work together to enhance opportunities to improve labor standards. The Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor, in consultation with USTR, serves as the contact point for purposes of administering responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation (NAALC), including the labor cooperation mechanisms. *(For additional information on OTLA and its procedures, visit: <http://www.dol.gov/ILAB/programs/otla/index.htm> and <http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>)*

USTR and DOL engage our FTA partners on labor issues as part of our ongoing dialogue on monitoring implementation of our agreements. As part of increased engagement in 2010, Labor Affairs Council and labor subcommittee meetings, as provided for under the FTAs, were held with several FTA partners, including first-time meetings with Peru, Morocco, and Bahrain. *(For additional information, see Chapter III.A)*

In 2010, the Administration continued to work closely with the governments of Colombia and Panama to address outstanding labor concerns relating to those two countries. With respect to Colombia, the Administration worked to secure progress and a path forward on labor-related concerns. This consisted of engaging the government of Colombia on efforts to ensure that Colombia's labor law meets international standards and to address violence against trade unionists, including initiatives to bring the perpetrators to justice. With respect to Panama, the Administration worked with that government to develop a strong package of labor reforms intended to clarify the application of labor law in Panama and the means for workers to assert their rights under the law. In 2010, Panama issued a ministerial resolution to provide labor law protections for maritime workers and two executive decrees to address concerns related to collective negotiations with nonunionized workers and strike restrictions in the transportation sector. The Administration continues to work with Panama to implement these reforms.

In July 2010, the United States requested consultations with the government of Guatemala under the CAFTA-DR for failure to enforce its labor laws. This is the first time the United States has requested consultations on a labor matter under an FTA. *(For additional information see Chapter III.A.3 and visit <http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>)*

## **b. Other Bilateral Agreements and Preference Programs**

President Obama certified to Congress in October 2009 that Haiti met the necessary requirements to continue duty-free treatment for certain Haitian-made apparel and other articles under the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II). Pursuant to the requirements of the HOPE II, Haiti established an independent labor ombudsman's office and a Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program which is implemented through an ILO Better Work program. The TAICNAR program assesses compliance with core labor rights and provides a mechanism to ensure that producers that wish to be eligible for duty-free treatment participate in the Better Work program. Significant progress has been made in implementing the TAICNAR program, including the provision of factory assessments and remediation assistance for all companies that produce HOPE II-eligible apparel. USTR continues to work closely with the government of Haiti and the ILO on implementation of the program. *(For additional information, view the 2010 USTR Annual Report on the Implementation of the TAICNAR program at <http://www.ustr.gov/sites/default/files/Hope%20II%20Report.PDF>)*

U.S. trade preference programs, including the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act (CBTPA), and the Generalized System of Preferences (GSP), require the application of statutory eligibility criteria pertaining to worker rights. In 2010, the Administration accepted for review a GSP worker rights-related petition concerning Sri Lanka. Four other previously accepted worker rights-related petitions remained under review as part of the 2010 GSP Annual Review process, three of which were filed in 2007 (Bangladesh, the Philippines, and Uzbekistan) and one of which was filed in 2006 (Niger). USTR and other U.S. Government officials engaged with these governments through U.S. embassies in those countries, their embassies in Washington, D.C., and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions. Although GSP expired on December 31, 2010, the review of whether these countries are meeting the GSP worker rights criteria will continue throughout 2011 while Congress considers possible reauthorization legislation. An ATPA petition concerning worker rights in Ecuador was filed in 2005 and review of practices in that country continued in 2010. Additionally, the Administration continues to consider whether to accept for review a GSP worker rights-related petition filed in 2008 concerning Iraq.

The United States and China committed to a dialogue on labor issues in 2009 during the first United States-China Strategic and Economic Dialogue (S&ED). The first meeting of the labor dialogue took place in Beijing, China in May 2010 at which government representatives discussed various labor rights issues including minimum wage standards, labor law enforcement, negotiation of individual and collective contracts, and private pension plans. During the 2010 S&ED, the United States and China agreed to continue the labor dialogue, and the United States will host the next meeting in 2011.

USTR continued to seek progress by the government of Vietnam on providing freedom of association and collective bargaining rights in conformity with internationally recognized standards, in particular the worker rights requirements of the GSP.<sup>26</sup> In conjunction with these efforts, the United States and Vietnam held a Labor Dialogue in Hanoi in September 2010 at which officials from Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA) and the Administration discussed Vietnam's labor reform efforts.

Also in 2010, the United States engaged with several other countries on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. Most notably, the United States discussed worker

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<sup>26</sup> Vietnam is seeking designation as a GSP beneficiary country.

rights issues during TIFA meetings with Pakistan and Ghana in April 2010, Uruguay and Sri Lanka in October 2010, and Afghanistan in November 2010.

In addition, in March 2010, the United States and India signed a Framework for Cooperation on Trade and Investment under the United States-India Trade Policy Forum. The Framework contains commitments to promote respect for labor rights and to engage in discussions on trade and labor issues as part of an ongoing dialogue. Also, the United States and Libya concluded a TIFA in May 2010 that recognizes the importance of enforcing worker rights under domestic labor laws and improving the observance of international labor rights.

## **C. Small and Medium-Sized Business Initiative**

In October 2009, Ambassador Ron Kirk announced a new USTR initiative aimed at increasing exports by U.S. small and medium-sized enterprises (SMEs). Under this initiative, USTR is working to ensure USTR reflects in its trade policy and enforcement activities the specific export challenges and priorities of small and medium-sized businesses and their workers. This agency effort also supports the goals of the Obama Administration's National Export Initiative to double exports within five years in order to support millions of U.S. jobs and its priority attention to expanding SME exports.

U.S. small businesses are key engines for our economic growth, jobs, and innovation. SMEs that export tend to grow faster, add jobs faster, and pay higher wages than SMEs that serve purely domestic markets. New studies by the U.S. International Trade Commission (USITC) requested by USTR reveal that SMEs play a larger role in the export economy than is suggested by traditional trade statistics, with direct and indirect exports by U.S. SMEs supporting about four million jobs in the United States while accounting for over 40 percent of the total value of U.S. exports of goods and services. There are some 30 million SMEs in the United States, but currently, only a small fraction of these companies export goods or services, and most export only one product or service to one foreign country. USTR is working to further unleash this export potential of American small businesses.

USTR is focused on making trade work to the benefit of small businesses, helping them increase their sales to customers abroad and thus create jobs at home. USTR does this by negotiating with foreign governments to open their markets and reduce trade barriers and enforcing our existing trade agreements to ensure a level playing field for American workers and businesses of all sizes. Agency-wide, USTR is working to better integrate specific SME issues and priorities into our trade policy development and implementation, increase our outreach to small businesses around the country, and expand our collaboration and coordination with our interagency colleagues.

In 2010, USTR undertook several significant actions to support its SME objectives.

### **1. New AUSTR Designated for Small Business, Market Access, and Industrial Competitiveness**

On January 21, 2010, Ambassador Ron Kirk designated an Assistant United States Trade Representative (AUSTR) for Small Business, Market Access, and Industrial Competitiveness. This new attention to small business issues enhances our work on market access and industrial competitiveness issues, helps us better coordinate our SME activities across the agency and interagency, and provides a USTR contact point for small businesses.

On an interagency basis, USTR's Small Business, Market Access and Industrial Competitiveness office participates in the Trade Promotion Coordinating Committee's Small Business Working Group, collaborating with agencies including the Department of Commerce, Small Business Administration, Export-Import Bank, Department of Agriculture and others across the government to promote small business exports, and connect SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements.

## **2. U.S. Small Business Administration Added to Trade Policy Interagency Process**

To better reflect small business interests in our interagency trade policy process, USTR formally invited the Small Business Administration to participate in the USTR-led Trade Policy Staff Committee process for developing U.S. trade policy across issue areas.

## **3. USTR-requested ITC Studies on SMEs**

As part of USTR's Small Business Initiative, Ambassador Kirk requested the independent USITC to prepare three studies analyzing the performance of SMEs in generating U.S. exports and employment. The first report, released in January 2010, described the characteristics of U.S. SMEs and the role they play in U.S. exports that support jobs for American workers. The second report, published in July 2010, analyzed impediments to trade of U.S. SMEs and compared exporting activities of U.S. SMEs with SMEs in the European Union. The USITC's third report, issued in November 2010, examined the export performance of U.S. companies engaged in manufacturing, distribution, and services and identified trade barriers that disproportionately affect SME export performance. The final report also analyzed new data sets for the first time to examine the performance of U.S. SME services firms.

These reports provide new insights into American SME performance and are helping to inform U.S. trade policy of the particular trade opportunities, challenges, and priorities facing our SMEs. This information is guiding our ongoing policy work, so USTR can better match its existing policy tools to address the specific trade barriers that disproportionately impact SMEs (e.g., burdensome customs procedures, complex or non-transparent foreign regulations, high tariffs, insufficient intellectual property protection). These three USITC reports are available on USTR's website (<http://www.ustr.gov>).

## **4. USTR's SME Outreach and Consultations**

Ambassador Kirk and senior USTR staff actively participated in numerous events around the country to hear directly from local small businesses, workers, and other stakeholders about the trade opportunities and challenges they face. Ambassador Kirk's meetings with SME exporters and community leaders to discuss the potential to grow their exports and take advantage of market openings abroad is highlighted on USTR's website and blog. The updated Small Business section of the website also includes helpful links, fact sheets and resources for SMEs. On an interagency basis, USTR is working with the TPCC to improve trade information relevant for SMEs and highlight interagency programs to assist SMEs with their individual export needs on the government's one-stop export platform (<http://www.export.gov>).

USTR staff consult with the Industry Trade Advisory Committee (ITAC) for Small and Minority Business to seek its advice and input on U.S. trade policy negotiations and initiatives and meet frequently with individual SMEs and associations representing SME members on specific issues.



## 5. USTR SME-Related Trade Policy Activities

Under the SME initiative, USTR's small business office and geographic and functional offices are developing ideas and advancing efforts to enhance activities that could benefit SMEs. Several key aspects of USTR's trade policy agenda have particular potential to help SMEs boost exports. These include enhancing trade facilitation work, strengthening and enforcing intellectual property rights, and targeting services barriers that are especially difficult for SMEs, such as requirements for staffing an office in each country to which companies wish to export. USTR is also exploring ways to simplify government procurement rules. Tariff barriers, burdensome customs procedures, discriminatory or arbitrary standards, and lack of transparency relating to relevant regulations in foreign markets present particular challenges for our SMEs in selling abroad.

The ability to address SME concerns through the fact finding and consultation mechanisms built into our bilateral and regional trade agreements and dialogues is an important asset for USTR. For example:

- As USTR moves forward with negotiations to expand U.S. trade in the Asia-Pacific through the Trans-Pacific Partnership, USTR has designated a point person for SME issues, and USTR will consistently emphasize the needs of smaller businesses in order to help them participate more actively in Asia-Pacific trade and address trade barriers that affect SME access to these foreign markets.
- Under APEC's core agenda of trade and investment liberalization and facilitation, USTR is continuing to focus on concrete actions to make it cheaper, easier, and faster for U.S. businesses, and in particular for SMEs, to trade in the region. In 2011, when the United States hosts APEC, USTR will be looking to increase activities in APEC that will help SMEs by seeking to rationalize complex and divergent trade rules and reduce trade transaction costs.
- USTR is seeking to establish, where appropriate, free trade agreement (FTA) working groups on small and medium-sized enterprises to facilitate expanded SME trade opportunities under our FTAs and develop SME-related activities with our FTA partners.
- USTR is also utilizing trade fora such as FTAs, the NAFTA, the U.S. India Trade Policy Forum, the Transatlantic Economic Council, and others to address SME opportunities and challenges on a regional basis with our trading partners.

## D. Anti-Counterfeiting Trade Agreement

In 2010, USTR with the support of other U.S. agencies and partner countries representing more than half of global merchandise trade finalized the text of the Anti-Counterfeiting Trade Agreement (ACTA). The agreement is an important new tool to fight the global growth in counterfeiting and piracy, which threatens jobs that depend on innovation, including those in the United States.

The ACTA was concluded successfully in November 2010. The ACTA will be open for signature by the participating countries beginning in 2011. In December 2010, USTR published a notice in the *Federal Register* seeking public comments in connection with consideration of U.S. signature of the agreement, the final text of which is available at <http://www.ustr.gov/acta>.

The ACTA effort, launched in October 2007, brings together a number of countries that are prepared to embrace strong intellectual property rights (IPR) enforcement through a new agreement calling for cooperation, strong enforcement practices, and a strong legal framework for IPR enforcement.

Participants included Australia, Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and Switzerland.

Consistent with the Obama Administration's emphasis on intellectual property enforcement, the ACTA intensifies efforts against the global proliferation of commercial-scale counterfeiting and piracy in the 21st century. The agreement includes innovative provisions to deepen international cooperation, promote strong enforcement practices, and ultimately help sustain American jobs in innovative and creative industries.

Some of the ACTA's key features include commitments to:

- support and enhance approaches to criminal enforcement through stronger requirements for criminal remedies, by highlighting the importance of combating unlawful camcording in theaters, and by emphasizing the seizure and destruction of fake goods, the seizure of the equipment and materials used in their manufacture, and the recovery of criminal proceeds;
- combat internet piracy through a balanced framework that addresses the widespread distribution of pirated copyrighted works while preserving fundamental principles such as freedom of expression, fair process, and privacy;
- provide customs authorities with the ability to act against import and export shipments as well as to cooperate on in-transit shipments;
- strengthen civil enforcement provisions dealing with damages, provisional measures, recovery of costs and attorneys' fees, and destruction of infringing goods;
- create cooperation and information-sharing mechanisms among ACTA Parties to assist in enforcement efforts; and
- promote strong enforcement practices that lead to the meaningful implementation of laws on the books.

## **E. Import Food Safety**

On March 14, 2009, President Obama announced the creation of the Food Safety Working Group to advise him on how to strengthen the U.S. food safety system. The Working Group, chaired by the Secretaries of the Department of Health and Human Services and the Department of Agriculture, brings together cabinet secretaries and senior officials to foster coordination throughout the federal government on a new, public health focused, approach to food safety based on three core principles: (1) prioritizing prevention; (2) strengthening surveillance and enforcement; and (3) improving response and recovery. USTR has been an active member of the Food Safety Working Group providing guidance on various recommendations and initiatives while ensuring compliance with international trade obligations.

Since its creation, the Food Safety Working Group has served as a mechanism to address cross-cutting food safety issues. In July 2009, the Food Safety Working Group announced key findings on how to upgrade the U.S. food safety system. In 2010, the Obama Administration took steps to reduce the prevalence of *E. coli*, implemented new standards to reduce exposure to *Campylobacter*, and issued a rule to control *Salmonella* contamination.

Most recently, the Obama Administration worked with the U.S. Congress to enact the historic FDA Food Safety Modernization Act. This legislation, which was signed into law on January 4, 2011, includes numerous provisions to strengthen the U.S. food safety system for both domestic and imported products. Some of the new programs that will help ensure the safety of U.S. imports include the creation of a food supplier verification program and the authority to refuse admission to imported food if the foreign facility or country refuses to allow an FDA inspection consistent with the FDA's ability to inspect domestic facilities for safety.

In addition to active participation in the Food Safety Working Group's activities and the earlier Import Safety Working Group, USTR has continued to address the safety of imported products through its work on sanitary and phytosanitary (SPS) issues. An integral part of U.S. free trade agreements (FTAs) are chapters concerning SPS measures. Each SPS chapter has among its stated objectives the protection of human, animal, and plant life or health. These chapters, among other things, establish standing committees of the parties to the FTA to enhance cooperation and consultation on SPS matters and improve the parties' understanding of each other's SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance. The ongoing Trans-Pacific Partnership (TPP) negotiations provide the United States with an opportunity to resolve specific SPS-related trade concerns, affirm our international obligations, and advance the use of safer pesticides and new technologies to protect public health and the environment.

The United States is also working with trading partners through the APEC Food Safety Cooperation Forum (FSCF) Partnership Training Institute Network (PTIN). The FSCF PTIN is composed of leaders from government, the private sector, and academia and serves as a network of food safety trainers in the APEC region. In 2010, the PTIN convened food safety experts from the Asia-Pacific region to develop a roadmap for the development of food safety training modules and delivery mechanism. In addition, PTIN conducted workshops to improve implementation of Codex guidance on export certification and to strengthen food safety in supply chain management with a specific application to aquaculture. The PTIN also launched a website containing food safety training resources.

The WTO Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Committees provide an important forum for the United States to exchange information with its trading partners on countries' respective health and safety requirements and address concerns about their implementation. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that SPS and product safety requirements are based on the best available scientific and technical information and in accordance with their health and safety objectives.

Strong intellectual property rights (IPR) enforcement also plays an essential role in the protection of public health and safety. In this area, USTR, with the help of other federal agencies, works with U.S. trading partners to address product counterfeiting by promoting stronger IPR laws and law enforcement around the world, for example through efforts to negotiate an ACTA. (*For additional information, see Chapter IV.D.*)

## **F. Organization for Economic Cooperation and Development**

Thirty-four democracies in Europe, the Americas, the Middle East, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris, France. The OECD member countries account for 69 percent of world gross national income (GNI), 60 percent of world trade, 95 percent of world official development assistance, over half of the world's energy consumption, and 18 percent of the world's population. The OECD is not just a grouping of economically significant countries, but also a policy forum covering a broad spectrum

of economic, social, and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries, both OECD members and non-members, reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, though some OECD instruments are legally binding, such as the Anti-Bribery Convention. Most OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among member countries to pursue specific negotiating goals in other international forums, such as the WTO.

The OECD conducts wide-ranging outreach activities to non-member countries and to business and civil society, in particular through its series of workshops and “Global Forum” events held around the world each year. Non-members may participate as observers of committees when members believe that participation will be mutually beneficial. Non-members Brazil, China, India, Indonesia, and South Africa participate to varying degrees in OECD activities through the Enhanced Engagement (EE) program which seeks to establish a more structured and coherent partnership, based on mutual interest, with these five major economies. The OECD also carries out a number of regional and bilateral cooperation programs with non-members.

The OECD is mainly funded by the member countries. National contributions to the annual budget are based on a formula related to the size of each member’s economy and other factors. In 2008, the United States was successful in negotiating an agreement whereby the U.S. contribution would be reduced over the next ten years to below 20 percent of the total. In 2010, the U.S. assessed contribution was 23.8 percent of the OECD’s overall budget of 328 million Euros (approximately \$426 million).

## **1. Trade Committee Work Program**

In 2010, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and facilitate WTO negotiations, deepening understanding of the rationale for progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website (<http://www.oecd.org/trade>) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were developed or completed under the Trade Committee during 2010. These included:

- OECD Economic Outlook No. 88
- The Economic Impact of Export Restrictions
- Trade Policy Response to the Global Economic Crisis
- Economic Surveys of Poland and Germany
- Policy Complements to the Strengthening of IPR in Developing Countries
- Trade and Innovation: Report on the Chemicals Sector

- The Use of International Standards in Technical Regulation
- Recent Trends in Export Restrictions
- Increasing the Impact of Trade Expansion on Growth
- Multilateralizing Regionalism
- The Availability and Cost of Short-Term Trade Finance and its Impact on Trade
- International Standards and Trade
- Bilateral and Regional Trade Agreements and Technical Barriers to Trade: An African Perspective
- Export Restrictions on Strategic Raw Materials and their Impact on Trade

The Trade Committee continued its work developing the Services Trade Restrictiveness Index (STRI), a tool to measure the restrictiveness of barriers affecting trade in services. During 2010, the STRI Steering Group made progress on a roadmap for future work, and a series of services experts meetings took place to review specific sectors. Consultations with non-members also took place, and an active effort continued to include non-member data in the STRI to ensure that it is a comprehensive tool for trade policy experts.

A Global Forum on Trade was held in Chengdu, China in October under the theme “Globalization, Comparative Advantage, and Trade Policy”. The forum provided the opportunity for the OECD to highlight and discuss the Committee’s work on *Openness and Changing Patterns of Comparative Advantage*, one of the major studies under the Committee’s 2009-10 program of work.

In addition, the Trade Committee continued its dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including members of the OECD’s Business and Industry Advisory Council and Trade Union Advisory Council.

## **2. Dialogue with Non-OECD Members**

The OECD continued its contacts with non-member countries under new guidance issued in July 2010 directing all substantive Committees to review their global relations strategies to ensure they adequately reflect the Organization’s priority to deepen and broaden engagement with the EE countries (Brazil, China, India, Indonesia, and South Africa). In December 2010, the Trade Committee issued a new Global Relations Strategy seeking to include EE countries in Trade Committee work related to the goals of supporting the functioning and deepening of the multilateral trading system, increasing transparency of trade policies, and facilitating a level-playing field among providers of officially supported export credits.

Four countries acceded to the OECD in 2010, with Chile becoming a member in May, Slovenia in July, Israel in September, and Estonia in December. Russia continued work on its OECD accession process throughout the year.

### 3. Other OECD Work Related to Trade

Representatives of OECD member countries meet in specialized committees to advance ideas and review progress in specific policy areas, such as economics, trade, science, employment, education or financial markets. There are about 200 committees, working groups and expert groups. Additional information on OECD activities and publications related to trade can be found on the following OECD websites:

- Trade: <http://www.oecd.org/trade>
- Trade and development: <http://www.oecd.org/trade/dev>
- Trade and environment: <http://www.oecd.org/trade/env>
- Trade facilitation: <http://www.oecd.org/trade/facilitation>
- Agricultural trade: <http://www.oecd.org/agriculture/trade>
- Services trade: <http://www.oecd.org/trade/services>
- Anti-Bribery Convention: <http://www.oecd.org/corruption>
- Export credits: <http://www.oecd.org/trade/xcred>
- Employment, Labor and Social Affairs: <http://www.oecd.org/els>
- Fisheries: <http://www.oecd.org/fisheries>
- Regulatory Reform: <http://www.oecd.org/regreform>
- Steel: <http://www.oecd.org/sti/steel>

### G. Agreement on Trade in Pharmaceutical Products

During the Uruguay Round of Multilateral Trade Negotiations, a group of major trading countries agreed to reciprocal elimination of tariffs on certain pharmaceuticals and chemical intermediates<sup>27</sup> and that participants in this agreement would revise periodically the list of products subject to duty-free treatment under the auspices the WTO. The United States implemented the agreement on January 1, 1995. As a result of subsequent negotiations under the auspices of the Council for Trade in Goods of the WTO, the United States and other WTO Members expanded the list of pharmaceutical products eligible for duty-free treatment in 1996,<sup>28</sup> 1998,<sup>29</sup> and 2006.<sup>30</sup> A fourth revision to the agreement was concluded among

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<sup>27</sup> Pharmaceutical products falling within the Harmonized System (HS) Chapter 30 and HS headings 2936, 2937, 2939 and 2941, as well as to designated pharmaceutical active ingredients bearing an 'international non-proprietary name' (INN) from the World Health Organization, specified salts, esters and hydrates of such INNs, and designated pharmaceutical intermediates used for the production and manufacture of finished pharmaceuticals.

<sup>28</sup> The United States implemented this revision in Proclamation 6982 of April 1, 1997.

<sup>29</sup> The United States implemented this revision in Proclamation 7207 of July 1, 1999.

<sup>30</sup> The United States implemented this revision in Proclamation 8095 of December 29, 2006.

participating WTO Members<sup>31</sup> in May 2010,<sup>32</sup> expanding by more than 700 the number of pharmaceutical and chemical products eligible for reciprocal duty-free treatment.<sup>33</sup> This latest revision eliminates duties on an additional \$400 million in U.S. imports and \$150 million in U.S. exports. Total U.S. trade in products covered under the agreement exceeded \$126 billion in 2009.

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<sup>31</sup> Participants are the United States, Canada, European Union and its 27 member states, Japan, Norway, Switzerland, and Macau (China).

<sup>32</sup> The United States implemented this revision in Proclamation 8618 of December 21, 2010.

<sup>33</sup> The lists of products are set forth in Publication 4208 of the United States International Trade Commission entitled “Modifications to the Harmonized Tariff Schedule of the United States to Implement Changes to the Pharmaceutical Appendix (December 2010)” retrievable at:

[http://www.usitc.gov/tariff\\_affairs/hts\\_documents/pub4208.pdf](http://www.usitc.gov/tariff_affairs/hts_documents/pub4208.pdf). The modifications are reflected in the Pharmaceutical Appendix to the U.S. Harmonized Tariff Schedule, retrievable at:

<http://www.usitc.gov/publications/docs/tata/hts/bychapter/1100PHARMAPPX.pdf>.