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 necessary. Vigorous investigation efforts by relevant agencies, including the 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. Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. The United States 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 with surveillance of agreements and disciplines;

- Vigorously monitoring and enforcing bilateral agreements;

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

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

- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and use or threat of use of dispute settlement mechanisms, including with respect to enforcement of labor laws or basic widely recognized labor rights, and environment.

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

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO in 1994, the United States has filed 97 complaints at the WTO, thus far successfully concluding 55 of them by settling 27 cases favorably and prevailing in 28 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—and affect a wide range of sectors of the U.S. economy.

a. Satisfactory settlements

The goal in filing cases is 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 27 cases 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 prohibited subsidies; China's treatment of foreign financial information suppliers; China's government support tied to promotion of Chinese brand names abroad; 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.

b. 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 28 cases to date. In 2010, the United States prevailed in a case involving the EU's tariff treatment of certain information technology products. 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; 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; 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; 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 further below.

2. WTO Dispute Settlement

U.S. enforcement successes in 2010 include rulings against more than $18 billion in subsidies conferred on Airbus by the EU, France, Germany, Spain, and the UK—the largest case heard by a WTO panel to date—as well as a successful challenge to EU tariff treatment for certain information technology products. In addition, the United States obtained important favorable findings in two cases challenging U.S. trade remedies. On October 22, 2010, a WTO panel issued a report in which it recognized that the concurrent application of both antidumping and countervailing duties on dumped and subsidized products from non-market economies such as China is fully consistent with U.S. WTO obligations. On December 13, 2010, a WTO panel found in favor of the United States in a dispute brought by China against additional duties imposed by the United States on imports of Chinese tires under the transitional safeguard mechanism included in China's Protocol of Accession to the WTO.

The United States launched three new WTO disputes in 2010, requesting WTO consultations with China regarding: China's procedures and final determinations in its antidumping and countervailing duty investigations of grain oriented flat-rolled electrical steel from the United States; Chinese measures affecting electronic payment services (EPS); and China's subsidies on wind power equipment. Other ongoing enforcement actions include disputes involving the EU's ban on the importation and marketing of U.S. poultry, China's export quotas and export tariffs on various raw materials, and taxes on distilled spirits in the Philippines.

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

a. 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 the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global marketplace.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the Subsidies Agreement. USTR: coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce's Import Administration (IA) is to enforce the countervailing duty law, and in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies

Agreement. The IA'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 2010, USTR and IA 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 IA 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 IA 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 countervailing duty case or a WTO subsidies complaint. The website (http://esel.trade.gov) includes foreign governments' subsidies notifications made to the WTO, an overview of the SEO, information on U.S. Antidumping and Countervailing Duty (AD/CVD) proceedings as well as AD/CVD actions with respect to U.S. exports, 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.

b. Monitoring Foreign Antidumping, Countervailing Duty and Safeguard Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member to another. The United States actively 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. The United States also closely monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with WTO rules.

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 for them 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, IA tracks foreign antidumping and countervailing duty 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 involving U.S. companies. Information about foreign trade

remedy actions affecting U.S. exports is accessible to the public via IA's website at http://ia.ita.doc.gov/trcs/index.html. The stationing of IA 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.

During the past year, several trade remedy proceedings involving exports from the United States were closely monitored, including: Brazil's investigations of n-butanol, light weight coated paper and toluene diisocyanate; Canada's investigation of polyiso insulation board and an expiry review of whole potatoes; China's investigations of automobiles, caprolactam, chicken products, grain-oriented electrical steel, polyamide-6, and optical fiber; the European Union's investigation involving vinyl acetate and a circumvention review of their order involving biodiesel; India's investigations of cold rolled stainless steel, hot rolled coil, polypropylene, and soda ash; Mexico's reinvestigations of apples and beef; South Africa's investigation of tall oil fatty acid; and Ukraine's investigation of chicken products . IA personnel have also participated in technical exchanges with the administering authorities of China, Japan, Morocco, and Vietnam to obtain a better understanding of these countries' administration of trade remedy laws and compliance with WTO obligations.

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 antidumping and countervailing duty 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 antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and IA website links to the WTO's website.

4. Initiatives to Address Foreign Standards and SPS Barriers

In July 2009, Ambassador Ron Kirk announced on behalf of the Obama Administration its intention to make enforcement of trade agreements a centerpiece of U.S. trade policy. Specifically, the Administration will deploy resources more effectively to identify and confront unnecessary or unjustified barriers stemming from sanitary and phytosanitary (SPS) measures as well as technical regulations, standards, and conformity assessment procedures (standards-related measures) that restrict U.S. exports of safe, high quality products. SPS measures, technical regulations, and standards serve a vital role in safeguarding countries and their people, including protecting lives, health, safety, and the environment. Conformity assessment procedures are normal, legitimate day-to-day activities that contribute, *inter alia,* to increasing confidence between trading partners by ensuring that products traded internationally comply with underlying standards and technical requirements. However, it is important that SPS and standards-related measures not act as discriminatory or otherwise unwarranted restrictions on market access for U.S. exports. For this reason, U.S. trade agreements provide that, although countries may adopt SPS and standards-related measures to meet legitimate objectives such as the protection of health and safety as well as the environment, the measures they adopt in pursuit of such objectives must not act as unnecessary obstacles to trade. Stepped up monitoring of trading partners' practices and increased engagement with them can help ensure that U.S. trading partners are complying with their obligations and can help facilitate trade in safe, high quality U.S. products.

As part of this intensified effort to identify and eliminate or alleviate such barriers, in March 2010 USTR published two new reports, the Report on Technical Barriers to Trade (TBT) and the Report on Sanitary and Phytosanitary Measures. Both of these reports serve as tools to bring greater attention and focus to addressing SPS and standards-related measures that may be inconsistent with international trade

agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports and thereby support efforts to gain market access for American farmers, ranchers, and businesses. These new reports are based on assessments from other government agencies, including from commercial, agricultural, and foreign service officers stationed abroad, and submissions from industry and other interested stakeholders.

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

USTR will issue new, up-to-date TBT and SPS Reports in 2011 to continue to highlight the increasingly critical nature of these issues to U.S. trade policy, to identify and call attention to problems resolved during 2010, in part as models for resolving ongoing issues, and to signal new or existing areas in which more progress needs to be made. These updates, and the actions highlighted therein will be based in part on the input USTR receives from stakeholders. In October 2010, USTR issued a *Federal Register* Notice requesting producers, growers, industry, and other members of the public to submit views on SPS and standards-related measures that act as significant barriers to U.S. exports.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the 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.

a. 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. The USTR also may self-initiate an investigation.

In each investigation, the 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 the USTR to use the dispute settlement procedures that are available under that agreement. Section 304 of the Trade Act requires the 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, the USTR must take action. If they are determined to be unreasonable or discriminatory and

to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and if so, what action to take.

Actions that the 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, the 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 the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

b. Developments during 2010

During 2010, USTR initiated an investigation in response to a petition, as described in part e below. In addition, there were developments relating to the Section 301 investigations described in parts c and d below.

c. Canada – Compliance with Softwood Lumber Agreement

Under the 2006 Softwood Lumber Agreement (SLA), Canada agreed to impose export measures on Canadian exports of softwood lumber products to the United States. At the request of the United States, an arbitral tribunal established under the SLA found that Canada had not complied with certain SLA obligations, and in February 2009, the tribunal issued an award concerning the remedy to be applied.

In April 2009, the USTR: (1) initiated a Section 301 investigation of Canada's compliance with the SLA; (2) determined in the investigation that Canada is denying U.S. rights under the SLA; (3) found that expeditious action was required to enforce U.S. rights under the SLA; and (4) determined that the appropriate action under Section 301 was to impose 10 percent *ad valorem* duties on imports of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. Under the determination, the duties were to remain in place until such time as the United States had collected $54.8 million, which is the U.S. dollar equivalent to the CDN $68 million amount determined by the arbitral tribunal.

During 2010, the Government of Canada informed the United States that it was adopting its own measures to address Canada's breach of the SLA. In particular, Canada adopted measures to collect an additional 10 percent charge on exports of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan, effective with respect to softwood lumber products with a shipment date of September 1, 2010 or later. Per an understanding between the governments of the United States and Canada, Canada will continue to collect the additional 10 percent charge on exports until the total of the amounts collected under the U.S. 10 percent import duty and the Canadian charge on exports is equal to CDN $68 million.

In August 2010, the USTR determined that Canada's measures satisfactorily grant the rights of the United States under the SLA. Accordingly, the USTR modified the April 2009 action by removing the 10 percent *ad valorem* duties on imports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan, effective with respect to imports with a shipment date of September 1, 2010 or later. Pursuant to Section 306(a) of the Trade Act, the USTR will continue to monitor the implementation of Canada's measures, imposing a 10 percent export charge.

d. European Commission - Measures Concerning Meat and Meat Products (Hormones)

A European Commission (EC) directive prohibits the import into the European Union of animals and meat from animals to which certain hormones have been administered (the "hormone ban"). This measure has the effect of banning nearly all 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 EC'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. 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 covering trade up to $116.8 million per year. In a *Federal Register* Notice published in July 1999, the 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 (the "retaliation list") 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 Dispute Settlement Body (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.

Section 307(c) of the Trade Act provides for USTR to conduct a review of a Section 301 action four years after the action was taken. During 2008, the U.S. Court of International Trade held that USTR must also conduct a Section 307(c) review eight years after the action was taken. Accordingly, in a remand from the U.S. Court of International Trade, USTR proceeded to conduct such a review.

In January 2009, USTR announced the results of the Section 307(c) review and reported the results of the remand proceeding to the U.S. Court of International Trade. The 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, the USTR decided to delay the effective date of the additional duties (items two through four above) imposed under the January 2009 modifications in order to allow additional time for reaching an agreement with the EC that would provide benefits to the U.S. beef industry. The effective date of the removal of duties under the January modifications remained March 23, 2009. Accordingly, subsequent to March 23, 2009, the additional duties put in place in July 1999 remained in place on a reduced list of products.

In May 2009, the United States and the EC announced the signing of a Memorandum of Understanding (MOU) in the EC-Beef Hormones dispute. Under the first phase of the MOU, the EC is 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 is obligated not to increase additional duties above those in effect as of March 23, 2009.

In June 2009, the U.S. Court of International Trade rejected the USTR's January 2009 results of the remand proceeding. The United States appealed the U.S. Court of International Trade decision to the U.S. Court of Appeals for the Federal Circuit.

In August 2009, the EC opened the new beef TRQ, and USTR published a notice seeking comments on the actions necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. In particular, the notice sought comments on the continued imposition of 100 percent *ad valorem* duties throughout the remainder of the first phase of the MOU on the reduced list of products subject to such duties since March 23, 2009.

In September 2009, after consideration of the comments received in response to the August notice, the USTR took action under Section 301 necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. In particular, the USTR terminated the additional duties that were announced in January 2009 but had been delayed up to that time and had never entered into force. The USTR's September 2009 action left in place the additional duties that had been in effect since March 23, 2009 on a reduced list of products.

In October 2010, the U.S. Court of Appeals for the Federal Circuit affirmed the June 2009 decision of the U.S. Court of International Trade.

The first phase of the MOU concludes on August 3, 2012. Under a possible second phase of the MOU, the EC would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all additional duties imposed in connection with the EC-Beef Hormones dispute.

e. China – Acts, Policies and Practices Affecting Trade and Investment in Green Technology

On September 9, 2010, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO CLC ("USW") filed a petition under Section 302 of the Trade Act of 1974 addressed to China's acts, policies, and practices affecting trade and investment in green technologies. The petition covered: export restraints on rare earth minerals, tungsten, and antimony; allegedly prohibited subsidies contingent on export performance, or on the use of domestic over imported goods, affecting a variety of products, including wind turbines; discrimination against foreign companies and goods, including with respect to wind and solar power projects; technology transfer as a requirement for approval of foreign investments in China; and domestic subsidy programs that are allegedly causing serious prejudice to U.S. interests, including subsidies supporting renewable energy industries. The petition alleged that China's acts, policies, and practices violate China's WTO commitments under the GATT 1994, under the Subsidies and Countervailing Measures Agreement (SCM Agreement), and under China's Protocol of Accession to the WTO.

On October 15, 2010, the USTR initiated an investigation under Section 302 of the Trade Act with respect to the acts, policies, and practices of China identified in the petition. Pursuant to Section 303(b) of the Trade Act, the USTR decided to delay for up to 90 days the request for consultations with the Government of China for the purpose of verifying and improving the petition. During the period of delay provided for under Section 303(b), the Trade Representative sought information and advice from the

petitioner and the appropriate committees established pursuant to Section 135 of the Trade Act. The Trade Representative took account of this information and advice, as well as public comments submitted in response to the notice of initiation, in improving and verifying the petition during the delay period.

As a result of those efforts, USTR verified and improved claims involving subsidies provided by China on wind power equipment under its Wind Power Equipment Fund. In particular, USTR verified that China's Wind Power Equipment Fund provides grants that appear to be contingent on the use of domestic over imported wind power equipment, and thus appears to be a prohibited subsidy that is inconsistent with China's obligations under Article 3 of the SCM Agreement. In addition, as it appears that China has neither made available a translation of the measure into a WTO official language nor notified it to the WTO, China appears to have failed to comply with its transparency obligations under the WTO Agreement. Accordingly, on December 22, 2010, the United States requested WTO dispute settlement consultations regarding China's Wind Power Equipment Fund.

USTR was not able to verify and improve claims with respect to the remaining acts, policies, and practices covered in the USW petition. Those matters were not included in the request for consultations and were not continued in the investigation under Section 302(b). However, the USTR continues to have serious concerns with these acts, policies and practices and their effects on U.S. workers and businesses and will continue to work with the petitioner and other stakeholders to develop additional information and effective means for addressing these matters. *(For additional information on the WTO dispute involving China's Wind Power Equipment Fund, see Chapter II.H.a.)*

2. Special 301

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

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

Additionally, under Section 306 of the Trade Act of 1974, USTR monitors whether U.S. trading partners are in compliance with bilateral intellectual property agreements with the United States that are the basis for resolving investigations under Section 301. USTR may apply sanctions 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 intellectual property rights may not be adequately protected.

a. 2010 Special 301 Review Announcements

On April 30, 2010, the United States announced the results of the 2010 Special 301 annual review. The 2010 report reflects the Obama Administration's resolve to encourage and help maintain effective IPR protection and enforcement worldwide. It identifies a wide range of serious concerns, from troubling "indigenous innovation" policies that may unfairly disadvantage U.S. rights holders in China, to the continuing challenges of Internet piracy in countries such as Canada and Spain, to the ongoing systemic IPR enforcement challenges in many countries around the world. Positive accomplishments recognized in the 2010 report included improved efforts by the Czech Republic, Hungary, and Poland, all of whom were removed from the Watch List. Additionally, after successful Out-of-Cycle Reviews (OCR) in 2009, Saudi Arabia was removed from the Watch List, and Israel entered into an understanding with the United States, whereby it agreed to address key outstanding IPR issues. An OCR is a tool that USTR uses to encourage progress on IPR issues of concern. It provides an opportunity for heightened engagement with the trading partner on those issues. Successful resolution of specific IPR issues may, in some circumstances, lead to a change in a country's status on the Special 301 list outside of the typical time frame for the annual Special 301 Report.

The 2010 Special 301 review process examined IPR protection and enforcement in 77 countries. Following extensive research and analysis, USTR designated the 42 countries below as follows:

- Priority Watch List: Algeria, Argentina, Canada, Chile, China, India, Indonesia, Pakistan, Russia, Thailand, Venezuela.

- Watch List: Belarus, Bolivia, Brazil, Brunei, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Italy, Jamaica, Kuwait, Lebanon, Malaysia, Mexico, Norway, Peru, Philippines, Romania, Spain, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

- Section 306 Monitoring: Paraguay.

- Status Pending: Israel.

USTR also announced that it would conduct an OCR of the Philippines and Thailand to monitor progress on IPR protection and enforcement in those countries and to consider again their Special 301 status.

Consistent with the goals articulated in the President's 2010 Trade Policy Agenda, USTR enhanced its public engagement activities in the 2010 Special 301 process. USTR requested written submissions from the public through a notice published in the *Federal Register* on January 15, 2010. The 2010 review yielded 571 comments from interested parties, a significant increase from 2009. The submissions received by USTR were made available to the public online at http://www.regulations.gov, docket number USTR-2010-0003. Further, on March 3, 2010, USTR conducted a public hearing that permitted interested persons to testify before the interagency Special 301 subcommittee about issues relevant to the review. The hearing included testimony from 23 witnesses, ranging from foreign governments to industry representatives to non-governmental organizations. A transcript of the hearing was made available at http://www.ustr.gov.

These activities were designed to ensure that Special 301 decisions were based on a robust understanding of complicated issues involving intellectual property and to help facilitate sound, well-balanced assessments of developments in particular trading partners.

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 2010 Section 1377 Review focused on a range of concerns, including: (1) rates for terminating calls on fixed and mobile networks in El Salvador, Jamaica, Japan, Peru, and Tonga; (2) access to networks controlled by dominant suppliers in Australia, Colombia, Germany, India, Mexico, Singapore, and Sweden; and (3) impediments to trade in telecommunications equipment imposed by Brazil, China, Israel, Mexico, South Korea, and Thailand.

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 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. 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 three antidumping investigations in 2010 and imposed 17 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.

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 are 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.

The United States initiated three CVD investigations and imposed 10 CVD orders in 2010.

6. Other Import Practices

a. 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 or Commission) 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 Commission. 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 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. 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.

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. Such public interest considerations include an order's effect on public health and welfare, on U.S. consumers, and on the production of similar U.S. products. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, the President 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. 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.

In 2010, the USITC instituted 56 new Section 337 investigations, and one new enforcement proceeding. During the year, the USITC issued two general exclusion orders, six limited exclusion orders, and 20 cease and desist orders, covering imports from foreign firms, as follows: *Certain Coaxial Cable Conductors*, No. 337-TA-650 (a limited exclusion order and a general exclusion order); *Certain Cast Steel Railway Wheels*, No. 337-TA-655 (a limited exclusion order and four cease and desist orders); *Certain Semiconductor Chips with Synchronous Dynamic RAM Controllers*, No. 337-TA-661 (a limited exclusion order and eleven cease and desist orders); *Certain Optoelectronic Devices, Components thereof, and Products Containing the Same*, No. 337-TA-669 (a limited exclusion order and a cease and desist order); *Certain Energy Drinks*, No. 337-TA-678 (a general exclusion order); *Certain Products Advertised as Containing Creatine Ethyl Ester*, No. 337-TA-679 (a limited exclusion order and four cease and desist orders); and *Certain Caskets*, No. 337-TA-725 (a limited exclusion order). The USTR is currently engaged in the policy review of the USITC limited exclusion order issued in *Certain Caskets*, No. 337-TA-725. The other USITC orders issued in 2010 became final after expiration of the 60-day review period.

b. 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, 2011, the United States had no measures in place under Section 201. The United States did not impose any Section 201 measures during 2010, and did not commence any safeguard investigations.

c. Section 421

The terms of China's accession to the WTO include a unique, China-specific safeguard mechanism. The mechanism allows a WTO Member to limit increasing imports from China that disrupt or threaten to disrupt its market if China does not agree to take action to remedy or prevent the disruption or threatened disruption. The mechanism applies to all industrial and agricultural goods and will be available until December 11, 2013.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implements this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the USITC must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that, if the USITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China's terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into the first Member's market. The trade diversion provision is implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

In April 2009, the United Steelworkers Union filed a petition under Section 421 with respect to certain passenger vehicle and light truck tires. On September 11, 2009, following an affirmative market disruption finding by the USITC, the President issued a determination imposing additional duties on such tires for a period of three years. The additional duties went into effect on September 26, 2009. The additional duties are set at 35 percent *ad valorem* for the first year, 30 percent *ad valorem* for the second year, and 25 percent *ad valorem* for the third year.

On September 14, 2009, China requested consultations with the United States in the WTO with respect to the imposition of the additional duties. China alleged that the additional duties imposed by the President were inconsistent with GATT 1994, the Agreement on Safeguards and China's Protocol of Accession. China also alleged that the USITC's determination of market disruption was inconsistent with the Protocol of Accession. In addition, China alleged that the level and duration of the duties were inconsistent with the Protocol of Accession. Finally, China alleged that the section 421 definition of "significant cause" was in and of itself inconsistent with the Protocol of Accession. The WTO established a panel in January 2010 to hear this dispute. In a report circulated on December 13, 2010, the panel found in favor of the United States with respect to all of China's claims.

7. Trade Adjustment Assistance

a. Overview and Assistance for Workers

The Trade Adjustment Assistance for Workers (TAA), Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) 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 February 17, 2009, 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 TAA, expanded TAA coverage to more workers, including workers in the service sector; expanded benefits to workers whose jobs have been outsourced to foreign countries; improved workers' training options; and increased the affordability of health insurance premiums. The reauthorization also expanded the scope of the TAA programs to better assist adversely affected workers in finding new employment. It authorized funding for employment and case management services and encouraged the type of long-term training necessary for jobs in the 21st century economy through an extension of income support, an increase in the cap for training funding, and access to training for adversely affected incumbent workers. On December 29, 2010, the President signed a bill to extend certain 2009 TGAAA amendments that were scheduled to expire on December 31, 2010. The TGAAA lapsed on February 12, 2011.

The TAA program currently offers the following services to eligible workers: training; weekly income support; out-of-area job search and relocation allowances; case management and employment services; assistance with payments for health insurance coverage through the utilization of the Health Coverage Tax Credit (HCTC); and wage insurance for some older workers through RTAA or ATAA. RTAA is the expanded wage insurance option available to reemployed older workers authorized by the TGAAA. RTAA replaces ATAA, which provided wage insurance to reemployed older workers as a pilot project under the TAA Reform Act of 2002 for adversely affected workers covered by certifications of petitions for TAA and ATAA eligibility filed before May 18, 2009. In FY 2010, $975,320,800 was allocated to state governments to fund and administer TAA benefits.

For a worker to be eligible to apply for TAA, the worker must be part of a group of workers that are 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 a One-Stop Career Center operator or One-Stop partner may file that petition with the DOL. In response to the filing, the DOL institutes 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 group to apply for TAA, the DOL grants the petition and issues a certification.

The DOL administers the TAA program through the Employment and Training Administration (ETA), with states acting as agents of the United States in administering TAA benefits for members of TAA-certified worker groups. Once covered by a certification, individual workers apply for benefits and services through the One-Stop delivery system. Local One-Stop Career Centers can be found on the Internet at http://www.servicelocator.org 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.

The 2009 expansion of TAA coverage for service sector workers, as well as the effects of the economic recession, contributed to a significant increase in petitions filed in FY 2009. Petition filings returned to previous levels in FY 2010, with 2,222 petitions filed as compared to 4,549 in FY 2009. In FY 2010, the DOL certified an estimated 280,873 workers to receive TAA benefits, nearly doubling the number of certifications issued in each of the previous two years. The increase in certifications was due in large part to efforts by the DOL to reduce the backlog created by the surge in petitions filed in 2009. As a result of the TAA expansion in 2009, more than 155,000 workers were assisted who may otherwise have been ineligible without the expanded coverage. The largest proportion of workers receiving benefits under TAA expanded coverage were certified based on a finding of a shift of services, acquisitions of services, or other service-related criteria.

b. Trade Adjustment Assistance for Farmers

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) reauthorized and modified the Trade Adjustment Assistance (TAA) for Farmers program. The program provides technical and financial assistance to producers of any agricultural commodity (including livestock) in its raw or natural state and to certain persons engaged in the business of fishing who suffered lower production or lower prices due to import competition. Annual appropriations for the TAA for Farmers program total $90 million for each of FY 2009 and FY 2010, and $22.5 million for FY 2011. A proposed rule was announced by the U.S. Department of Agriculture on August 24, 2009 seeking public comment, and an interim rule that immediately implemented the program was announced on March 1, 2010.

In fiscal year 2009, outlays under the program totaled $25 million, although no technical assistance or cash payments were made to farmers or fishermen. All FY 2009 outlays were administrative costs associated with running the program, particularly the establishment of the training component for the program ($17 million) and the establishment of the software used for administering the petition, application, and payment phases of the program ($5 million).

For fiscal year 2010, seventeen petitions were received, and three petitions were approved under the FY 2010 program on behalf of U.S. asparagus, U.S. catfish producers, and shrimp producers in the Gulf and South Atlantic region. Over 5,000 producers applied for benefits under FY 2010 certified petitions. The FY 2011 program was launched on May 21, 2010. Thirty-three petitions were received, and three were certified on behalf of blueberry producers in Maine, lobster producers in five northeastern states, and shrimp producers in Alaska and nine Gulf and South Atlantic states. Ninety million dollars was obligated under the FY 2010 program, including $72.4 million for cash payments to eligible producers. For FY 2011, $22.5 million was obligated under the program, with $20.8 million for cash payments to producers.

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 section 251 of the Trade Act of 1974 (the Trade Act), as amended (19 U.S.C. 2341 et seq.). The TAAF Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the program, a firm must show that an increase in imports of like or directly competitive articles contributed importantly to the decline in sales or production and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of the U.S. Commerce Department is responsible for administering the TAAF Program and has delegated the statutory authority and responsibility under the Trade Act to the Department of Commerce's Economic Development Administration (EDA). The U.S. Economic Development Administration's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at: http://www.eda.gov/InvestmentsGrants/Lawsreg.xml.

In Fiscal Year (FY) 2010, EDA awarded a total of $15,450,000 in TAAF Program funds to its national network of 11 Trade Adjustment Assistance Centers, each of which is assigned a different geographic service area. During FY 2010, EDA certified 330 petitions for eligibility and approved 265 adjustment proposals.

Additional information on the TAAF Program (including eligibility criteria and application process) is available at http://www.eda.gov/TAAF.

8. United States Preference Programs

a. Overview

The United States has a number of programs designed to encourage economic development in lower income countries by offering 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 access program, with the opportunity for exporters to choose among programs when seeking preferential access to the U.S. market. The extent to which developing countries take advantage of the preferential access provided under U.S. trade law is measured by the total value of imports (for consumption) receiving preferential access under any one of the individual programs. Such U.S. imports totaled an estimated $80 billion in 2010, up 33 percent ($20 billion) from 2009. The 33 percent increase in imports under these programs compares to the overall 23 percent increase for U.S. total goods imports for consumption from the world over the same period.

As a share of total U.S. goods imports for consumption, these preferential imports increased from 3.8 percent in 2009 to 4.1 percent in 2010. The programs' respective share of total U.S. preferential imports in 2010 was as follows: African Growth Opportunity Act (AGOA, excluding GSP), 49 percent; GSP, 29 percent; Andean Trade Preference Act (ATPA), 18 percent; and Caribbean Basin Initiative (CBI) and Caribbean Basin Trade and Partnership Act (CBTPA), 3.5 percent. Trade under each of these programs increased in 2010, with ATPA, AGOA (excluding GSP), and CBTPA up the most, by 51 percent, 41 percent, and 40.5 percent, respectively.

b. Generalized System of Preferences

History and Purposes

The U.S. Generalized System of Preferences (GSP) program was initially authorized under the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.) for a ten-year period, beginning on January 1, 1976. Congress has extended the program 11 times, most recently, in December 2009. Authorization for the program expired on December 31, 2010. The Obama Administration supports congressional action to extend the GSP program and is working with Congress toward this end. The Administration supports the longest extension that Congress sees fit to make, so as to provide greater certainty for both U.S. businesses and developing country exporters who benefit from these programs.

The GSP program is designed to promote economic growth in the developing world by providing preferential duty-free entry for up to 4,881 products from 129[34] designated beneficiary countries and territories. Duty-free treatment under the GSP program is not available for products that the President determines to be import-sensitive or that the statute excludes from the program. An underlying principle

[34] As of January 1, 2011.

of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and an important means of sustaining momentum for their economic reform and liberalization. The GSP program also helps to provide U.S. companies with access to inputs from beneficiary countries on generally the same terms that are available to competitors in other developed countries that grant similar trade preferences.

Beneficiaries

There are two types of GSP beneficiaries: those that are eligible to export approximately 3,451 products duty-free into the United States and those for which, in 1996, Congress authorized additional GSP benefits because they are "least-developed" beneficiary developing countries[35]. Subsequently, these countries were given the opportunity to export an additional 1,430 products to the United States duty-free.

The following changes in the list of GSP beneficiary countries became effective on January 1, 2010: (1) the Maldives was redesignated as a beneficiary of the GSP program; (2) Cape Verde was removed as a Least-Developed Beneficiary Developing Country, but remained eligible for GSP benefits as a Beneficiary Developing Country; and (3) Trinidad and Tobago was removed from GSP eligibility, after a transition period, because its gross national income per capita exceeded statutory thresholds. Croatia and Equatorial Guinea were removed from GSP eligibility as of January 1, 2011, after a transition period, also because of high national income levels. Vietnam's request to become a GSP beneficiary continues to be under review.

Through various mechanisms, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) 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. The Administration also evaluates the extent to which GSP beneficiaries have assured the United States that they will provide equitable and reasonable access to their markets.

Eligible Products

The list of GSP-eligible products from all beneficiaries includes most non-sensitive dutiable manufactures and semi-manufactures and selected agricultural, fishery, and primary industrial products that are not otherwise duty-free. The statute precludes certain import-sensitive articles from receiving GSP treatment, including most non-silk textiles and apparel, watches, footwear, handbags, luggage, flat goods, work gloves, and certain leather apparel. The products that receive preferential access only when imported from least-developed beneficiaries include petroleum, certain chemicals and plastics, animal and plant products, prepared food, beverages, rum, and tobacco products.

Although GSP benefits for textiles and apparel are limited, certain handmade folkloric products are eligible for GSP treatment. The United States has entered into agreements providing for certification and GSP eligibility of certain handmade, folkloric products with 16 beneficiary countries: Afghanistan, Argentina, Botswana, Cambodia, Colombia, Egypt, Jordan, Mongolia, Nepal, Pakistan, Paraguay, Thailand, Timor-Leste, Tunisia, Turkey, and Uruguay. Such agreements provide the basis for extending duty-free treatment to exports produced primarily by women and the poorest, often rural, residents of beneficiary countries.

Program Results

[35] In practice, those GSP beneficiaries that are on the United Nations list of least-developed countries.

Value of Trade Entering the United States under the GSP program: The value of U.S. imports entering under the GSP program in 2010 was approximately $23 billion, a 14 percent increase compared to 2009. Total U.S. imports from GSP beneficiary countries increased by 30 percent over the same period, reflecting a rebound from the global and U.S. economic downturn.

Top U.S. imports[36] under the GSP program in 2010 (through November), by trade value, were crude petroleum oils and oils from bituminous minerals, which are eligible for duty-free import only from Least-Developed Beneficiary Developing Countries (LDBDCs), silver jewelry, motor car radial tires, certain types of aluminum alloy, ferrochromium, ferrosilicon manganese, food preparations, radial tires for buses and trucks, gold necklaces and neck chains, and cane sugar.

In 2010 (through November), based on trade value, the top five GSP non-oil-exporting beneficiary developing country (BDC) suppliers were: (1) Thailand; (2) India; (3) Brazil; (4) Indonesia; and (5) South Africa. Of the 35 GSP beneficiaries (not including LDBDC oil-exporting beneficiaries) whose trade under the GSP program was the largest, the World Bank classified 21 as either low income or lower middle income countries[37]. Two non-oil-exporting LDBDCs – Bangladesh and Mozambique – are included in this group.

LDBDC suppliers whose exports under the GSP program increased in 2010 (through November) include: Bangladesh, Cambodia, Chad, Djibouti, Guinea, Haiti, Madagascar, Mozambique, Nepal, Niger, Rwanda, Sierra Leone, Togo, Uganda, and Zambia. The top three LDBDC users of GSP benefits, because of large volumes of petroleum exports under the GSP program, were: (1) Angola; (2) Equatorial Guinea;[38] and (3) Chad.

The GSP Program's Contribution to Economic Development in Developing Nations: The GSP program helps countries diversify and expand their exports, an important developmental goal. The 2010 data on exports to the United States indicates that many beneficiaries have made progress in diversifying and expanding their exports to the United States under the GSP program, despite challenging economic conditions. For example, Pakistan exported at least 321 different products (at the eight-digit tariff level) to the United States under GSP. Other low and low-middle income countries with high GSP usage include Egypt (180 products), Sri Lanka (157), Cambodia (45), and Paraguay (27). Diversification of exports under GSP also enhances the productive capacity and competitiveness of beneficiary countries with respect to their exports to third-country markets, ***i.e.*** other than the United States.

Efforts to promote wider distribution of the use of GSP benefits among beneficiaries: As directed by Congress, the Administration has sought to broaden the use of the GSP program's benefits among its beneficiary countries. In 2009 and 2010, USTR worked with other agencies to carry out GSP-related outreach programs in Georgia, Kosovo, and Sri Lanka among other countries. For additional details and multiple-language GSP guides and country-specific analyses, go to "GSP-in-Use: Country-Specific Information" under "Generalized System of Preferences" on the USTR web site.

Benefits to the U.S. Economy: The GSP program helps not only beneficiary developing countries, but also U.S. businesses and families. The program is a major source of imports and products for U.S. businesses, including small and medium-sized companies, and includes important partnership opportunities between U.S. workers and businesses, and workers and businesses in beneficiary developing countries. The GSP

[36] Based on tariff line (eight-digit) classification in the HTSUS.
[37] Based on World Bank determinations of gross national incomes per capita.
[38] As noted earlier, because of a substantial increase in its national income per capita, Equatorial Guinea no longer qualifies for GSP benefits as of January 1, 2011.

program also helps reduce costs for U.S. manufacturers that utilize inputs that are not produced or available domestically. This facet of the GSP program helps to improve the competitiveness of U.S. manufacturing and avoids U.S. manufacturers paying higher duties which are then passed on to customers.

Annual Reviews

An important attribute of the GSP program is its ability to adapt, product by product, to shifting market conditions; to the changing needs of producers, workers, exporters, importers, and consumers; and to concerns about individual beneficiaries' conformity with the statutory criteria for eligibility. Detailed information on elements of each Annual Review is available on the GSP Program Information Page on the USTR website at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp.

Conclusion of the 2009 GSP Annual Review

The results of the 2009 GSP Annual Review of product petitions were announced in a Presidential Proclamation dated June 29, 2010. The proclamation and a list of the results are available at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-1.

As part of the GSP 2009 Annual Review, the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) also considered several petitions to withdraw or limit a country's GSP benefits for not meeting certain GSP eligibility criteria. In August 2010, the TPSC accepted three new country practices petitions for formal review: a petition related to worker rights in Sri Lanka and two petitions related to Argentina's enforcement of arbitral awards in favor of U.S. citizens or corporations. A public hearing was held on these petitions on September 28, 2010 and the petitions remained under review at year's end. Accepted country practices petitions related to several other GSP beneficiaries remained under active scrutiny at year's end, including: Lebanon, Russia and Uzbekistan with respect to IPR protection, and Bangladesh, Niger, the Philippines and Uzbekistan regarding worker rights. A petition on worker rights in Iraq received during the 2008 review also remained under consideration.

2010 GSP Annual Review

On July 15, 2010, a notice was published in the *Federal Register* announcing that USTR would receive petitions to modify the list of products eligible for duty-free treatment under the GSP program and to modify the GSP status of certain beneficiary developing countries because of country practices. This notice initiated the 2010 Annual Review for Products. Information on the three petitions accepted for review – each of which seeks to remove items from the list of GSP-eligible products – can be found at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp. On August 11, 2010, a notice was published in the *Federal Register* announcing the launch of the 2010 Annual Review of Country Practices. At year's end, the GSP Subcommittee had not yet announced whether any country practices petitions had been accepted for the 2010 Annual Review.

c. The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), enacted in 2000, provides incentives to promote economic and political reform and trade expansion in eligible sub-Saharan African countries, including duty-free access to the U.S. market for over 1,800 products beyond those eligible under the Generalized System of Preferences (GSP) program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2010, 38 sub-Saharan

African countries were eligible for AGOA benefits. About 94 percent of U.S. imports from these countries entered the United States duty-free in 2010. Due in part to AGOA, the United States is sub-Saharan Africa's largest single-country market.

AGOA requires the President to determine annually which of the 48 countries of sub-Saharan Africa are eligible to receive benefits under the Act. His decisions are supported by an annual interagency review, chaired by USTR, that examines whether each country already eligible for AGOA has met the eligibility criteria, or whether circumstances in ineligible countries have improved sufficiently to warrant their designation as an AGOA beneficiary country. The AGOA eligibility criteria include, among others, making continual progress in establishing a market-based economy, rule of law, and protection of internationally recognized worker rights. The annual review takes into account information drawn from U.S. Government agencies, the private sector and civil society, and prospective beneficiary governments. As a result of the 2010 country eligibility review, the Democratic Republic of the Congo became ineligible for AGOA benefits effective January 1, 2011.

In 2010, the Office of the United States Trade Representative (USTR) continued to work closely with African governments, the private sector, and civil society stakeholders to strengthen U.S.-African trade and investment relations. In May 2010, United States Trade Representative Ambassador Ron Kirk celebrated AGOA's tenth Anniversary in a ceremony on Capitol Hill, with the participation of several past and present Members of Congress who played key roles in the drafting, passage, and implementation of AGOA. In addition, members of Africa's diplomatic corps and representatives of the private sector and civil society organizations participated in the event. Ambassador Kirk noted at the ceremony that in the ten years of its existence, AGOA has resulted in a substantial increase in two-way U.S.-African trade, with African countries now exporting a more diverse range of value-added products to the United States. Moreover, African economies have been using trade benefits generated by AGOA to grow their economies and reduce poverty.

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as "the AGOA Forum," is an annual ministerial-level forum with AGOA-eligible countries. The 2010 AGOA Forum was held on August 2-3, 2010 in Washington, D.C. A separate session focused on agribusiness, related infrastructure, and opportunities for U.S.-African trade in the agribusiness sector was held in Kansas City, Missouri from August 4-6. Ambassador Kirk opened the AGOA Forum and noted that in addition to signs of economic growth, African economies have reduced inflation, lowered trade barriers, and created substantial new business opportunities. Ambassador Kirk also co-chaired a plenary session on "New Strategies for Expanding U.S.-Sub-Saharan African Trade" and held a roundtable with African trade ministers to discuss key U.S.-African trade and investment issues, including AGOA.

AGOA and related GSP imports from AGOA-eligible countries were valued at $40.2 billion for the first 11 months of 2010, up 35 percent from the corresponding period in 2009. Petroleum products continued to account for the largest portion of AGOA imports, with a 91 percent share of overall AGOA/GSP imports. In the first 11 months of 2010, AGOA/GSP non-oil imports from AGOA beneficiary countries rose 23 percent to about $3.7 billion. The leading non-oil imports under AGOA/GSP in 2010 included apparel, vehicles and parts, ferroalloys, citrus, chemicals, wine, nuts, cocoa powder, and fruit juices.

d. Andean Trade Preference Act

The Andean Trade Preference Act (ATPA) was enacted in 1991 to promote broad-based economic development, diversify exports, and combat drug trafficking by providing sustainable economic alternatives to drug-crop production in Bolivia, Colombia, Ecuador, and Peru. In 2002, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) amended the ATPA to provide duty-free treatment for a number of products previously excluded under the original ATPA program. The most significant

expansion of benefits was in the apparel sector. Bolivia's eligibility for benefits was suspended effective December 2008. Further, in accordance with the statute, since the President did not determine that Bolivia satisfied the program's eligibility requirements in his June 30, 2009 report to Congress, no benefits remain in effect under the program for Bolivia.

On June 30, 2010, pursuant to section 203(f) of the ATPA, as amended, USTR transmitted its *Fifth Report to Congress on the Operation of the Andean Trade Preference Act as Amended*. The report described the main features of the program, analyzed trade trends and outlined the countries' performance related to the program's eligibility criteria. The ATPA lapsed on February 12, 2011.

e. Caribbean Basin Initiative

During 2010, 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 U.S. economic relations with its neighbors in Central America and the Caribbean. The CBI provides beneficiary countries and territories with duty-free access to the U.S. market. Current beneficiary countries are: Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. When the CAFTA-DR entered into force for each of these countries, the country ceased to be designated as a CBERA and CBTPA beneficiary. The CAFTA-DR entered into force for Costa Rica on January 1, 2009 and is now in force for all seven countries.

Since its inception, the CBI has helped beneficiaries diversify their exports. In conjunction with economic reform and trade liberalization by beneficiary countries, the trade benefits of CBI have contributed to their economic growth.

f. HELP Act and HOPE Act

On January 12, 2010, Haiti experienced a devastating earthquake. Generating jobs through exports will be one of the keys to Haiti's recovery. Textiles and apparel have represented approximately 90 percent of Haiti's exports to the United States; thus, recovery in this sector will be critical to Haiti's long term economic prospects. On February 16, 2010, Ambassador Ron Kirk announced an initiative called the "Plus One for Haiti" program. Under the program, a number of U.S. brands and retailers have committed to work toward sourcing one percent of their total apparel production from Haiti.

In May 2010 the U.S. Congress enacted the Haiti Economic Lift Program (HELP) Act. Among other provisions, the legislation:

- Extended the Caribbean Basin Trade Partnership Act (CBTPA) and the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE) through September 30, 2020.

- Provided duty-free treatment for additional textile and apparel products that are wholly assembled or knit-to-shape in Haiti regardless of the origin of the inputs.

- Increased from 70 million square meter equivalents (SMEs) to 200 million SMEs the respective tariff preference levels (TPLs) under which certain Haitian knit and woven apparel products may receive duty-free treatment regardless of the origin of the inputs. The increase will be triggered in any given year if 52 million SMEs of Haitian apparel enter the United States under the existing knit or woven TPL. Once the increase is triggered, certain knit apparel products entering duty-free under the knit TPL will be subject to an 85 million SME sublimit, and certain woven apparel products entering duty-free under the woven TPL will be subject to a 70 million SME sublimit.

- Permitted the duty-free importation into the United States of one SME of apparel wholly assembled or knit-to-shape in Haiti regardless of the origin of the inputs for every two SMEs of qualifying fabric purchased from the United States.

Congress originally enacted trade preferences specifically for Haiti in the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE I), then expanded those preferences in the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II).

To receive benefits under the 2008 legislation, Haiti was required to establish an independent labor ombudsman's office and a program operated by the International Labor Organization (ILO) to assess compliance with core labor rights and Haiti's labor laws in the country's apparel factories. Haiti also had to agree to require Haitian producers that wish to be eligible for duty-free treatment under HOPE II to participate in the ILO program and to develop a system to ensure such participation.

On October 16, 2009, the White House announced that Haiti will continue to be eligible for the benefits of HOPE II. On June 18, 2010, the U.S. Trade Representative submitted to Congress a progress report with respect to the implementation of certain labor-related provisions of the HOPE II program.

VI. TRADE POLICY DEVELOPMENT

A. Trade Capacity Building (TCB) ("Aid for Trade")

On September 22, 2010, President Obama released his strategy for development. The President's approach to global development addresses the new strategic context faced by the United States through the following three pillars:

- A policy focused on sustainable development outcomes that places a premium on broad-based economic growth, democratic governance, game-changing innovations, and sustainable systems for meeting basic human needs;

- A new operational model that positions the United States to be a more effective partner and to leverage our leadership; and

- A modern architecture that elevates development and harnesses development capabilities spread across government in support of common objectives – including a deliberate effort to leverage the engagement of and collaboration with other donors, foundations, the private sector, and NGOs – not just at the project level, but systemically.

USTR participated actively in the preparation of this strategy, and will remain active in the implementation of the strategy. Throughout the past year, USTR has worked closely with USAID, MCC, and other USG agencies to support countries in their capacity to trade, as described in this section.

Trade policy and development assistance are key tools that together can help alleviate poverty and improve opportunities. These programs, also known as aid for trade, are about giving countries, particularly the least trade-active, the training and technical assistance needed to: make decisions about the benefits of trade arrangements and reforms; implement their obligations to bring certainty to their trade regimes; and enhance such countries' ability to take advantage of the opportunities of the multilateral trading system and to compete in a global economy. Accordingly, U.S. assistance addresses a broad range of issues so that rural areas and small businesses, including female entrepreneurs, benefit from ambitious reforms in trade rules that are being negotiated in the World Trade Organization (WTO) and in other trade agreements.

An important element of this work involves coordinating U.S. Government technical assistance activities with those of the international institutions in order to identify and take advantage of donor complementarities in programming and to avoid duplication. Such institutions include the WTO, the World Bank, the International Monetary Fund (IMF), the regional development banks, and other donors. The United States, led by USTR at the WTO and by Treasury at the international financial institutions, works in partnership with these institutions and with other donors to ensure that, where appropriate, international financial institutions offer trade-related assistance as an integral component of development programs tailored to the circumstances within each developing country.

The United States' efforts build on its longstanding commitment to help partner countries benefit from the opportunities provided by the global trading system, both through bilateral U.S. assistance and through U.S. support for multilateral institutions. U.S. bilateral assistance includes programs such as targeted assistance for developing countries participating in U.S. preference programs; coordination of assistance through Trade and Investment Framework Agreements (TIFAs); TCB working groups that are integral elements of negotiations to conclude Free Trade Agreements (FTAs); and Committees on TCB created to

aid in the negotiation and or implementation of a number of FTAs, including the FTAs with the Dominican Republic and Central America, and Peru, and for some partners in the ongoing Trans-Pacific Partnership negotiations. Bilateral assistance also helps developing countries to work with the private sector and non-governmental organizations to transition to a more open economy, to prepare for WTO negotiations, and to implement their trade obligations. Multilaterally, the United States has supported and will continue to support trade-specific assistance mechanisms like the Enhanced Integrated Framework for Trade-Related Assistance to Least-developed Countries (EIF) and the WTO's Global Trust Fund for Trade-Related Technical Assistance.

1. The Enhanced Integrated Framework

The Enhanced Integrated Framework (EIF) is a multi-organization, multi-donor program that operates as a coordination mechanism for trade-related assistance to least-developed countries (LDCs) with the overall objective of integrating trade into national development plans. Participating organizations include the WTO, World Bank, IMF, UNCTAD, UNDP, UNIDO, and the International Trade Centre. The mechanism incorporates a country-specific diagnostic assessment and action plan formulated by one of the international organizations in cooperation with the participating LDC. The action plan, consisting of needs identified by the diagnostic assessment, is offered to multilateral and bilateral donors. Project design and implementation can be accomplished through the resources of the EIF Trust Fund or through multilateral or bilateral donor programs in the field (as the United States does through its development assistance programs). The EIF is exclusively for LDCs, with the goal of getting the least trade-active more involved. Of the 47 LDCs, 49 have joined the EIF. The EIF is supported by 22 donors. Institutionally, the EIF is overseen by a Board of Directors, composed of donor countries, least-developed countries, and participating international organizations. The EIF Secretariat, led by an executive director, is responsible for programmatic implementation, while the EIF Trust Fund Manager is responsible for financial aspects of the program.

The United States supports the EIF primarily through complementary bilateral assistance to EIF participating countries. The United States Agency for International Development's (USAID) bilateral assistance to LDC participants supports initiatives both to integrate trade into national economic and development strategies and to address high priority capacity building needs designed to accelerate integration into the global trading system.

2. World Trade Organization-Related U.S. Trade-Related Assistance

International trade can play a major role in the promotion of economic growth and the alleviation of poverty. The WTO's Doha Development Agenda (DDA) recognizes that TCB can facilitate more effective integration of developing countries into the international trading system and enable them to benefit further from global trade. The United States provides leadership in promoting trade and economic growth in developing countries through comprehensive TCB programs. The United States also directly supports the WTO's trade-related technical assistance.

a. Global Trust Fund

The United States supports the trade-related assistance activities of the WTO Secretariat through voluntary contributions to the Doha Development Agenda Global Trust Fund. With an additional contribution of nearly $1 million in 2010, total U.S. contributions to the WTO have amounted to almost $10 million since the launch of DDA negotiations.

b. Aid for Trade

The WTO's 2005 Hong Kong Declaration created a new WTO framework in which to discuss and prioritize aid for trade. In 2006, this framework created an Aid for Trade Task Force to operationalize aid for trade efforts and offer recommendations to improve the efficacy and efficiency of these efforts among WTO Members and other international organizations. The United States continues to be an active partner in the aid for trade discussion.

During 2010, Members actively worked on implementing many of the Task Force's recommendations. Of particular focus was the monitoring and evaluation of Aid for Trade programs. A monitoring framework was further developed, based largely on work undertaken by the OECD's Development Cooperation and Trade directorates, working closely with the WTO Secretariat, the World Bank, and donor and recipient countries, and work on best practices on evaluation began. The third global review of Aid for Trade, to be held at the WTO in July 2011, will focus on these topics.

c. WTO and Trade Facilitation

The United States has provided substantial assistance over the years in the areas of customs and trade facilitation. More recently, U.S. support for work in trade and development corridors in Africa, including through the Global Hunger and Food Security Initiative, is increasing. Through this assistance, the United States has supported the WTO Doha discussions by providing assistance to developing countries that seek help in responding to the regulatory proposals made by members in the Negotiating Group on Trade Facilitation.

d. WTO Accession

The United States provides technical support to countries that are in the process of acceding to the WTO. In 2010, WTO accession support was provided to Afghanistan, Azerbaijan, Ethiopia, Iraq, Kyrgyzstan, Laos, Lebanon, Russia, and Serbia.

3. TCB Initiatives for Africa

The United States has aggressively funded programs and developed several new initiatives at multilateral and bilateral levels to address the specific needs of sub-Saharan African countries with respect to reducing poverty and spurring economic growth. The United States has invested more than $3.3 billion in trade-related projects in sub-Saharan Africa since 2001.

a. African Global Competitiveness Initiative

The centerpiece of U.S. support for building trade capacity in Africa for the past five years was the $200 million African Global Competitiveness Initiative (AGCI). The program expired September 30, 2010. The primary focus of AGCI was to help expand African trade and investment with the United States, with other international trading partners, and regionally within Africa through improving the competitiveness of sub-Saharan African enterprises. AGCI's objectives were to: (1) improve the business climate for private sector-led trade and investment; (2) strengthen the knowledge and skills of sub-Saharan African private sector enterprises to take advantage of market opportunities; (3) increase access to financial services for trade and investment; and (4) facilitate investments in infrastructure.

A major focus of AGCI programs was to help African countries make the most of the trade opportunities available under the AGOA preference program. *(For additional information, see Chapter V.B.8.c.)*

AGCI supported AGOA through programs carried out by four USAID-funded Regional Hubs for Global Competitiveness – in Botswana, Kenya, Ghana, and Senegal – as well as through programs carried out by USAID bilateral missions. Although AGCI has expired, the Hubs continue to operate.

In 2009, the Hubs facilitated over $71 million in transactions in the textile and apparel, specialty food, cut flowers, and other product categories, mostly through new commercial relationships under AGOA. These results reflect a strategic emphasis by the U.S. Government on providing marketing assistance to African exporters at major international trade shows. Under an agreement with USAID, USDA addresses sanitary and phytosanitary issues under AGCI, specifically in the areas of food safety and plant and animal health. Additionally, the U.S. Department of Commerce's Commercial Law Development Program is working to improve protection of intellectual property rights.

b. Assistance to West African Cotton Producers

Since 2005, the United States has mobilized its development agencies to help West African countries—Benin, Burkina Faso, Chad, Mali, and Senegal—address obstacles they face in the cotton sector. The MCC, USAID, USDA, and the United States Trade and Development Agency continued to work with these nations as they sought to develop a coherent long-term development strategy to improve prospects in the cotton sector. Elements of such a strategy include improved productivity, domestic reforms, and other key issues. The United States will continue to coordinate with the WTO, World Bank, the African Development Bank, and others as part of the multilateral effort to address the development aspects of cotton. This includes active participation in the WTO Secretariat's periodic meetings with donors and recipient countries to discuss the development and reform aspects of cotton.

The centerpiece of U.S. assistance to the cotton sector in West Africa is USAID's West Africa Cotton Improvement Program (WACIP). The program is aimed at helping to improve the production and marketing of cotton in five countries: Benin, Burkina Faso, Chad, Mali, and Senegal. The WACIP is designed to help achieve the following objectives: (1) reduce soil degradation and expand the use of good agricultural practices; (2) strengthen private agricultural organizations; (3) establish a West African regional training program for ginners; (4) improve the quality of West African cotton through better classification of seed cotton and lint; (5) improve linkages between U.S. and West African research organizations involved with cotton; (6) improve the enabling environment for agricultural biotechnology; and (7) assist with policy/institutional reform.

A key element of the WACIP program is the identification of specific policy priorities through National Advisory Committees. Composed of stakeholders in each country, these committees undertook work to identify the specific projects that would yield the assistance and results sought by participants and these projects have been the basis of WACIP's work. In 2010, WACIP was extended to March 2012.

The U.S. Government also provides complementary support to the cotton sector through other programs. MCC is implementing compacts with Benin ($307 million), Burkina Faso ($481 million), and Mali ($460 million). In September 2009, the MCC signed a $540 million compact with Senegal. The program will promote economic growth in the rural agriculture sector.

4. Free Trade Agreement (FTA) Negotiations

Although the WTO programs and the EIF are high priorities, they are only part of the U.S. TCB effort. In order to help U.S. FTA partners participate in negotiations, implement commitments, and benefit over the long-term, USTR has created TCB working groups in free trade negotiations with developing countries and Committees on TCB to prioritize and coordinate TCB activities during the transition and

implementation periods once an FTA enters into force. USAID and USDA, their field missions, and a number of other U.S. Government assistance providers actively participate in these working groups and committees so that the TCB needs identified can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The Committees on TCB also invite non-governmental organizations, representatives from the private sector, and international institutions to join in building the trade capacity of the countries in each region. Trade capacity building is a fundamental feature of bilateral cooperation in support of the CAFTA-DR and the United States-Peru Trade Promotion Agreement. USTR also works closely with the U.S. Department of State and other agencies to track and guide the delivery of TCB assistance to Jordan, Morocco, Bahrain, and Oman.

a. Dominican Republic-Central America-United States Free Trade Agreement

The CAFTA-DR established a Committee on TCB. The CAFTA-DR was signed in 2004 and went into force for all countries except Costa Rica during 2006 and 2007, and for Costa Rica in 2009. The Committee on TCB has convened formally four times: in Guatemala City, Guatemala in February 2007; in Washington, D.C. in November 2007; in Santo Domingo, Dominican Republic in November 2008; and in Washington, D.C. on October 20-21, 2010. These meetings were attended by representatives of each of the member countries and by the Inter-American Development Bank (IDB), , the Organization of American States (OAS), the Economic Commission for Latin America and the Caribbean (ECLAC), the *Organismo Internacional Regional de Sanidad Agropecuaria* ("OIRSA"), and at times, by the World Bank. The meetings provided the opportunity for the Committee to review updates of recipient members' trade capacity building strategies and priorities as well as U.S. donor agencies' and the international institutions' trade capacity building activities. They additionally provided the opportunity for in-depth discussions of particular assistance areas, such as rural development and sanitary and phytosanitary assistance.

Efforts in 2010 included a range of activities to streamline customs procedures for importers and exporters, many of which directly support implementation of the FTA. Software for a virtual single window for imports was developed and/or strengthened in Nicaragua, Honduras and El Salvador. New rules of origin were implemented in a harmonized fashion. Implementation of risk based selection criteria has reduced the clearance time for goods. U.S. sanitary and phytosanitary TCB helped to enable farmers and small- and medium-sized rural enterprises to benefit from the agreement. As a result of SPS assistance, laboratories in the region have achieved international certifications, U.S. detentions due to labeling deficiencies have dropped from 68% regionally to less than 10%, and an estimated $135 million of increased meat, dairy and vegetable exports to the United States were generated.

b. United States-Peru Trade Promotion Agreement

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. Like the CAFTA-DR, the PTPA includes a provision that creates a Committee on TCB to build on work done during the negotiations by the TCB working group. The purpose of the Committee is to assist Peru in refining and implementing its national TCB strategy as well as to foster assistance to promote economic growth, reduce poverty, and adjust to liberalized trade. The Committee met in March 2009 in Peru. Peru presented a preliminary national trade capacity building strategy to address several specific objectives relating to implementation of the Agreement, highlighting areas such as telecommunications, intellectual property and agricultural standards. USAID/Peru is working closely with its government of Peru counterparts to ensure that activities respond directly to the Peru's trade capacity needs. To that end, in December 2009, USAID and USDA, along with Peruvian government and universities, began working together to strengthen Peru's agricultural sector through targeted capacity building in the areas of sanitary and phytosanitary (SPS) regulatory and surveillance systems, agricultural research, and agricultural education. Additionally, USAID launched a trade capacity building project in July of 2010 that will work

with several Peruvian ministries and agencies to assist with the implementation of the PTPA and facilitate trade across a wide range of sectors. The first of these activities will focus, *inter alia*, on: implementation of the labor and intellectual property provisions; strengthening intellectual property enforcement training, patent processes and capacity to evaluate drug applications; and improving customs operations to both comply with the PTPA and facilitate trade. In addition, the United States is committed to providing support to assist Peru on implementing its obligations under the environmental provisions of the PTPA, including its obligations under the annex on forest sector governance. This support is contemplated under the United States-Peru Environmental Cooperation Agreement, an agreement concluded in parallel to the PTPA, and involves several ongoing projects in the region.

c. United States-Colombia and United States-Panama Trade Promotion Agreements

In November 2006, the United States and Colombia signed an FTA: The United States-Colombia Trade Promotion Agreement. On June 28, 2007, the United States-Panama Trade Promotion Agreement was signed. As with the United States-Peru Trade Promotion Agreement, these two agreements include the creation of Committees on TCB to build upon the progress made by the preceding TCB working groups on economic assistance and poverty alleviation.

B. Public Input and Transparency

Broadening opportunities for public input and increasing the transparency of trade policy is a key priority of USTR's Office of Intergovernmental Affairs and Public Engagement (IAPE) under the Obama Administration. IAPE works with USTR's Office of Public and Media Affairs and with regional and functional offices across the agency to ensure that timely trade information is available to the public and disseminated widely. This is accomplished in part via USTR's interactive website; a weekly e-newsletter that is available through our homepage at http://www.ustr.gov; online posting of *Federal Register* Notices soliciting public comment and input and publicizing Trade Policy Staff Committee (TPSC) public hearings; increased transparency regarding specific policy initiatives; managing the agency's increased outreach and engagement with small and medium-sized businesses; meetings with a broad array of domestic stakeholders including but not limited to agriculture groups, industry groups, labor groups, small businesses, NGOs, universities, think tanks, and state and local governments; and speeches to associations and conferences around the country regarding trade. In addition to public outreach, IAPE is responsible for administering USTR's statutory advisory committee system created by Congress under the Trade Act of 1974 as amended, as well as facilitating formal consultations with state and local governments regarding trade issues which may impact them. Each of these elements is discussed in turn below.

1. Public Outreach

a. Website and Weekly E-Newsletter

Launched in June 2009, the USTR website at http://www.ustr.gov has broadened the trade dialogue through technology, fulfilling President Obama's commitment of a government that is transparent, participatory, and collaborative**.**

Through the USTR blog and site pages on geographical areas, trade agreements, and key trade issues, http://www.ustr.gov shares updated information about USTR's efforts to support job creation by opening markets and enforcing America's rights in the rules-based global trading system.

Interactive tools on the site allow the public to participate more fully in USTR's day-to-day operations. People can share their questions through the Ask the Ambassador feature, and see the Ambassador's reply. The Share Your Stories feature, where American companies describe how engaging in the global market place helps to keep their business competitive and creates jobs here at home, serves as a venue for sharing how trade impacts and benefits daily life. The Interactive Map details Ambassador Ron Kirk's travel at home and abroad. It shows his efforts as he visits America's trading partners to gain market access for U.S. farmers, ranchers, manufacturers, workers, and service providers.

The public is invited to sign up on USTR's homepage to receive the weekly e-mail newsletter, which highlights USTR's efforts at outreach, opening of markets and enforcing trade agreements around the world. This is a useful tool for small businesses and stakeholders outside Washington, D.C. to stay informed about trade policy developments and new market opportunities.

b. *Federal Register* Notices Seeking Public Input/Comments Now Available Online for Inspection

Throughout 2010, USTR has issued *Federal Register* Notices online to solicit public comment, and has held public hearings at USTR regarding a wide array of trade policy initiatives. Public comments received in response to *Federal Register* Notices are available for inspection online at http://www.regulations.gov. Some examples of trade policy initiatives for which USTR has sought public comment this year include the following:

- *Trans-Pacific Partnership (TPP) Trade Agreement*: The United States has entered into negotiations on a TPP trade agreement with the objective of shaping a high-standard, broad-based regional agreement. USTR has sought and continues to seek public comments on all elements of the agreement in order to develop U.S. negotiating positions as well as seeking comment on including additional countries to participate in the agreement.

- *Scope of Viewpoints Represented on the Industry Trade Advisory Committees:* USTR recognizes that in order to have a well-rounded trade policy, it is necessary to include input from a broad range of interested and relevant parties. USTR has expanded the representation of non-industry stakeholders in the advisory committee system, and, in consultation with the other agencies who receive advice from the advisory committees, is determining the best and most effective way to ensure that these voices are heard.

- *Special 301 Out of Cycle Review of Notorious Markets:* In an effort to increase public awareness and guide related trade enforcement actions, USTR plans to begin publishing the notorious market list separately from the annual Special 301 report in which it has previously been included. The notorious markets list is a list of Internet and physical markets that have been the subject of enforcement action or that may merit further investigation for possible IPR infringements. In 2010, USTR requested comments and submissions from the public to help identify potential notorious markets that exist outside the United States and, after review of all submissions, will publish the notorious markets list in early 2011.

c. Policy Initiatives to Increase Transparency

USTR continues to take steps in specific issue areas to increase transparency and augment opportunities for public input. For example:

- *Inclusion of stakeholders at Trans-Pacific Partnership Negotiations:* USTR created opportunities for the public to attend and meet with negotiators during the San Francisco round of negotiations.

Side rooms provided an opportunity for the public to interact with negotiators from all of the participating countries and provide presentations on various public health and interest issues.

- *Greater Transparency in Anti-Counterfeiting Trade Agreement (ACTA) Negotiations*: USTR sought and received input from an extremely broad range of stakeholders during the ACTA negotiations. On April 21, 2010, with the agreement of its negotiating partners, USTR released a draft text of the ACTA so that the public could have greater input into the negotiations. On October 6, with the agreement of our negotiation partners, USTR released a second draft text. On November 15, 2010, USTR released the final text of the agreement. In advance of signing the final text, USTR is seeking comments on the agreement through *Federal Register* Notices as well as meetings with the public.

d. Open Door Policy

USTR officials meet frequently with a broad array of stakeholder groups representing business, labor, environment, consumers, state and local governments, NGOs, think tanks, universities and high schools to discuss specific trade policy issues, subject to availability and scheduling. These meetings are coordinated by IAPE and, when likely to be of broader interest, are noted in the weekly e-newsletter.

2. The Trade Advisory Committee System

The trade advisory committee system, established by the U.S. Congress in 1974, operates under the auspices of IAPE. The trade advisory committee system was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The trade advisory committee system consists of 28 advisory committees, with a total membership of approximately 700 advisors. It includes committees representing sectors of industry, agriculture, labor, environment, state, and local interests. IAPE manages the system, in cooperation with other agencies, including the Departments of Agriculture, Commerce, Labor, and the Environmental Protection Agency.

The trade advisory committees provide information and advice on U.S. negotiating objectives, the operation of trade agreements, and other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); five policy advisory committees dealing with environment, labor, agriculture, Africa, and state and local issues; and 22 technical advisory committees in the areas of industry and agriculture. In 2004, the committees were streamlined and consolidated to better reflect the composition of the U.S. economy, in response to recommendations from the U.S. Government Accountability Office (GAO). Additional information on the advisory committees can be found on the USTR website at http://www.ustr.gov/about-us/intergovernmental-affairs/advisory-committees.

In 2007, the GAO recommended further steps USTR could take to provide greater transparency and accountability in the composition of the trade advisory committees, including reporting annually on how the committees meet the representation requirements of the relevant legislation, and clarifying which interests the members represent. Pursuant to these recommendations, a further description of committee representation is provided below, and the membership rosters of the committees with the organizations and interests represented are available online.

In cooperation with the other agencies served by the advisory committees, USTR has broadened the participation on committees to include more diversity of stakeholders, new voices, and fresh perspectives,

and continues exploring ways to further expand representation while ensuring the committees remain effective. With the rechartering of many of the advisory committees, USTR has also implemented White House guidelines prohibiting registered lobbyists from serving on committees. This has created opportunities to bring an influx of new members who have continued to provide USTR with the critical and necessary advice it seeks as it creates, negotiates and implements trade policy. This policy has also challenged USTR and the agencies that co-administer the advisory committees to think creatively and seek new resources to meet the needs of the committees.

Recommendations for candidates for committee membership are collected from a number of sources, including members of Congress, associations and organizations, publications, other federal agencies, responses to *Federal Register* Notices, and self-nominated individuals who have demonstrated an interest in, and knowledge of, U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee to maintain a balance of the perspectives represented. Committee members are required to have a security clearance in order to serve and have access to confidential trade documents on a secure encrypted website. Committees meet regularly in Washington, D.C. to provide input and advice to USTR and other agencies. Members pay for their own travel and other related expenses.

a. President's Advisory Committee on Trade Policy and Negotiations (ACTPN)

The ACTPN consists of not more than 45 members who are broadly representative of the key economic sectors affected by trade. The President appoints ACTPN members for four-year terms not to exceed the duration of the charter. The ACTPN is the highest level committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

Members of ACTPN are appointed to represent a variety of interests including non-federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. A current roster of members and the interests they represent is available on the USTR website.

b. Policy Advisory Committees

Members of the five policy advisory committees are appointed by USTR or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee (IGPAC) and the Trade Advisory Committee for Africa (TACA) are appointed and managed solely by USTR. Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC), and the Trade and Environment Policy Advisory Committee (TEPAC). Each committee provides advice based upon the perspective of its specific area and its members are chosen to represent the diversity of interests in those areas. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website.

APAC:

The Secretary of Agriculture and the U.S. Trade Representative appoint members jointly. APAC members are appointed to represent a broad spectrum of agricultural interests including the interests of farmers, processors, renderers, and retailers from diverse sectors of agriculture, including fruits and vegetables, livestock, dairy, and wine. Members serve at the discretion of the Secretary of Agriculture and the U.S. Trade Representative. The Committee consists of approximately 35 members.

IGPAC:

The IGPAC consists of approximately 35 members appointed from, and representative of, the various states and other non-federal governmental entities within the jurisdiction of the United States. These entities include, but are not limited to, the executive and legislative branches of state, county, and municipal governments. Members may hold elective or appointive office. Members are appointed by and serve at the discretion of the U.S. Trade Representative.

LAC:

The LAC consists of not more than 30 members from the U.S. labor community, appointed by the U.S. Trade Representative and the Secretary of Labor, acting jointly. Members represent unions from all sectors of the economy. Members are appointed by, and serve at the discretion of, the Secretary of Labor and the U.S. Trade Representative.

TACA:

TACA consists of not more than 30 members, including, but not limited to, representatives from industry, labor, investment, agriculture, services, non-profit development organizations, and other interests. The members of the Committee are appointed to be broadly representative of key sectors and groups with an interest in trade and development in sub-Saharan Africa, including non-profit organizations, producers, and retailers. Members of the committee are appointed by and serve at the discretion of the U.S. Trade Representative.

TEPAC:

TEPAC consists of not more than 35 members, including, but not limited to, representatives from environmental interest groups, industry (including the environmental technology and environmental services industries), agriculture, services, non-federal governments, and other interests. The Committee is designed to be broadly representative of key sectors and groups of the economy with an interest in trade and environmental policy issues. Members of the Committee are appointed by and serve at the discretion of the U.S. Trade Representative.

c. Technical and Sectoral Committees

The 22 technical and sectoral advisory committees are organized into two areas: agriculture and industry. Representatives are appointed jointly by the USTR and the Secretaries of Agriculture and Commerce, respectively. Each sectoral or technical committee represents a specific sector or commodity group and provides specific technical advice concerning the effect that trade policy decisions may have on its sector or issue.

Agricultural Technical Advisory Committees (ATACs):

There are six ATACs, focusing on the following products: Animals and Animal Products; Fruits and Vegetables; Grains, Feed and Oilseeds; Processed Foods; Sweeteners and Sweetener Products; and Tobacco, Cotton, Peanuts, and Planting Seeds. Members of each Committee are appointed by and serve at the pleasure of the Secretary of Agriculture and the U.S. Trade Representative. Members must represent a U.S. entity with an interest in agricultural trade and should have expertise and knowledge of agricultural trade as it relates to policy- and commodity-specific products. In appointing members to the committees, balance is achieved and maintained by assuring the members appointed represent industries and other entities across the range of interests which will be directly affected by the trade policies of

concern to the committee (for example, farm producers, farm and commodity organizations, processors, traders, and consumers). Geographical balance on each committee will also be sought. A list of all the members of the committees and the diverse interests they represent is available on the USTR website.

Industry Trade Advisory Committees (ITACs):

There are sixteen industry trade advisory committees (ITACs). These committees are: Aerospace Equipment (ITAC 1); Automotive Equipment and Capital Goods (ITAC 2); Chemicals, Pharmaceuticals, Health Science Products and Services (ITAC 3); Consumer Goods (ITAC 4); Distribution Services (ITAC 5); Energy and Energy Services (ITAC 6); Forest Products (ITAC 7); Information and Communication Technology Services and Electronic Commerce (ITAC 8); Non-Ferrous Metals and Building Products (ITAC 9); Services and Finance Industries (ITAC 10); Small and Minority Business (ITAC 11); Steel (ITAC 12); Textiles and Clothing (ITAC 13); Customs Matters and Trade Facilitation (ITAC 14); Intellectual Property Rights (ITAC 15); Standards and Technical Trade Barriers (ITAC 16).

The ITAC Committee of Chairs was established to coordinate the work of the 16 ITAC committees and advise the Secretary of Commerce and the U.S. Trade Representative concerning the trade matters of common interest to the 16 ITACs. Members of this committee are the elected chairs from each of the 16 ITACs.

Members of the ITACs are appointed jointly by the Secretary of Commerce and the U.S. Trade Representative and serve at their discretion. Committee members should have knowledge and experience in their industry and represent a U.S. entity that has an interest in trade matters related to the sectors or subject matters of concern to the individual committees. In appointing members to the Committees, balance is achieved and maintained by assuring the members appointed represent industries and other U.S. entities across the range of interests which will be directly affected by the trade policies of concern to the Committee. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website (for example committees include exporters, importers, producers, and both small and large businesses).

3. State and Local Government Relations

USTR maintains consultative procedures between federal trade officials and state and local governments. USTR's Office of IAPE is designated as the "coordinator for state matters" and informs the states, on an ongoing basis, of trade-related matters that directly relate to, or that may have a direct effect on, them. U.S. territories may also participate in this process. IAPE also serves as a liaison point in the Executive Branch for state and local government and federal agencies to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms, detailed below.

a. State Point of Contact System and IGPAC

For day-to-day communications, pursuant to the NAFTA and Uruguay Round implementing legislation and Statements of Administrative Action, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each state designates a single contact point to disseminate information received from USTR to relevant state and local offices and assist in relaying specific information and advice from the states to USTR on trade-related matters.

The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and

reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which may affect them. SPOCs regularly receive USTR press releases, *Federal Register* Notices, and other pertinent information. USTR convenes a regular monthly conference call for SPOCs and members of the Intergovernmental Policy Advisory Committee (*see description below*) to keep state and local governments apprised of timely trade developments of interest.

IGPAC makes recommendations to USTR and the Administration on trade policy matters from the perspective of state and local governments. In 2010, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: USTR's Small and Medium Sized Enterprises initiative; enforcement issues; the Buy America provisions of the American Recovery and Reinvestment Act of 2009; government procurement issues with Canada; the model Bilateral Investment Treaty (BIT) review; the Trans-Pacific Partnership; the National Export Initiative; and other matters. IGPAC members are also invited to participate in monthly teleconference call briefings along with State Points of Contact. Specific issues of interest to IGPAC and SPOCs include new enforcement mechanisms for Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) measures, the review of the model BITs, and foreign government challenges to state subsidies.

b. Meetings of State and Local Associations and Local Chambers of Commerce

USTR officials participate frequently in meetings of state and local government associations and local chambers of commerce to apprise them of relevant trade policy issues and solicit their views. For example, in January 2010, Ambassador Ron Kirk addressed the U.S. Conference of Mayors in Washington, D.C. He has met with individual governors, mayors, and state legislators to discuss trade issues of interest to states and localities, as well as hosting the Intergovernmental Policy Advisory Committee at USTR. Ambassador Kirk has also met with major local chambers of commerce to hear firsthand from local community officials and small businesses. USTR staff has met with the National Governors' Association, regional governors' associations, councils of state governments/state international development organizations, National Conference of State Legislatures, and other state commissions and organizations. USTR officials have addressed gatherings of state and local officials and port authorities as well as chambers of commerce around the country.

c. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and other U.S. trade agreements and frequently responds to requests for information from state and local governments. Topics of interest included the application of the WTO Government Procurement Agreement (GPA) and Buy America provisions under the American Recovery and Reinvestment Act of 2009, General Agreement on Trade in Services issues, the review of the model Bilateral Investment Treaty (BIT), enforcement of trade agreements, NAFTA trucking issues, and consultations with individual states regarding specific anti-dumping and countervailing duty investigations.

C. Policy Coordination and Freedom of Information Act

The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of U.S. trade policy, including on commodity matters (for example coffee and rubber) and, to the extent they are related to trade, direct investment matters. Under the Trade Expansion Act of 1962, Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first-line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through *Federal Register* Notices and public hearings. In 2010, the TPSC held public hearings on China's Compliance with its WTO Commitments (October 6, 2010) and Malaysia's Participation in the Proposed Trans-Pacific Partnership Trade Agreement (November 19, 2010).

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred to the TPRG (Deputy USTR/Under Secretary level) or to the Deputies Committee of the National Security Council/National Economic Council. Issues of the greatest importance move to the Principals Committee of the NSC/NEC for resolution by the Cabinet, with or without the President in attendance.

Member agencies of the TPSC and the TPRG consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The U.S. International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed. The Small Business Administration joined the TPSC/TPRG as a full member in March 2010.

Separate from its policy coordination function, the Office of the U.S. Trade Representative is subject to The Freedom of Information Act (FOIA). Details of the program are available on the USTR website at http://www.ustr.gov/about-us/reading-room/freedom-information-act-foia. USTR received 41 new FOIA requests last year and processed 53. This year, the Department of Justice named USTR one of five agencies that had made particular efforts at increased disclosure in light of the Obama Administration's policies and Attorney General Holder's memo of March19, 2009 to heads of executive departments and agencies. USTR participated in a special ceremony with Attorney General Holder to honor the five agencies' accomplishments.

Saudi Arabia

- United States-Saudi Arabia Trade and Investment Framework Agreement (July 31, 2003)

South Africa

- United States-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Southern Africa Customs Union

- United States-Southern Africa Customs Union Trade, Investment, and Development Cooperative Agreement (July 16, 2008)

Sri Lanka

- United States-Sri Lanka Trade and Investment Framework Agreement (July 25, 2002)

Switzerland

- United States-Switzerland Trade and Investment Cooperation Forum Agreement (May 25, 2006)

Taiwan

- United States-Taiwan Trade and Investment Framework Agreement (September 19, 1994)

Thailand

- United States-Thailand Trade and Investment Framework Agreement (October 23, 2002)

Tunisia

- United States-Tunisia Trade and Investment Framework Agreement (October 2, 2002)

Turkey

- United States-Turkey Trade and Investment Framework Agreement (September 29, 1999)

Ukraine

- United States-Ukraine Trade and Investment Cooperation Agreement (March 28, 2008)

United Arab Emirates (UAE)

- United States-United Arab Emirates Trade and Investment Framework Agreement (March 15, 2004)