Foreword

The 2013 Trade Policy Agenda and 2012 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). Chapter II and Annex II of this document meet the requirements of Sections 122 and 124 of the Uruguay Round Agreements Act with respect to the World Trade Organization. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984. Trade data for 2012, where listed, are annualized based on January to November data. Services data by country are only available through 2011.

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report. U.S. Trade Representative Ron Kirk gratefully acknowledges in particular the contributions of Deputy U.S. Trade Representatives Demetrios Marantis, Michael Punke, and Miriam Sapiro; USTR General Counsel Timothy Reif; Chief of Staff Lisa Garcia; and Assistant USTR for Public/Media Affairs Carol Guthrie, Senior Policy Advisor Holly Smith, Senior Advisor David Roth, and Director of Speechwriting Jeremy Sturchio. Thanks are extended to partner Executive Branch agencies, including the Environmental Protection Agency and the Departments of Agriculture, Commerce, Health and Human Services, Justice, Labor, State, and Treasury. Ambassador Kirk would also like to thank Diana Friedman, Jeffrey Horowitz, and Jeffrey Schlandt for their contributions.

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LIST OF FREQUENTLY USED ACRONYMS

AD	Antidumping
AGOA	African Growth and Opportunity Act
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
ATPA	Andean Trade Preferences Act
ATPDEA	Andean Trade Promotion & Drug Eradication Act
BIA	Built-In Agenda
BIT	Bilateral Investment Treaty
BOP	Balance of Payments
CACM	Central American Common Market
CAFTA	Central American Free Trade Area
CARICOM	Caribbean Common Market
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CFTA	Canada Free Trade Agreement
CITEL	Telecommunications division of the OAS
COMESA	Common Market for Eastern & Southern Africa
CTE	Committee on Trade and the Environment
CTG	Council for Trade in Goods
CVD	Countervailing Duty
DDA	Doha Development Agenda
DSB	Dispute Settlement Body
EAI	Enterprise for ASEAN Initiative
DSU	Dispute Settlement Understanding
EU	European Union
EFTA	European Free Trade Association
FTAA	Free Trade Area of the Americas
FOIA	Freedom of Information Act
GATT	General Agreement on Tariffs and Trade
GATS	General Agreements on Trade in Services
GDP	Gross Domestic Product
GEC	Global Electronic Commerce
GSP	Generalized System of Preferences
GPA	Government Procurement Agreement
IFI	International Financial Institution
IPR	Intellectual Property Rights
ITA	Information Technology Agreement
LDBDC	Least-Developed Beneficiary Developing Country
MAI	Multilateral Agreement on Investment
MEFTA	Middle East Free Trade Area
MERCOSUL/MERCOSUR	Southern Common Market
MFA	Multifiber Arrangement
MFN	Most Favored Nation
MOSS	Market-Oriented, Sector-Selective
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement

NAFTA	North American Free Trade Agreement
NEC	National Economic Council
NIS	Newly Independent States
NSC	National Security Council
NTR	Normal Trade Relations
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
PNTR	Permanent Normal Trade Relations
ROU	Record of Understanding
SACU	Southern African Customs Union
SADC	Southern African Development Community
SME	Small and Medium Size Enterprise
SPS	Sanitary and Phytosanitary Measures
SRM	Specified Risk Material
TAA	Trade Adjustment Assistance
TABD	Trans-Atlantic Business Dialogue
TACD	Trans-Atlantic Consumer Dialogue
TAEVD	Trans-Atlantic Environment Dialogue
TALD	Trans-Atlantic Labor Dialogue
TBT	Technical Barriers to Trade
TEP	Transatlantic Economic Partnership
TIFA	Trade & Investment Framework Agreement
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
TRIMS	Trade Related Investment Measures
TRIPS	Trade Related Intellectual Property Rights
UAE	United Arab Emirates
UNCTAD	United Nations Conference on Trade & Development
UNDP	United Nations Development Program
URAA	Uruguay Round Agreements Act
USDA	U.S. Department of Agriculture
USITC	U.S. International Trade Commission
USTR	United States Trade Representative
VRA	Voluntary Restraint Agreement
WAEMU	West African Economic & Monetary Union
WB	World Bank
WTO	World Trade Organization

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THE PRESIDENT'S 2013 TRADE POLICY AGENDA

I. THE PRESIDENT'S TRADE POLICY AGENDA

Supporting Jobs and Economic Growth through Trade

Trade is helping to drive the success of President Obama's strategy to grow the U.S. economy and support jobs for more Americans. The Obama Administration's trade policy helps U.S. exporters gain access to billions of customers beyond our borders to support economic growth in the United States and in markets worldwide. We seek to create and defend open markets for U.S. exports and maintain a level playing field for U.S. producers to compete. We stand up for U.S. workers and businesses by challenging unfair trade practices and enforcing U.S. trade rights under our agreements. We work closely with trading partners to enhance our economic relationships and identify and remove barriers to promote mutually-beneficial, two-way trade. We use trade as a tool to fight poverty and enhance environmental and labor protections, while building better markets for U.S. exports. We advance all of these objectives with broad input from a wide range of stakeholders, including as many perspectives as possible to craft U.S. trade policy that reflects the aspirations of the American people and our global leadership role.

The President's Trade Policy Agenda for 2013 describes how the Administration will continue to use every available policy tool over the next year – and develop new tools as necessary – to pursue the most efficient and productive pathways for trade liberalization in order to support greater economic growth and jobs. Moving forward, the Administration will continue to work with willing trading partners as we constantly seek ambitious, comprehensive, and high-standard trade and investment commitments that will enhance the ability of U.S. workers and firms to compete here at home and on a level playing field around the world. We will continue to enforce our trade agreements rigorously to bring home their economic benefits, preserve and support additional U.S. jobs, and discourage trade-inhibiting actions that diminish economic growth. We will strengthen trade relationships in every region, partner with developing countries to share the benefits of trade more broadly, and continue to reflect and uphold American values in trade policy.

Our efforts in 2013 will build on many successful 2012 initiatives to enable continued progress toward President Obama's National Export Initiative goal to double U.S. exports in support of up to two million additional U.S. jobs by the end of 2014. We will further intensify negotiations with Trans-Pacific Partnership (TPP) countries to secure a next-generation, high-standard trade agreement in the world's fastest growing region. We will launch negotiations with the European Union toward a Transatlantic Trade and Investment Partnership agreement to further strengthen the world's largest trade relationship. At the WTO, we will continue to advance promising pathways for 21st century trade liberalization and to seek to revitalize Members' work in Geneva, including on trade facilitation, expansion of the Information Technology Agreement, and negotiations on a new International Services Agreement.

To facilitate the conclusion, approval, and implementation of market-opening negotiating efforts, we will also work with Congress on Trade Promotion Authority. Such authority will guide current and future negotiations, and will thus support a jobs-focused trade agenda moving forward.

Building on the achievements of the last four years, in 2013 we will work with Korea, Colombia, and Panama to ensure that the bilateral trade agreements that went into effect last year continue to operate smoothly, and we will ensure that U.S. exporters begin to reap the full benefits of Russia's membership in the World Trade Organization (WTO). We will also continue to further trade and investment opportunities in Africa, India, and elsewhere. At the same time, we will continue to monitor and enforce

U.S. trade agreements, using all of our resources, including the new Interagency Trade Enforcement Center (ITEC), to identify and challenge unfair trade practices wherever they may undermine a level playing field for American businesses, workers, farmers, ranchers, manufacturers, service providers, creators, and innovators. Successful pursuit of these U.S. trade policy objectives in 2013 will help to support and sustain additional American jobs and economic growth.

Our Trade Policy Priorities

I. Expand Job-Supporting U.S. Trade

International trade supports millions of American jobs, families, and businesses. Trade keeps Americans working as it links high-quality products "Made in America" with customers around the world. Trade often provides materials for completing those products as well; more than half of U.S. imports provide inputs to value-added production here in the United States. Data from 2012 showed that every $1 billion in U.S. goods exports supported an estimated nearly 5,400 American jobs, and every $1 billion of U.S. services exports supported an estimated nearly 4,000 U.S. jobs. Many trade-related jobs are in some of the United States' fastest growing and most globally competitive sectors, from manufacturing to agriculture to services. And jobs supported by U.S. goods exports pay an estimated 13 to 18 percent more than the national average.

In 2013, the Administration will continue to advance trade policies that promote open markets to enable additional job-supporting U.S. exports and sustained economic growth worldwide.

Continue Progress under President Obama's National Export Initiative

Three years into President Obama's National Export Initiative (NEI) effort, increased U.S. exports are supporting additional American jobs. Exports continued to climb, hitting record highs in all major sectors in 2012: services exports were up 24 percent over 2009; manufacturing exports were up 47 percent; and agricultural exports were up 44 percent. Consequently, overall U.S. exports of goods and services have increased by more than 39 percent above the level of exports in 2009, and this has supported more than 1 million additional American jobs; updated statistics on U.S. exports and the jobs they support will be released by the U.S. Department of Commerce in March 2013. Such progress is notable given weak global demand, especially in some of the largest U.S. export markets, during this period. Additional trade-enhancing measures that support continued global recovery will also strengthen demand for job-supporting U.S. exports.

In 2013, the Administration will continue to advance the NEI by increasing trade advocacy and export promotion efforts, removing trade barriers and expanding market access, and enforcing U.S. rights under our trade agreements. In December 2012, the Export Promotion Cabinet (EPC), through the Trade Promotion Coordinating Committee (TPCC), issued the 2012 National Export Strategy outlining the Administration's progress on the implementation of each of the 70 NEI recommendations and the renewed focus by the EPC on increasing the national base of small business exporters, making it easier for U.S. businesses to access federal export assistance, and improving delivery of export assistance to U.S. businesses. In 2013, the EPC will coordinate through the TPCC the launch of innovative initiatives including: a national marketing campaign targeting small and medium-sized exporters; an expanded Export University Program; the "Global Business Solutions" trade financing packaging that will work with community banks to expand the U.S. financial infrastructure offering trade-related products; commercial statecraft training for foreign service officers; and public-private partnerships that will deliver commercial services for U.S. businesses overseas. The Administration will also implement the operational plans of the President's Commercial Advocacy Task Force, which was created by Executive

Order in December 2012, including assembling deal teams and developing robust trade leads for U.S. businesses. In 2013, the Administration will continue to increase collaboration with U.S. cities and states to develop their own export plans, integrate Export.gov with BusinessUSA.gov to better deliver online services, and continue implementing a national tourism strategy to boost U.S. services sector exports.

The NEI has placed a high priority on helping U.S. small businesses become more involved in exporting. In 2013, the Administration will continue to develop and deploy initiatives designed to help U.S. small business exporters to access global markets more easily. Such efforts will build on key progress made in 2012, including the creation of the Small Business Network of the Americas (SBNA), which links U.S. Small Business Development Centers across the United States with a growing network of counterpart small business centers in the Western Hemisphere. Through online trade platforms and business competitions, the SBNA will increase the ability of small businesses in the United States to export and strengthen international business-to-business connections throughout the region. The United States will also continue to work through the Transatlantic Economic Council on small business export promotion, as outlined in a December 2012 memorandum of understanding. U.S. and EU officials and small business owners will seek to address trade barriers affecting small business, exchange best practices, and facilitate increased small business participation in transatlantic trade. Ensuring small businesses benefit from trade will also continue to be a U.S. priority in trade negotiations.

Advance Trans-Pacific Partnership Negotiations toward an Ambitious Conclusion

In pursuit of job-supporting trade opportunities, the Administration will continue to advance negotiations for the Trans-Pacific Partnership (TPP), a high-standard regional trade agreement that will link the United States to dynamic economies throughout the rapidly growing Asia-Pacific region. Home to more than 40 percent of the world's population, Asia-Pacific economies already conduct more than 40 percent of global trade, and experts estimate that economies around the Pacific Rim will continue to grow faster than the world average through 2016. To help realize this enormous economic potential, the TPP aims to enhance trade and investment among the TPP countries, promote innovation, increase economic growth and development, and support the creation and retention of jobs in America and throughout the region. Along with the United States, TPP partners now include Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

The addition of Mexico and Canada to TPP negotiations in October 2012 has more deeply anchored the TPP agreement around the Pacific Rim. Mexico's and Canada's participation will enable the Administration to work collectively with these neighbors to enhance regional trade integration, while fulfilling President Obama's pledge to address concerns related to the North American Free Trade Agreement (NAFTA). More broadly, the TPP also has the potential to provide a more robust and responsive trade model for the next generation – a model that addresses the reality that businesses and workers in the United States and around the region are confronting new challenges that have arisen in recent years. All TPP partners share a core mission of tackling these new challenges not only to help businesses and workers today, but to enhance regional trade for the next generation of producers, workers, and consumers in every Asia-Pacific economy.

In 2013, the United States will work with TPP partners to bring TPP negotiations toward an ambitious conclusion. TPP negotiators already are working diligently toward the goal put forward by President Obama and fellow TPP Leaders in November 2012 – to strive to complete the negotiations this year. The United States continues to engage with Japan regarding its interest in the TPP negotiations and has welcomed public expressions of interest by other countries in the region as well. As TPP is the most promising platform for development of an eventual Free Trade Area of the Asia-Pacific, the United States continues to stress to all potential new entrants that they must be able to meet the high standards agreed by the TPP negotiating partners.

Launching Negotiations with the EU toward a Transatlantic Trade and Investment Partnership

The unparalleled economic partnership between the United States and European Union (EU) supports millions of jobs on both sides of the Atlantic. In his 2013 State of the Union Address to Congress, President Obama announced his intention to launch negotiations with the EU on a comprehensive Transatlantic Trade and Investment Partnership (TTIP). Such a partnership would include ambitious reciprocal market opening in goods, services, and investment, and would offer additional opportunities for modernizing trade rules and identifying new means of reducing the non-tariff barriers that now constitute the most significant obstacle to increased transatlantic trade. A successful agreement of this kind could generate new business and employment by expanding trade and investment opportunities in both economies; pioneer rules and disciplines that address challenges to global trade and investment that have grown in importance in recent years; and further strengthen the extraordinarily close strategic partnership between the United States and Europe. President Obama's decision to launch negotiations was based on recommendations made by the U.S.-EU High Level Working Group on Jobs and Growth, which was co-chaired by U.S. Trade Representative Ron Kirk and EU Trade Commissioner Karel de Gucht.

Lead Creative and Effective World Trade Organization Member Efforts to Open Markets, Enforce Rules, and Combat Protectionism

The World Trade Organization (WTO) remains the primary forum for liberalizing multilateral trade, developing and enforcing global trade rules, and serving as a bulwark against protectionism. In each of these areas, the WTO plays a vital and irreplaceable role that undoubtedly benefits the United States along with every other WTO Member. In 2013, the United States will continue to lead in the global trading community in ways that reflect our commitment to preserving, enhancing, and strengthening the WTO as an institution for the 21st century and beyond.

As WTO Members prepare this year for the ninth biennial Ministerial Conference, the WTO's vital function as a forum for trade negotiations is being tested, and the United States is determined to advance market-opening measures at the WTO along avenues with the highest potential to yield significant and timely results. After all WTO Members collectively acknowledged an impasse in the Doha Round negotiations at the eighth Ministerial Conference in 2011, the United States has successfully worked with WTO Members – in groups and as a whole – to move negotiations along more constructive and productive pathways.

In 2013, the United States will continue to lead efforts to advance a multilateral trade facilitation agreement that will ensure all WTO Members remove trade barriers and are able to realize significant development gains through enhanced global flows of goods and services. We also will explore opportunities for agreement in areas such as development issues and continue to provide resources in support of least-developed countries' full participation at the WTO.

To realize the enormous potential of more open markets for trade in services to support additional jobs and economic growth worldwide, the United States is joining like-minded WTO Members this year in launching multi-party negotiations toward an ambitious international services trade agreement (ISA).

The United States is currently the world's largest services trader. U.S. exports of private services measured almost $600 billion in 2011, and sales through foreign affiliates exceeded $1 trillion in 2010. Taken together, international sales of services by U.S. companies are on the order of $1.7 trillion per year, which is equivalent to approximately 11 percent of U.S. Gross Domestic Product (GDP). However, a study by the Peterson Institute for International Economics estimates that tradable services remain five times less likely to be exported than manufactured products.

The ISA will capture and build upon significant services liberalization gains achieved through the WTO and elsewhere, and it will present new opportunities to remove impediments to global services trade. The ISA negotiating framework will be compatible with the WTO General Agreement on Trade in Services (GATS), as ISA partners are aiming for a high-standard agreement that may be expanded to include future participants. ISA negotiations in Geneva currently include 20 trading partners – Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, the European Union on behalf of its member states, Hong Kong China, Iceland, Israel, Japan, Korea, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, and Turkey. Whereas the United States currently has trade agreements with 10 of these negotiating partners, the ISA offers a unique platform to work on deeper services integration simultaneously with diverse partners such as Japan, Chinese Taipei, Israel, Norway, Pakistan, and Turkey, and to help influence the development of the global services architecture.

A key U.S. priority in the ISA negotiations is to enable service suppliers to compete on the basis of quality and competence rather than nationality. We are also seeking an agreement that will permit comprehensive coverage of services, as well as greater transparency and predictability from our trading partners regarding regulatory policies that present barriers to trade in services and hinder U.S. exports. And to remain relevant in a digitally-connected, constantly innovating global economy, the ISA agreement will also need to address issues such as appropriate new provisions to support services trade through electronic channels.

In 2013, the United States will also continue to play a leading role in negotiations to expand the scope of products covered by the WTO Information Technology Agreement (ITA). The ITA entered into force in 1997 and now covers over $4 trillion in annual global trade, according to the Information Technology and Innovation Foundation. However, despite the tremendous technological development and innovation in the sector over the past 16 years, the ITA's product coverage has never been expanded. Eliminating duties on the newer products that have been developed and the advances still to come would provide a significant boost for U.S. technology exports and enable all countries to benefit from increased trade flows of cutting edge products and innovation.

In 2013, new WTO members can help to invigorate the institution and reinforce its core principles through shared commitments. In 2012, the United States joined Members in welcoming Russia to the WTO. The Administration worked closely with Congress to secure legislation terminating application of the Jackson-Vanik amendment and authorizing President Obama to extend permanent normal trade relations to Russia. As the WTO Agreement now applies between our two countries, the United States and Russia in 2013 will have additional policy tools to maintain and enhance a mutually-beneficial trade relationship, and U.S. exporters should have access to Russia's large and growing market on a non-discriminatory basis. In 2013, the United States welcomed the addition of the Lao People's Democratic Republic (PDR) and Tajikistan as WTO Members. The United States also looks forward to completing negotiations on the accession of Yemen and Kazakhstan to the WTO, and will continue to provide technical and other assistance to other WTO accession candidates, including but not limited to Serbia, Ethiopia, Algeria, and Afghanistan.

While supporting expansion of WTO membership and playing a proactive role in market-opening negotiations, the United States in 2013 will continue to promote and strengthen the WTO's committees, working groups, and its dispute settlement mechanism. These institutional structures are instrumental in promoting transparency of WTO Member trade policies as well as monitoring and resisting protectionist pressures during a challenging time for the global economy. By working together to help the WTO evolve as a whole, WTO Members can revitalize the institution for the 21st century and ensure it remains well-equipped to drive future economic growth and development, and support additional jobs through trade.

Support American Jobs through Increased Services, Manufacturing, and Agricultural Trade

President Obama's economic strategy is helping the United States to attract, maintain, and grow high-wage, high-skill 21st century jobs and industries on our shores. In 2013, our efforts to support globally competitive U.S. exports and jobs here at home will cover the spectrum of U.S. sectors including services, manufacturing, clean energy technologies, and agriculture. We will also maintain and promote measures to facilitate trade and job-supporting investment worldwide.

As described above, the United States in 2013 is pursuing a high-standard services agreement that will support additional exports and jobs in globally competitive U.S. service industries. Every $1 billion in U.S. services exports supports an estimated 4,000 U.S. jobs in America in 2012, and service industries employ approximately three out of every four American workers nationwide.

U.S. manufacturing continues to drive U.S. exports, as American manufacturers grow and adapt processes to produce more advanced and value-added goods. In 2012, the United States exported more than $1.3 trillion of manufactured goods, which accounted for 87 percent of all U.S. goods exports and 61 percent of U.S. total exports. To support the growth of advanced manufacturing and associated high-quality jobs here at home, in 2013 President Obama will continue to push for sustained investment in education, infrastructure, and scientific research to keep U.S. workers and companies competitive with their global peers.

Rising U.S. agricultural exports continue to support more than an estimated one million American jobs throughout the U.S. agricultural supply chain. In 2012, U.S. farmers and ranchers exported a record $145 billion of food and agricultural goods to consumers around the world, despite having a devastating drought in the Midwest. In 2013, the Administration will continue to advocate for market access and science-based standards in support of additional exports of products grown and raised in the United States.

The steadily expanding organics sector already accounts for more than $400 million in U.S. exports globally. In 2012, the United States and the EU signed an arrangement stipulating that organic products certified in the United States or in the EU may be sold as organic in either region. To complement our organic product bilateral equivalency arrangements with the EU and with Canada, this year the United States will seek to secure additional arrangements to promote increased U.S. exports of organic products to other key markets. The United States will also explore the potential for plurilateral negotiations related to trade in agricultural products derived from new technologies. And we look forward to seeing increased U.S. beef exports to Japan as a result of our January 2013 agreement with Japan regarding trade in this important sector and to making more progress as Japan's risk assessment process continues.

To realize the full benefits of trade agreements that entered into force in 2012, the United States will engage in 2013 with Korea, Colombia, and Panama, using consultative mechanisms established by each agreement and other means as necessary, to ensure that all relevant commitments are upheld, including commitments related to agricultural market access and to apply science-based sanitary and phytosanitary standards to U.S. agricultural exports. We will also work with other key trading partners such as Russia and China, using a full range of trade tools, to secure market access for U.S. food and agricultural exports that is consistent with science-based sanitary and phytosanitary standards.

President Obama is determined to ensure that U.S. trade policy helps American companies and workers compete in global markets, and that rules-based international trade promotes innovation and competition to the benefit of all businesses and consumers worldwide. That is why the Administration is tackling emerging problems that increasingly affect trade in the 21st century. In the TPP and TTIP trade negotiations, for example, the United States is seeking new disciplines to address trade distortions and

unfair competition associated with the increasing engagement of large, State-owned enterprises in international trade. We are also actively combating "localization barriers to trade" – i.e., measures designed to protect, favor, or stimulate domestic industries, service providers, and/or intellectual property (IP) at the expense of goods, services, or IP from other countries – the use of which has increased in the last few years, especially in some of the world's largest and fastest growing markets. Localization barriers to trade that present significant market access obstacles and block or inhibit U.S. exports in many key markets and industries include: requiring goods to be produced locally; providing preferences for the purchase of domestically manufactured or produced goods and services; and requiring firms to transfer technology in order to trade in a foreign market. Such measures distort trade, create an uneven playing field for exporters, and limit or deny domestic businesses and consumers open access to a wide range of goods and services. In 2013, the Administration's taskforce to combat localization barriers to trade will intensify its efforts. Building on progress made in 2012, the localization taskforce will coordinate an Administration-wide, all-hands-on-deck approach to tackle this growing challenge in bilateral, regional, and multilateral forums, and through trade agreements, enforcement, and policy advocacy.

Many high-wage, high-skill American jobs depend on the ability of multinational firms to invest both in the United States and abroad. According to the latest data available from the Department of Commerce, U.S.-based multinational firms employ 23 million Americans and pay compensation 25 percent higher than the U.S. private sector average. To enable increased U.S. exports and to continue attracting the best jobs and industries to U.S. shores, the United States in 2013 will seek to advance additional trade-enhancing investment measures with key trading partners. Building on a comprehensive review of the United States' model bilateral investment treaty (BIT) as concluded in 2012, we will seek to secure high-standard BITs with trading partners such as China and India, as well as Mauritius; we will also continue exploratory BIT discussions with a number of countries including Russia, Cambodia, Ghana, Gabon, and the East African Community (EAC) as a region. High-standard BITs will provide investors with the increased certainty and predictability necessary to facilitate enhanced trade and investment, economic growth, and job creation.

Expand Trade Opportunities through Regional Economic Integration

The United States is working to enhance regional trade and economic integration with partners in every part of the world. Building more inclusive, integrated regional economies will promote increased growth and development in partner countries, expand U.S. export opportunities, and help to buttress a stronger global trading system.

As part of President Obama's comprehensive strategy to support progress and development across the Middle East and North Africa (MENA), the United States in 2013 will work with regional partners to continue developing the Middle East and North Africa Trade and Investment Partnership (MENA TIP). Through bilateral and regional efforts, we will assist countries seeking to implement economic reforms and high-standard measures to liberalize trade and investment. In particular, the United States will work to build on agreements reached with Morocco in 2012 regarding trade facilitation, foreign investment principles, and information and communication technology services trade principles. We will also seek to make progress on similar initiatives with Jordan, Egypt, and Tunisia, among others. Where appropriate, the United States will work jointly with the EU and with other countries through the G-8's Deauville Partnership for Arab Countries in Transition to promote economic growth and stability and encourage trade and investment integration both with and within the region. We will also continue to explore regional trade and economic opportunities with the Gulf Cooperation Council (GCC) – comprised of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates – under the United States–GCC Framework Agreement for Trade, Economic, Investment and Technical Cooperation, which was signed in 2012.

This year, the United States will intensify engagement with trading partners in sub-Saharan Africa to advance key regional trade and investment initiatives. With East African Community (EAC) countries – Burundi, Kenya, Rwanda, Tanzania, and Uganda – we will advance the Trade and Investment Partnership agreed to by trade ministers in 2012, continuing to pursue a regional investment treaty and a trade facilitation agreement, to provide continued trade capacity building assistance, and to engage in a commercial dialogue. In addition, the Trade Africa initiative, a comprehensive White House-led strategy with a preliminary focus on East Africa, will further support three complementary goals: integration of the EAC market, including through support for implementation of the EAC Customs Union; increased EAC export readiness including increased trade within the EAC, within the continent, and globally; and increased two-way U.S.-EAC trade and investment. All of these activities will help expand and diversify trade and investment between the United States and EAC countries, promote EAC regional integration and economic growth, and could serve as building blocks to a more comprehensive trade agreement over the long term. Successful efforts with the EAC will also inform ongoing U.S. support for further integration efforts among other African regional economic communities including the West African Economic and Monetary Union (WAEMU), the Common Market for Eastern and Southern Africa (COMESA), and the Southern Africa Customs Unions (SACU). Building on these efforts, the United States will also support the Tripartite Free Trade Area negotiations which, when completed, will bring together the nearly 30 African countries of the EAC, COMESA, and SADC, as well as help further plans for an African Continental Free Trade Area.

Promoting regional economic integration remains a key objective of the Asia-Pacific Economic Cooperation (APEC) forum. In 2013, the United States will continue to play an active leadership role in APEC in close cooperation with Indonesia during its host year. The United States looks forward to working with other APEC economies in 2013 on a range of trade and investment initiatives, including the further facilitation of trade in environmental goods and services; promotion of good regulatory practices; improvement in supply chain performance; initiation of work on elimination of local content requirements; and the implementation of market-driven, non-discriminatory innovation policy. The United States also will work with other APEC economies to help advance work in other economic fora, including the WTO.

In 2013, the United States also will intensify work to enhance regional trade and investment with partners in the Association of Southeast Asian Nations (ASEAN) through the new Expanded Economic Engagement (E3) Initiative and the U.S.-ASEAN Trade and Investment Framework Agreement (TIFA). Launched by President Obama and ASEAN Leaders in 2012, the E3 Initiative will provide a framework for further economic cooperation and create new job-supporting business opportunities. The E3's initial priorities will focus on initiatives aimed at facilitating and expanding trade and investment, promoting digital technology, and supporting small businesses. Joint work on E3 initiatives may also help establish the groundwork for ASEAN countries to prepare to join high-standard trade agreements, such as the TPP.

Promote and Protect Job-Supporting Innovation for Producers and Consumers Alike

Intellectual property (IP) is a key source of American jobs, competitiveness, and prosperity. According to a 2012 Department of Commerce study, IP-intensive industries in 2010 directly accounted for 27.1 million American jobs and approximately 34.8 percent of U.S. gross domestic product. To sustain these vast and vital economic benefits, the United States in 2013 will continue to seek greater market access for IP-intensive U.S. products, and to protect job-supporting innovation in a balanced policy that benefits both producers and users of innovative products and services worldwide.

As a world leader in industries ranging from development of high technology to fine arts, the United States supports market-based competition and respect for the work of intellectual property rights holders in every country. To promote U.S. exports of IP-intensive products, we will work to secure full

implementation of IP-related commitments in U.S. trade agreements, particularly the agreements that entered into force in 2012 with Korea, Colombia, and Panama. And we will also closely monitor compliance with commitments secured in 2012, such as those related to pharmaceutical protection in Israel and U.S. film exports to China, among others. We will also engage with all of our trading partners to make progress on key IP trade-related issues. For example, close bilateral coordination in 2012 resulted in measures to better protect trademarks and pharmaceutical IP in Mexico, and implementation of new measures in Spain against Internet-based piracy.

In the Trans-Pacific Partnership negotiations, we will continue to work with TPP partners to advance state-of-the-art, high-standard provisions that will protect and promote the spread of IP-intensive products and services throughout the entire region, to the benefit of producers and consumers in all TPP countries. We will continue to seek constructive input from Congress and stakeholders on a wide range of trade issues related to the protection and enforcement of copyrights, trademarks, patents, trade secrets, and other forms of intellectual property. Such input helped to shape a 2012 U.S. proposal that would, for the first time in any U.S. trade agreement, obligate TPP Parties to seek to achieve an appropriate balance in their copyright systems in providing copyright exceptions and limitations for purposes such as criticism, comment, news reporting, teaching, scholarship, and research. In the area of public health, the Administration continues to welcome diverse stakeholder input to shape the development of proposals to promote access to innovative and generic medicines. The United States is committed, in the TPP and more broadly, to preserving developing countries' ability to protect public health and promote access to medicines for all, consistent with the principles laid out in the WTO Doha Declaration on the TRIPS Agreement and Public Health.

As we seek expanded markets for U.S. products, the United States will continue to defend aggressively millions of American jobs threatened by the wholesale theft of U.S. intellectual property, and will actively combat global counterfeiting that both threatens American jobs and often endangers the health and safety of global consumers. In 2013, the United States will continue to use the "Special 301" process and a broad array of other trade policy tools to identify and resolve intellectual property rights issues and related market access issues of concern. We will continue to collaborate with our trading partners to develop and implement solutions to issues of concern, and to encourage reforms that support innovation and creativity through consistent application and enforcement of the rule of law.

For example, we will intensify work with Russia under a December 2012 action plan to improve IPR protection and enforcement. We also will work with other trading partners to sustain and build upon progress made in 2012 to strengthen IPR protection and enforcement, which was reflected in positive results such as the removal of Malaysia and Spain from the Special 301 Watch List based on significant improvements to their copyright laws, and the removal of Israel from the Special 301 Priority Watch List based on its progress implementing a 2010 agreement on pharmaceutical intellectual property rights.

USTR will also continue to hold partners to their commitments, as we did in 2012 when Ukraine was added to the Special 301 Priority Watch List based on serious U.S. concerns regarding intellectual property rights protection and enforcement in that market, including Ukraine's failure to implement a previously agreed IPR action plan. Additionally, the United States will also continue to use Out-of-Cycle Reviews of Notorious Markets to shine a spotlight on and encourage the elimination of marketplaces that facilitate and sustain job-stealing piracy and counterfeiting. Five websites listed in the 2011 Notorious Markets List subsequently stopped operating, and in January 2013, China-based gougou.com shut down shortly after having been named in the 2012 Notorious Markets report.

II. Enforce U.S. Trade Rights Under the Rules to Ensure a Level Playing Field

The rules-based international trading system offers the greatest economic benefits -- for U.S. businesses, workers, and families -- when all trading partners abide by their commitments and play by the rules to which they have agreed. For this reason, President Obama has elevated trade enforcement on par with market-opening efforts as a top priority for U.S. trade policy. Vigilant monitoring and rigorous enforcement of U.S. trade rights is necessary to ensure that American entrepreneurs, innovators, creators, workers, farmers, ranchers, manufacturers, and service providers are able to seize all of the job-supporting opportunities available under U.S. trade agreements. Consistent with President Obama's comprehensive approach to enforcement, the United States uses dialogue, negotiation, and dispute settlement as appropriate, to identify, reduce, and resolve tariff and non-tariff barriers to U.S. exports. These robust enforcement efforts help to level the playing field for U.S. firms of every size and produce real job-supporting results for America's working families.

The United States in 2013 will continue to ensure implementation of WTO rules – while also monitoring and enforcing obligations in our bilateral, plurilateral, and regional trade agreements – in order to maintain open markets and to uphold key commitments. Where appropriate, we will expand our enforcement work in conjunction with fellow WTO Members who share our concerns related to trade practices that appear to be inconsistent with WTO rules. As we continue to deploy creative and effective enforcement strategies, our goal remains to ensure that Americans can compete successfully in world markets where intellectual property is protected, where agricultural and industrial standards are based on science, and where transparent rules and regulations are applied without discrimination.

In 2013, the Interagency Trade Enforcement Center (ITEC) will play an increasingly critical role in the Obama Administration's enforcement efforts. The ITEC brings together resources and expertise from across the federal government into one organization reporting to the USTR, led in close collaboration with the Department of Commerce and with a clear cross-government commitment to strong trade enforcement. The ITEC includes staff from a variety of agencies including the Departments of Commerce, Agriculture, Justice, Treasury, and State, and with a diverse set of language skills and expertise including intellectual property rights, subsidy analysis, economics, agriculture, and animal health science. This critical structure provides the Administration with increased capabilities to investigate unfair trading practices, and ITEC is significantly enhancing the Administration's capacity to enforce U.S. trade rights proactively.

Challenge WTO-Inconsistent Trade Practices in Markets Worldwide

The United States highly values the WTO's dispute settlement system, which plays an indispensable role as the preeminent venue for the discussion and adjudication of disputes with our trading partners. In 2013, we will continue to use dialogue when possible and WTO dispute settlement when necessary to help preserve and support American jobs threatened by WTO-inconsistent practices wherever they may occur. We will continue to pursue a number of cases currently pending in various stages of WTO dispute settlement, and we may bring additional cases as appropriate to enforce WTO commitments and to remove potentially WTO-inconsistent practices identified through our investigations.

For example, in 2013, the United States will continue to hold China accountable for its WTO obligations to ensure that U.S. producers and workers have a level playing field to compete in a wide range of industries. To secure a level playing field in China for U.S. providers of electronic payment services (EPS), we will closely monitor China's compliance with an August 2012 WTO panel report that found China's discriminatory measures severely distort competition and prevent participation by foreign

suppliers of EPS for domestic currency payment card transactions. To support U.S. farmers, manufacturers, and workers, the United States in 2013 will continue to challenge China's apparent misuse of its trade laws in antidumping and countervailing duties cases related to chicken broiler products and automobiles, and will closely monitor China's compliance with WTO findings that China's duties on grain-oriented electrical steel are inconsistent with WTO rules. More generally, the United States will also closely monitor China's compliance with its WTO obligations and will continue to investigate any trade practices that appear to be inconsistent with those obligations.

Tens of thousands of jobs for U.S. aerospace engineers, electricians, and related suppliers depend on U.S. aircraft manufacturers being able to compete globally on a level playing field. In 2013, the United States will continue to defend and uphold U.S. trade rights at the WTO, while working with the EU to find a long-term solution that removes WTO-inconsistent subsidies. In April 2012, the United States initiated compliance panel proceedings due to the EU's apparent failure to comply with the WTO's 2011 findings that $18 billion in subsidies conferred on Airbus by the EU and member countries were WTO-inconsistent. In March 2012, the WTO Appellate Body found that the value of subsidies provided by the United States to American aerospace manufacturers was in the range of $3-4 billion, and those subsidies had far fewer distortive effects on the aircraft market than subsidies provided by the EU. After the United States announced compliance by the end of its period of time for implementation, in October 2012, the EU initiated compliance panel proceedings, and the United States is vigorously defending its interests in the case. The United States remains prepared to engage in any meaningful efforts, through formal consultations and otherwise, that will lead to the goal of ending WTO-inconsistent subsidies at the earliest possible date.

The United States asserts WTO rules not only to vindicate U.S. trade rights, but also to promote and strengthen the WTO's core values related to open markets and nondiscrimination. To this end, we are expanding our cooperation with concerned trading partners to identify and respond to a range of WTO-inconsistent practices that inhibit the free flow of trade and market-based competition.

Export prohibitions and restrictions imposed through quotas, licensing, or other measures (except duties, taxes, or charges) that serve to lower input costs for domestic users and raise costs for their foreign competitors are generally prohibited under WTO rules. During the past three years, we coordinated enforcement actions with the EU and Japan to challenge China's unfair export restraints on rare earths, tungsten, and molybdenum, and with the EU and Mexico to challenge China's export restraints on certain industrial raw materials. In 2013, we will continue to support U.S. manufacturing jobs and to defend manufacturers' trade rights to access key industrial inputs on a non-discriminatory basis, by continuing a WTO challenge to China's unfair export restraints on rare earths, tungsten, and molybdenum, and by seeking to ensure China's full and timely compliance with the WTO's decision in the raw materials case.

WTO rules forbid subsidies that are contingent on exports or that discriminate against imports by being contingent on using domestic products. In 2013, the United States will continue to challenge both forms of these trade-distorting, WTO-prohibited subsidies. To support U.S. auto and auto parts manufacturers and workers, we will continue to pursue a September 2012 WTO dispute settlement case concerning China's extensive subsidies to auto and auto parts producers located in designated regions, known as "export bases," that meet export performance requirements. The subsidies provide an unfair advantage to auto and auto parts manufacturers located in China, which are in competition with producers located in the United States and other countries. To provide U.S. clean energy goods and services an equal footing in India's large and growing market, the United States initiated a WTO dispute in February 2013 concerning India's national solar energy program. Through this program, India offers particular benefits to solar energy developers not available to projects under other energy programs in India, but imposes local content requirements that restrict the ability of those developers to use imported solar equipment. These local content requirements discriminate against U.S and other imported goods, providing an unfair

advantage to solar equipment manufacturers located in India. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request the establishment of a WTO dispute settlement panel.

According to WTO rules, import licensing requirements may not operate as an import prohibition or restriction and may not be discretionary. In January 2013, the United States obtained a WTO panel to review a number of measures put in place by Argentina, including the broad use of non-transparent and discretionary import licensing requirements, that have the effect of unfairly restricting U.S. exports to Argentina. In addition, Argentina disadvantages U.S. exports by requiring importers to agree to undertake burdensome trade balancing commitments, such as agreeing to export a certain value of Argentine goods, in exchange for authorization to import U.S. goods. The European Union and Japan also obtained WTO panels to examine Argentina's import restrictions. In January 2013, the United States requested consultations with Indonesia to address that country's import licensing requirements that appear to be inconsistent with Indonesia's WTO obligations. Indonesia's measures seriously impede U.S. agricultural exports to Indonesia and reduce Indonesian consumers' access to high-quality U.S. agricultural products. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request a WTO dispute settlement panel.

The WTO system works best when all Members have high confidence in the careful and appropriate application of rules. For example, any restrictions on agricultural trade must be consistent with WTO rules, particularly rules requiring sanitary and phytosanitary measures to be based on science. Therefore, in 2013 the United States will continue its WTO challenge of India's prohibition on the importation of certain U.S. agricultural products, including poultry meat and chicken eggs. The United States obtained a WTO panel in June 2012 to examine India's measure, which purports to be concerned with preventing avian influenza, but which lacks a scientific basis. In fact, India's measure appears inconsistent with both international standards and India's obligations under the WTO Agreement.

As always, the United States will when necessary continue to defend vigorously its right to utilize trade remedies, including antidumping and countervailing duties, consistent with WTO rules.

Intensify WTO Committee Work to Increase Accountability and Build Confidence Among Members

The day-to-day work of the WTO's standing committees and other bodies provide opportunities for the United States to monitor implementation of WTO commitments and raise specific trade concerns. For example, the United States regularly utilizes discussions of specific trade concerns in the Committee on Technical Barriers to Trade (TBT Committee) to highlight regulatory actions by other WTO Members that may impede U.S. exports and obtain information on their development and implementation. Overall, the United States has attempted to reenergize the daily work of the WTO, from pushing for strong results in the Triennial Review in the TBT Committee, to raising concerns with new trade-restrictive measures in the Import Licensing Committee, Committee on Sanitary and Phytosanitary Measures, and Council for Trade in Goods.

In 2013, we will continue to utilize WTO committees and other WTO bodies to challenge new protectionist measures and consider approaches that can improve implementation of WTO commitments and build on these commitments. We will follow up on important concerns raised in 2012, including those regarding Ukraine's notification that it intends to raise tariff bindings on over 350 tariff lines. We will also work to elevate the vital role of the WTO's committee network in exploring emerging challenges surrounding issues such as regional trade agreements, export restrictions, food security, and governmental involvement in commercial activities.

Uphold Obligations in U.S. Trade Agreements

In addition to playing a leadership role in the WTO's rules-based system, in 2013 the United States will monitor and enforce commitments in our bilateral, plurilateral, and regional trade agreements. At the same time, we will engage directly with our trading partners to address issues of concern and uphold commitments in key areas such as protection of labor rights and the environment.

In 2013, the United States will continue to monitor bilateral softwood lumber trade with Canada to ensure full compliance with the United States-Canada Softwood Lumber Agreement (SLA). The SLA supports American workers throughout the U.S. timber supply chain by helping to provide a more predictable and fair environment for conducting international trade in softwood lumber. In 2012, the United States and Canada agreed to extend the Agreement through October 12, 2015.

The United States is working with the government of Peru in 2013 regarding the implementation of that country's environmental obligations in the United States-Peru Trade Promotion Agreement (PTPA), including the development of new regulations to further strengthen forest sector governance in Peru. In addition, the Governments of the United States and Peru will implement a five-point forest sector action plan agreed in early 2013. The action plan focuses on addressing underlying challenges regarding the sustainable management of bigleaf mahogany and Spanish cedar in Peru, which were identified through a rigorous review of information provided in a petition to the U.S. Government from an environmental organization. The action plan will support Peru's forestry sector reform efforts, further Peru's implementation of its obligations under the PTPA and deepen the two Governments' ongoing cooperation on forestry issues. Bigleaf mahogany and Spanish cedar are two species of timber protected under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).

Building on the first ever labor rights enforcement case brought under a U.S. trade agreement (the Dominican Republic-Central America-United States Free Trade Agreement, or CAFTA-DR), the United States in 2013 will use every means available to ensure that the government of Guatemala addresses its apparent failure to enforce Guatemala's labor laws effectively. Similarly, the United States will work with the government of Bahrain to address labor rights concerns that were identified by a 2012 review under the United States-Bahrain Free Trade Agreement. We will also work with Jordan to address labor issues under the United States-Jordan Free Trade Agreement through an action plan with steps that Jordan will take to improve respect for internationally recognized labor rights. Whether through enforcement or engagement and dialogue, the Obama Administration is determined to protect the rights of workers in America and abroad, and to provide a level playing field for workers here at home.

III. Enhance Trade and Investment Relationships with Partners Worldwide

The United States continues to promote mutual accountability and shared ambition as we work to strengthen our international trade relationships and support trade-related U.S. jobs. In 2013, the United States will maintain steady engagement with trading partners to maintain open markets and create additional two-way trade and investment opportunities.

The Americas

The United States has its most extensive network of comprehensive trade agreements with the countries of the Western Hemisphere. This is creating a large region of shared values and policy approaches that will continue to provide new opportunities for U.S. exporters. In 2013, the United States will work closely with Canada and Mexico – in parallel with TPP negotiations as appropriate – to deepen our

partnerships respectively, enhance North American competitiveness collectively, and address challenges constructively. We will work with both Canada and Mexico to strengthen protection and enforcement of IP rights by modernizing outdated laws and regulations, stopping counterfeit goods at our shared borders, and partnering internationally to fight IP theft, among other steps. We will also work with Canada and Mexico – through bilateral consultative committees, as well as the relevant NAFTA committees – to address barriers to U.S. exports of agricultural products and other issues. For example, with Mexico, the United States will share information about proposed regulations and identify those regulations that might impede U.S. exports and North American competitiveness, as we work collaboratively through the NAFTA Committee on Standards Related Measures and the High Level Regulatory Cooperation Council. With Canada, the United States will build on significant progress made in 2012 under the Beyond the Border (BTB) Action Plan and the Regulatory Cooperation Council (RCC) Action Plan initiatives. In 2013, we will continue to advance U.S.-Canada perimeter security and economic competitiveness with the goal of achieving results that will translate into a significant savings and improve the lives of residents, visitors, and businesses in both countries. The United States will also continue to monitor implementation of the SLA, including Canada's compliance with arbitral awards.

U.S. trade agreements with Colombia and Panama entered into force during 2012 and the second tranche of tariff reductions were implemented under each agreement on January 1, 2013. Moving forward in 2013, the United States will convene with Colombia and Panama, respectively, all relevant committees and working groups established under the agreements to ensure continuing implementation of and compliance with all provisions. These efforts will include, for example: holding the first meeting of the oversight body under the United States-Panama Trade Promotion Agreement; exploring possible acceleration of tariff elimination under the United States-Colombia Trade Promotion Agreement; and updating the rules of origin in both agreements to reflect changes in the Harmonized Tariff System. Additionally, the United States will continue to monitor labor issues in Panama and Colombia and continue to work closely with the government of Colombia on its commitments under the Action Plan Related to Labor Rights. At the same time, the Administration will undertake comprehensive efforts to help U.S. exporters of all sizes take full advantage of the job-supporting trade opportunities made possible by these agreements.

The United States also has comprehensive trade agreements with Chile and Peru, which are both participating in the TPP negotiations. In 2013, we expect to make continued progress with Chile on agriculture, trade and investment issues, and intellectual property issues, through both TPP negotiations and the United States-Chile Free Trade Agreement. We will also encourage Peru to ensure that recent measures do not adversely affect trade in agricultural products derived from new technologies.

Strong growth in trade and investment flows between the United States and Brazil over the past decade has given rise to one of the most robust economic relationships in the world. Two-way U.S.-Brazil trade in goods increased 160 percent from 2000 to 2012, and both U.S. goods exports to and imports from Brazil have more than doubled since 2000. In 2012, Brazil was the United States' seventh largest goods export market. The United States will continue its engagement with Brazil through the Agreement on Trade and Economic Cooperation (ATEC) launched in 2012. Complementing a new Investment Dialogue under the ATEC, which met last year, the United States will engage with Brazil through a new IPR and Innovation Working Group. The United States looks forward to advancing the relationship at the ATEC meeting to be hosted by Brazil later this year. In addition, the Administration will continue to work with Congress to find a mutually-agreeable solution to the Brazil Cotton dispute in the next farm bill. The Administration will also undertake comprehensive efforts to help U.S. exporters of all sizes take full advantage of job-supporting trade and investment opportunities in Brazil.

Trade between the United States and Central America and the Caribbean continues to grow. The United States will continue to work with our partners in Central America and the Dominican Republic, both

bilaterally and through the CAFTA-DR, to promote job-supporting, mutually beneficial trade and investment. In 2013, the United States will work to deepen trade relationships with CAFTA-DR partners to strengthen implementation of the trade agreement, facilitate trade and address outstanding issues related to IP, SPS measures, and customs and border measures, among others. We will seek to conclude a revised TIFA with the Caribbean Community (CARICOM). And we will continue to foster the active participation of Caribbean Basin Initiative (CBI) beneficiary countries and dependent territories in the region by conducting a thorough review now underway to determine if any CBI eligible countries and dependent territories may qualify for expanded benefits.

The United States will also continue to use trade and investment dialogues with Uruguay and Paraguay to support increased U.S. exports and expand two-way trade and investment.

China

As the complex trade and economic relationship between the United States and China continues to mature and evolve, President Obama is committed to ensuring U.S. trade with China provides American exporters with a level playing field to compete in China's large and growing market. The United States has welcomed China's growing leadership role at both the regional and multilateral levels; moving forward, we will seek to enhance cooperation toward common objectives on the basis of our shared responsibility to sustain global economic growth and stability in support of trade-related jobs.

In 2013, the United States will address trade objectives with China using all available tools including dialogue, negotiation, and enforcement when appropriate. We will seek to increase transparency and eliminate market access barriers across all sectors. We will advance BIT negotiations with China to secure improved market access, important investor protections, and increased certainty for US investors. We will continue to work to obtain a comprehensive offer from China, commensurate with other Parties' coverage, to join the WTO Government Procurement Agreement, as this would provide substantial access for U.S. and international exporters to one of the world's largest government procurement markets. We will closely monitor implementation of China's bilateral and WTO commitments to respect and protect U.S. intellectual property, and will work with China to improve intellectual property protection and enforcement, recognizing that strong rule of law is essential to encourage and support continued innovation. As stated, we will also continue to hold China accountable for its other WTO commitments through appropriate enforcement efforts that aim to end discriminatory policies wherever they are discovered in China.

Our 2013 efforts to promote healthy and equitable trade with China will build on recent progress in several areas. Bilateral engagement in 2012 – through the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue, as well as the Innovation Dialogue and other key working groups and bilateral fora – produced meaningful results on key trade and investment issues, though there is more work to do. In 2013, we will continue to work proactively through bilateral venues to address new and ongoing challenges, as well as seeking timely and thorough implementation of China's past commitments, including but not limited to: addressing U.S. concerns regarding various measures impeding imports of U.S. goods, such as food and agricultural products, information technology and telecommunications equipment, medical devices, and an array of manufactured products into China; and not discriminating in favor of China's state-owned enterprises and national champions in providing credit, taxation incentives, and in regulatory policies.

To preserve and support American jobs and innovation, the United States will rigorously monitor China's 2012 commitment to treat intellectual property rights owned or developed in other countries the same as intellectual property rights owned or developed by the Chinese, along with China's commitments not to interfere with businesses' technology transfer decisions, and to promptly correct any measures

inconsistent with this commitment. In addition, we will seek prompt implementation of China's 2012 commitments on intellectual property, including the commitments regarding the use of legal software by Chinese enterprises, as well as audits of software on computers used by the Chinese government. We will also closely monitor implementation of China's February 2012 agreement, which followed the United States' win in a WTO dispute, to increase market access significantly for U.S. movies being imported and shown in China's theaters.

Russia

Following the successful establishment in late 2012 of permanent normal trade relations with Russia, the WTO Agreement now applies between our two countries. In 2013, the United States will seek to strengthen further the U.S.-Russia trade and investment relationship through the WTO, while also continuing bilateral dialogue to address important concerns. We will monitor Russia's implementation of its WTO obligations and take action as necessary to ensure U.S. exports are treated consistently with those commitments. And we will work closely with Russia on a bilateral basis to execute its action plan to improve IP rights protection and enforcement, including through the United States-Russia IPR Working Group. At the same time, we will seek to establish with Russia new opportunities for dialogue to explore jointly additional trade-expanding policy initiatives, such as a potential TIFA. The Administration will also undertake comprehensive efforts to help U.S. exporters of all sizes take full advantage of job-supporting trade opportunities in Russia.

Europe

Alongside Transatlantic Trade and Investment Partnership negotiations with the EU in 2013, the United States will sustain engagement with our European trading partners on an individual basis as appropriate to address country-level concerns and enhance two-way trade and investment. Targeted efforts in 2012 yielded job-supporting results such as important improvements to intellectual property laws in Spain, and the establishment or modification of EU tariff rate quotas for several key U.S. agricultural exports, as compensation for certain tariff increases that were associated with Bulgaria's and Romania's 2007 admission to the EU.

The Middle East and North Africa

While promoting and supporting regional trade and economic integration throughout the Middle East and North Africa, the United States in 2013 will also seek to strengthen bilateral trade and economic ties. We will continue to use the mechanisms established under our trade agreements and TIFAs to advance bilateral priorities on a range of trade and investment issues, from our trading partners' participation in the Generalized System of Preferences (GSP) program to better protection for intellectual property rights and non-discriminatory treatment of U.S. firms in general. With Turkey, we will convene the third meeting of the United States-Turkey Framework for Strategic Economic and Commercial Cooperation (FSECC) to review progress in ongoing cooperative activities and to plan additional measures to promote bilateral trade and investment and broader trade and investment integration, particularly in the MENA region. Steps will include actions pursuant to activities agreed by ministers at the 2012 FSECC such as: facilitating contacts between U.S. and Turkish companies in the construction and engineering sectors to promote cooperation on specific infrastructure opportunities in Turkey, the United States, and third countries; to fully realizing a Near Zero Zone technical training program on increasing efficient use of energy in Turkey's 264 industrial zones, and sponsoring a Smart Grid Workshop focused on ways to foster U.S. and Turkish private sector cooperation in building a 21st century electricity transmission grid in Turkey. We will work with Israel to ensure full implementation of a 2012 mutual recognition agreement that eases burdens on U.S. companies, especially smaller manufacturers, seeking to export telecommunications products to Israel.

Sub-Saharan Africa

In 2013, the United States will work with trading partners across sub-Saharan Africa to improve two-way trade and investment and foster broad-based economic growth and development. We will advance President Obama's comprehensive strategy for U.S. engagement with sub-Saharan Africa, as established by a 2012 Presidential Policy Directive (PPD) calling for additional measures to spur economic growth, trade, and investment to the benefit of businesses, workers, and families in the both the United States and Africa. In addition to the regional initiative we are undertaking with the EAC as described in greater detail above, the Administration will also intensify discussions with Congress and our trading partners, as well as U.S. and African stakeholders, on defining and achieving a seamless renewal of the African Growth and Opportunity Act (AGOA) beyond 2015. Created in 2001, AGOA has increased and diversified two-way U.S.-sub-Saharan African trade, helping to facilitate a three-fold increase in non-oil exports from AGOA beneficiary countries to the United States, which totaled nearly $4.8 billion in 2012. More broadly, AGOA has enhanced African economic growth and stability, and improved the business environment to the benefit of both African and U.S. firms and investors. Discussions regarding the future of AGOA may include issues such as eligibility criteria and product coverage, and the annual AGOA Forum, to be held in Ethiopia in 2013, will provide an important opportunity for such discussions. The United States will also continue to support economic reform and development efforts in AGOA-eligible countries, including those that have recently become eligible for AGOA benefits, such as South Sudan.

Further, we will use bilateral mechanisms such as TIFAs to strengthen trade and investment relationships with African partners including but not limited to Angola, Ghana, Liberia, Mauritius, Mozambique, Nigeria, Rwanda, and South Africa; and regionally with the EAC, COMESA, SACU, and WAEMU. In 2013, the United States will also aim to conclude Bilateral Investment Treaty (BIT) negotiations with Mauritius, and explore BIT talks with Ghana and Gabon.

Japan

The United States and Japan share a mutual interest in fostering additional economic growth and employment through trade. In 2013, the United States will continue consultations with Japan on its interest in the TPP, focusing on Japan's readiness to meet the TPP's high standards and address U.S. concerns in key sectors such as automotive and insurance. At the same time, the United States will engage with Japan through bilateral mechanisms to reduce regulatory and other barriers to U.S. exports and to enhance two-way trade. In particular, we look forward to seeing increased U.S. beef exports to Japan as a result of our January 2013 agreement with Japan regarding trade in this important sector and making more progress as Japan's risk assessment process continues. We will also continue to collaborate with Japan in pursuit of additional trade liberalization at the regional, plurilateral, and multilateral levels.

Korea

Entry into force of the historic United States-Korea Free Trade Agreement in 2012 has enhanced the already robust trade relationship between the United States and Korea; on January 1, 2013, both countries implemented the second annual tariff reductions under the agreement. Moving forward in 2013, the United States and Korea will jointly convene relevant committees and working groups established under the agreement as necessary to ensure continuing implementation of its provisions. At the same time, the Administration will undertake comprehensive efforts to help U.S. exporters of all sizes take full advantage of the job-supporting trade opportunities made possible by the agreement. The United States will also enhance engagement with Korea regarding regional, plurilateral, and multilateral trade issues of mutual interest.

Southeast Asia

To complement robust engagement through ASEAN and other regional fora, in 2013, the United States will work bilaterally with trading partners across Southeast Asia to address trade and investment barriers and enhance mutual economic growth and development. We will hold regular meetings under our TIFAs with Thailand, Philippines, Indonesia, and Cambodia to resolve bilateral issues, such as customs, intellectual protections, and non-tariff barriers on agricultural products and industrial goods; and to coordinate on APEC, WTO, and ASEAN issues, including on the E3 Initiative described above in greater detail. We also will continue exploratory discussions with Cambodia regarding a possible bilateral investment treaty. With the Lao PDR's accession to the WTO now complete, we look forward to the benefits of the U.S.-Lao PDR bilateral market access agreement achieved in 2012. In addition, we will engage with Burma to encourage and support reform efforts that will foster broad-based economic development, and we will explore potential opportunities for increased trade in the future.

India

Steadily increasing trade and investment between the United States and India is increasing the dynamism of this important economic relationship. Two-way U.S.-India trade in goods in 1980 was only $2.8 billion; since then, it has skyrocketed to $62.9 billion in 2012. India's impressive economic growth and development will support significantly more U.S. exports and jobs in the future, particularly if India resists adopting trade-restrictive measures and continues to open its market at a level commensurate with its increasing role in global trade. In 2013, the United States will engage with India in a variety of ways to enhance two-way trade and increase opportunities for U.S. investment in and exports to India's large and growing market. To enable U.S. investors to do business with greater certainty and predictability in India, we will continue to pursue negotiations for a high-standard BIT. We will convene the U.S.-India Trade Policy Forum to address concerns and engage with the government of India on a wide range of trade and investment issues, including concerns related to potentially trade-restrictive localization policies. Through the Trade Policy Forum, the United States and India will also expand previous engagement to cooperate in areas such as manufacturing and innovation, where both countries can strengthen their respective economies in a manner that facilitates bilateral trade and investment. We will also build upon successful 2012 efforts to increase contacts and coordination among state governments and the private sector in India and the United States.

IV. Fight Poverty and Foster Global Economic Growth through Trade

The United States has an obligation – and the Obama Administration has the intent – to partner where possible with the poorest countries to lift people out of poverty and foster opportunity for more of our fellow men and women around the world. Promoting economic development by creating trade opportunities for some of the world's least-advantaged workers today can help to reduce the appeal of corruption and violence, and increase the likelihood of societal change through peaceful, democratic means. Helping developing countries grow and expand their economies through trade also helps the United States by providing U.S. exporters greater opportunity to sell products made in America to billions of new consumers abroad; these sales in turn help to grow and support higher-wage jobs at home.

U.S. trade preference programs are intended to provide opportunities for the world's poorest people to climb out of poverty through trade. This principle will guide the Administration's work with Congress this year to renew authorization of the Generalized System of Preferences (GSP) program, which is scheduled to expire on July 31, 2013. The GSP program, initially established in the Trade Act of 1974, helps developing countries to expand their economies by allowing many goods from these countries to be

imported to the United States duty free. The GSP program also aids American manufacturing by lowering the cost of imported goods used as inputs in value-added U.S. production. As the Administration consults with Congress on the future of the GSP program, it will examine options that take into account both the needs of the world's poorest countries and the growing competitiveness of many emerging market GSP beneficiaries, as well as the impact of the program on U.S. businesses and consumers. The Administration will continue to review beneficiary countries' compliance with the statutory GSP eligibility criteria, including through careful monitoring and evaluation of labor, investment, and other conditions in GSP beneficiary countries. In parallel with our conversations on GSP, the Administration will consult closely with Congress about the future of AGOA (described above), as we seek to extend and renew the program beyond 2015.

In 2013, the United States will continue to lead efforts to assist developing countries, especially least developed countries (LDCs), to become better integrated into global trade. We look forward to participating in the WTO's Fourth Global Review of Aid for Trade, and we will work to improve the effectiveness of U.S. bilateral trade capacity building mechanisms, such as the African Trade and Competitiveness Enhancement (ACTE) initiative in sub-Saharan Africa which, among other things, supports the work of three regional trade hubs. In addition, the Millennium Challenge Corporation (MCC) has programs totaling $8.4 billion in 30 countries worldwide – many with large trade capacity building elements. We will also continue cotton-related trade capacity building in West Africa through the West Africa Cotton Improvement Program (WACIP). In addition, we are supporting LDC participation in trade facilitation negotiations at the WTO through a demand-driven assistance mechanism dedicated to assisting developing countries in the implementation of trade facilitation reforms. Given that the most significant global trade barriers are between developing countries, the United States will continue to promote market opening across developing countries, as well as regional integration, to promote new trade flows.

As gender discrimination frequently presents and compounds barriers to trade and development, the United States strongly supports efforts to expand opportunities for women and women entrepreneurs throughout the global economy. In 2013, the United States will continue to seek and share insights and best practices with partners – through APEC, the WTO, in TPP negotiations, and other fora – to improve women's ability to participate in and reap the benefits of trade. In addition, we will continue to focus on improving women's ability to access markets, capital, capacity building, and leadership opportunities through bilateral engagement with trading partners around the world.

The United States will also continue to work with the private sector and non-governmental organizations to promote trade and economic growth in developing countries. Public-private partnerships bring together important actors and combine resources to address development challenges. For example, in part to help women in Africa benefit more from AGOA, the African Women's Entrepreneurship Program (AWEP) – a public-private partnership of the U.S. Government, U.S. non-profits, and several major U.S. companies providing significant funding and technical assistance to African governments and stakeholders – has built a strong network of more than 100 women entrepreneurs across sub-Saharan Africa. The Plus One for Haiti initiative brings together U.S. and Haitian government officials with partners in the private sector to help the people of Haiti rebuild and renew economic development, by promoting trade opportunities in the textile and apparel industry that are provided for in the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE II) and the Haiti Economic Lift Program (HELP) Act. In 2013, we will continue to support Plus One for Haiti, AWEP, and other public-private partnerships – such as partnerships for food safety and security – that advance economic growth, trade, and development globally.

V. Develop Balanced Trade Policy Informed by Diverse Perspectives

To develop and sustain U.S. trade policies that support American jobs and strengthen the global trading system, the Obama Administration in 2013 will continue to consult with Congress and seek input from a wide range of stakeholders. Intensive and ongoing outreach, including creative approaches to enhance public engagement, will enable the Administration to formulate U.S. trade policy that is responsible and more responsive to Americans' needs.

Bipartisan cooperation between Congress and the Obama Administration can help to secure job-supporting trade opportunities, and Congressional support for the Administration's tough approach to trade enforcement is critical as we defend U.S. trade rights and hold our trading partners accountable for meeting their commitments. In 2013, the Administration will continue to consult closely with Congress on U.S. trade policy. As TPP negotiations advance, we are continuing to engage intensively with Congress to ensure that U.S. negotiating positions and an eventual agreement appropriately reflect key U.S. interests and concerns. Similarly, we are coordinating closely with Congress in our efforts to deepen transatlantic trade and investment with the EU and on ISA negotiations.

Beyond market-opening efforts, the Administration will continue to respond to Congress's desire for robust trade enforcement, including by continued work with and appreciation for Congress's support with regard to the Interagency Trade Enforcement Center (ITEC).

As we continually seek to improve the effectiveness of U.S. trade preference programs, we will work with Congress to renew GSP in 2013 and AGOA before 2015. As economies now subject to the "Jackson-Vanik amendment" join the WTO, we will work with Congress to terminate the application of Jackson-Vanik and extend PNTR to these countries. And to maintain support for hard-working Americans undergoing trade-related transitions, we will work with Congress to renew Trade Adjustment Assistance (TAA) programs before they expire on December 31, 2013.

To develop and advance balanced and responsible U.S. trade policy, the Obama Administration in 2013 will continue dialogue with a wide range of stakeholders. We will use a variety of means to engage – primarily in direct and constant outreach by U.S. trade officials to solicit, obtain, and incorporate public input in the course of their daily work, but also through more formal mechanisms including public hearings, publication of notices in the Federal Register, bi-annual meetings with trade policy advisory committees, regular domestic travel by U.S. trade officials to meet with and hear from the public, and specific events focused on subjects of interest. In particular, as we seek an ambitious conclusion to TPP negotiations, we will continue to build on our unprecedented direct engagement with stakeholders, including during TPP negotiating rounds. In addition, we will maintain open channels of communication for constructive public feedback on all aspects of the TPP, as well as new or potential future trade agreements. At the same time, the Administration will vigorously defend and work to preserve the integrity of confidential negotiations, because they present the greatest opportunity to achieve agreements that fulfill U.S. trade negotiation objectives – which are directly aimed at supporting jobs for more Americans here at home.

President Obama believes that every American worker should have a fair shot to compete and succeed in the global marketplace, and that respect and fundamental protections for labor rights should help form the foundation of a level playing field worldwide. The Obama Administration has applied this principle to every major element of U.S. trade policy by: negotiating high standard labor provisions in comprehensive trade agreements; ensuring U.S. trade partners meet their trade agreement and preference program obligations related to worker rights; and engaging a broad range of domestic and international stakeholders along with key trade partners to improve working conditions around the world. In 2013, we

will actively work with Colombia on continued implementation of the Action Plan Related to Labor Rights, with Guatemala to resolve the pending dispute settlement case, and with Bahrain, Jordan, the Dominican Republic, Honduras and others to address labor issues under our trade agreements. In the TPP negotiations, we will seek to ensure a high standard text that protects worker rights, helps to raise working conditions and standards, and becomes a model for other trade negotiations. We will also continue worker rights reviews being conducted with Bangladesh, the Philippines, Swaziland, and others under our preference programs. And where we do not have comprehensive trade agreements or preference programs in place with key trading partners, we will work to prioritize worker rights issues in discussions at the bilateral, regional, and multilateral levels.

The Obama Administration's trade agenda addresses trade-related environmental issues affecting everyone on our shared planet. In 2013, we will continue to pursue robust trade measures to open markets and advance environmental goals at the same time. We will seek strong environmental protection commitments in trade negotiations and explore additional opportunities to liberalize trade in environmental goods and services globally. In TPP, we have submitted a comprehensive set of environmental proposals, including innovative new elements designed to advance conservation challenges specifically. In APEC, we will work toward implementation of the 2012 commitment to reduce applied tariffs on environmental goods; seek to further address non-tariff barriers in this sector; and work to combat illegal forest products trade and promote trade in legally sourced products. Building on successful 2012 work with the government of Peru to prevent trade in illegally-harvested forest products, the Administration will also continue to work closely with our trading partners to monitor and enforce all of the environmental obligations contained in U.S. trade agreements.

Conclusion

The Obama Administration continues to pursue a balanced and comprehensive approach to trade policy that advances U.S. interests and reflects our values. Thanks to these efforts, U.S. producers are selling more goods around the world stamped with 'Made in America," and trade is supporting more jobs here at home.

In 2013, we look forward to engaging with our global trading partners, with Congress and with all Americans to ensure that trade continues to move us forward toward President Obama's goal of an economy built to last – one that is globally competitive and that will support a thriving American middle class for generations to come.

Ambassador Ron Kirk
United States Trade Representative
February 28, 2013

2012 ANNUAL REPORT
OF THE
PRESIDENT OF THE UNITED STATES
ON THE
TRADE AGREEMENTS PROGRAM

II. THE WORLD TRADE ORGANIZATION

A. Introduction

This chapter outlines the work of the World Trade Organization (WTO) in 2012 and the work anticipated for 2013 to find new, credible approaches to advancing negotiations in the WTO, including under the Doha Development Agenda (DDA). This chapter also details work of WTO Standing Committees and their subsidiary bodies, provides an overview of the implementation and enforcement of the WTO Agreement, and discusses accessions of new members to this rules-based organization.

The United States maintains an abiding commitment to the rules-based multilateral trading system, which advances the well-being of the people of the United States and of our trading partners. The WTO represents the multilateral bedrock of U.S. trade policy, playing a vital role in securing new economic opportunities for American workers, farmers, ranchers, manufacturers, and service providers and promoting global growth and development with widely shared benefits. The United States continues to take a leadership role at the WTO, working to ensure that trade makes a powerful contribution in expanding the global economy. The WTO provides a forum for enforcing U.S. rights under the various WTO agreements to ensure that the United States receives the full benefits of WTO membership. The WTO agreements also provide a foundation for high-standard U.S. bilateral and regional agreements that make a positive contribution to a dynamic and open global trading system based on the rule of law. On a day-to-day basis, the WTO provides opportunities for advancing U.S. interests through its more than 20 standing committees (not including numerous additional working groups, working parties, and negotiating bodies). These groups meet regularly to permit WTO Members to exchange views, work to resolve questions of Members' compliance with commitments, and develop initiatives aimed at systemic improvements.

The DDA is the ninth round of multilateral trade negotiations to be carried out since the end of World War II. At the WTO's Eighth Ministerial Conference in Geneva, Switzerland in December 2011, there was a consensus among Ministers that the DDA was at an impasse, with "significantly different perspectives on . . . possible results." The agreed summary for the Ministerial Conference noted that "Members need to more fully explore different negotiating approaches," and reiterated previous ministerial guidance that, where progress can be achieved on specific elements of the DDA, provisional or definitive agreements might be reached before all elements of the negotiating agenda are fully resolved. In fact, 2012 has been a year of collective exploration of opportunities to advance specific areas of the DDA negotiations and consideration of initiatives outside the DDA that can lead to new trade liberalization.

In parallel, the United States and other WTO Members have generated renewed focus on the day-to-day work of the WTO's standing committees and other bodies, which remained instrumental in promoting transparency of WTO Member trade policies and providing critical fora for monitoring and resisting protectionist pressures during a time of global economic challenges. Through discussions in these fora, Members sought detailed information on individual Members' trade policy actions and collectively considered them in light of WTO rules and their impact on individual Members and the trading system as a whole. The discussions enabled Members to assess their trade-related actions and policies in light of concerns that other Members raised and to consider and address those concerns in domestic policymaking. The United States also took advantage of opportunities in standing committees to consider how implementation of existing WTO provisions can be enhanced and to discuss areas that may hold potential for developing future rules.

B. The Doha Development Agenda under the Trade Negotiations Committee and Other Priority WTO Activities

The DDA was launched in Doha, Qatar in November 2001, at the Fourth WTO Ministerial Conference, where Ministers provided a mandate for negotiations on a range of subjects and work in WTO Committees. In addition, the mandate gives further direction on the WTO's existing work program and implementation of the WTO Agreement. The goal of the DDA is to reduce trade barriers in order to expand global economic growth, development, and opportunity. The main focus of the negotiations under the DDA is in the following areas: agriculture; industrial goods market access; services; trade facilitation; WTO rules (*i.e.*, trade remedies, fisheries subsidies, and regional trade agreements); and development.

The Trade Negotiations Committee (TNC), established at the WTO's Fourth Ministerial Conference in Doha, oversees the agenda and negotiations under the DDA in cooperation with the WTO General Council. The WTO Director General serves as Chairman of the TNC. *(Annex II identifies the various negotiating groups and special bodies responsible for the negotiations, some of which are the responsibility of the WTO General Council.)*

In 2012, WTO Members continuously assessed the implications of the results at the Eighth Ministerial Conference and how they could make progress on discreet areas of the DDA with the possibility of early results. Broadly, the United States joined others in validating that the WTO had "turned the page" in the DDA negotiations and that only new, creative approaches could offer opportunities for delivering results. In this regard, the Membership increasingly discussed prospects for agreements by the time of the Ninth Ministerial Conference, which will take place in Bali, Indonesia in December 2013. WTO Members demonstrated the possibilities of a new collective will to overcome differences and reach agreements by concluding a new set of guidelines for the accession to the WTO of least-developed countries. These new guidelines will facilitate future negotiations with individual least-developed countries, particularly in providing benchmarks for goods and services market access commitments in accession packages. In other areas of the DDA, technical negotiations on a multilateral trade facilitation agreement made important progress, and WTO Members worked hard to address particular development concerns in the Committee on Trade in Development in Special Session and began to explore approaches that may advance parts of the agriculture agenda in realistic ways.

Beyond the DDA negotiations, Parties to the WTO Government Procurement Agreement (GPA), a plurilateral agreement within the WTO framework, formally adopted the results of negotiations on a revised GPA, which should enter into force during 2013, and focused on prospects for new Members, particularly with respect to negotiations with China. Negotiations are also effectively underway to expand the product coverage of the Information Technology Agreement and are picking up steam. Additionally, twenty-one developed and developing WTO Members are moving forward with discussions on a possible plurilateral services agreement, which could provide future impetus to broader multilateral results on services.

The WTO is much more than a negotiating forum and venue for filing dispute settlement cases. The United States believes that the WTO demonstrates its value every day through the work of the standing committees and other WTO bodies. In 2012, the United States made effective use of the Council on Trade in Goods, the Committee on Import Licensing, and the Committee on Agriculture to raise the profile of trade protectionist actions by other Members. In the Committee on Technical Barriers to Trade, the United States and other Members completed the Sixth Triennial Review of that WTO agreement, clarifying existing rules in important respects and identifying priorities for future work, such as good

regulatory practices. WTO Members also conducted far-reaching discussions on the issue of trade and exchange rate fluctuations in the Working Group on Trade, Debt and Finance.

Overall the United States noted that new energy seemed to be developing in the operations of the WTO during the course of 2012 and that the focus of new efforts were not exclusively limited to the DDA. This greater appreciation for the broad spectrum of WTO work, from the DDA to other areas, may be the critical factor in sustaining the relevance of the WTO in international trade in years to come.

Prospects for 2013

The United States will continue to play a leadership role across the range of WTO activities. It is particularly important to sustain and enhance the WTO's critical work in monitoring and providing a forum for resisting protectionism. Accordingly, the United States will be devoting additional attention to making the best possible use of the WTO's existing committees and other structures, using them both to advance specific U.S. trade policy objectives as well as to ensure the ongoing strength and credibility of the multilateral trading system. Additionally, the United States will seek to achieve outcomes at the Ninth Ministerial Conference in Bali, Indonesia in December 2013 that reflect U.S. export interests and other trade policy priorities and that can usher in a new period of multilateral trade liberalization in the WTO.

1. Committee on Agriculture, Special Session

Status

Negotiations in the Special Session of the Committee on Agriculture are conducted under the mandate agreed upon at the Fourth WTO Ministerial Conference in Doha, Qatar that calls for: "substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support." This mandate, calling for ambitious results in three areas (so called "pillars"), was augmented with specific provisions for agriculture in the framework agreed by the General Council on August 1, 2004, and at the Hong Kong Ministerial Conference in December 2005.

Major Issues in 2012

In 2012, the United States continued to lead the effort to approach the Doha negotiations with a focus on how countries might realistically work together to advance the negotiations.

Ambassador John Adank, the Chair of the Agriculture Negotiations, held several meetings in formal and informal settings to assess Members' views on substantive issues. A few negotiating proposals emerged in 2012. The G20 developing country group, led by Brazil, submitted two proposals. One proposal was on tariff-rate quota (TRQ) administration, and the other proposal suggested that the Secretariat update reports on Members' TRQ fill rates and use of provisions in the export competition pillar, using data from Members' notifications. The G33 developing country group, led by India, also sponsored India's public food stockholding proposal. The Chair held various consultations allowing such proposals to be presented, with some discussion among Members.

Deputy U.S. Trade Representative and U.S. Permanent Representative to the WTO Ambassador Michael Punke continued to urge Members to approach the overall Doha negotiations on the basis of a realistic assessment of possibilities for progress. Throughout 2012, U.S. negotiators undertook discussions at

various levels (technical and political) and in various formats (bilateral and small group) to determine Members' will and interests in moving the negotiations forward.

Prospects for 2013

Members in 2013 will continue to look at fresh approaches to achieve results. A key to concluding the DDA will be securing meaningful market access commitments in agriculture. The advanced developing countries – which have been the fastest growing economies and are increasingly players in the global economy – will play an important role. The challenge in 2013, as Members approach the Ninth Ministerial Conference, will be to make continual progress towards fair, balanced results in agriculture.

2. Council for Trade in Services, Special Session

Status

The Special Session of the Council for Trade in Services (CTS-SS) was formed in 2000 pursuant to the Uruguay Round mandate of the General Agreement on Trade in Services (GATS) to undertake new multi-sectoral services negotiations. The Doha Declaration of November 2001 recognized the work already undertaken in the services negotiations and set deadlines for initial market access requests and offers. The services negotiations thus became one of the core market access pillars of the Doha Round, along with agriculture and nonagricultural goods.

The 2005 Hong Kong Ministerial Declaration called for the negotiations to proceed to conclusion with a view to promoting the economic growth of all trading partners, with due respect for the right of Members to regulate in their domestic markets. The Hong Kong Declaration provided a framework for intensifying the negotiations, with the goal of encouraging Members to improve their commitments by removing significant limitations and covering a broader range of service sectors and supply channels (*i.e.*, cross border supply, consumption abroad, commercial presence, and presence of natural persons). To complement the existing bilateral request/offer process, the Hong Kong Declaration also encouraged negotiations to proceed on a plurilateral basis. Members subsequently developed a "plurilateral request process," through which like-minded Members joined together to develop collective market access requests for more than 20 sectors and issues of interest.

Major Issues in 2012

The CTS-SS did not meet during 2012, as the lack of general progress under the DDA affected negotiations on services.

Prospects for 2013

The United States continues to believe that a high level of ambition for services liberalization is a key to economic growth and prosperity. To that end, we remain willing to pursue new ideas and approaches to create new trade and investment opportunities for service providers.

3. Negotiating Group on Non-Agricultural Market Access

Status

The U.S. Government's longstanding objective in the Non-Agricultural Market Access (NAMA) negotiations – which cover manufactures, mining, fuels, and fish products – has been to obtain a balanced

market access package that provides new export opportunities for U.S. businesses through liberalization of global tariffs and non-tariff barriers. Trade in industrial goods accounts for more than 90 percent of world merchandise trade[1] and more than 95 percent of total U.S. goods exports. In developing countries, industrial goods comprise 94 percent of goods exports, more than 65 percent of which corresponds to manufactures – an increasing share of which is exported to other developing countries.[2] Yet, many emerging economies still charge very high tariffs on imported industrial goods, with ceiling tariff rates exceeding 150 percent in some cases. Thus, achieving a market opening outcome is critical to stimulating trade and driving economic development in the wake of the global economic downturn.

However, despite continued, intensive efforts by USTR negotiators to engage with key trading partners in 2011, the NAMA negotiations remain at an impasse. Without significant improvements, including specific commitments from advanced developing economies, the current industrial goods market access package would provide very little, if any, new access into the markets of the future. Given the changing global economic landscape, namely the emergence of certain new economic powers, securing broad-based liberalization that ensures that major industrial producers and traders compete on a level playing field is crucial.

Major Issues in 2012

There were no substantive meetings or other activities related to either the tariff or non-tariff elements of the Non-Agricultural Market Access negotiations. Proposals that had been under negotiation remain on the table until such time as the Doha negotiations resume. A new Chairman for the NAMA Negotiating Group was elected in 2012.

Prospects for 2013

In 2013, the United States intends to work with other WTO Members to pursue fresh and credible approaches to meaningful multilateral trade liberalization.

4. Negotiating Group on Rules

Status

At the Doha Ministerial Conference in 2001, Ministers agreed to negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (the SCM Agreement), while preserving the basic concepts, principles, and effectiveness of these Agreements and their instruments and objectives. Ministers directed that the negotiations take into account the needs of developing and least-developed country Members. The Doha Round mandate also calls for clarified and improved WTO disciplines on fisheries subsidies.

The Negotiating Group on Rules (the Rules Group) has based its work primarily on written submissions from Members, organizing its work in the following categories: (1) the antidumping remedy, often including procedural and domestic industry injury issues potentially applicable to the countervailing duty remedy; (2) subsidies and the countervailing duty remedy, including fisheries subsidies; and (3) regional trade agreements. In November 2007, the Chairman of the Rules Group issued draft consolidated texts on the antidumping remedy, subsidies and the countervailing duty remedy, and fisheries subsidies.

[1] WTO, International Trade Statistics 2011.
[2] WTO document WT/COMTD/W/143/Rev.4.

In December 2008, the Chairman issued revised texts on antidumping, subsidies, and the countervailing duty remedy, as well as a roadmap for fisheries subsidies that identified key questions that need to be addressed in order to advance the negotiations towards a new fisheries text. In keeping with his earlier pronouncements, the draft texts on antidumping and subsidies/countervailing duties reflected a "bottom up" approach, identifying the most contentious issues contained in brackets with no legal text provided. In July 2010, the Rules Group formally elected a new Chair, Ambassador Dennis Francis of Trinidad and Tobago, who replaced Ambassador Guillermo Valles of Uruguay. Following an intensification of work at the end of 2010 and beginning of 2011, in April 2011, the Chairman issued a report reflecting the work to date in the Rules Group on antidumping, subsidies and fisheries subsidies, and regional trade agreements.[3] Included in this report was a slightly revised text on antidumping reflecting several technical changes. There were no changes made to the 2008 draft text on Subsidies and Countervailing Measures or the 2007 draft text on Fish Subsidies. Following the resignation of Ambassador Francis, in October 2011, Ambassador Wayne McCook (Jamaica) was selected as the new Chair for the Rules Group.

The Doha Declaration also directed the Rules Group to clarify and improve disciplines and procedures governing Regional Trade Agreements (RTAs) under the existing WTO provisions. To that end, the General Council in December 2006 adopted a decision for the provisional application of the "Transparency Mechanism for Regional Trade Agreements" to improve the transparency of RTAs. A total of 125 RTAs have been considered under the Transparency Mechanism since then. Pursuant to its mandate, in the past, the Rules Group has explored the establishment of further standards governing the relationship of RTAs to the global trading system. However, such discussions have failed to produce common ground on how to clarify or improve existing RTA rules.

Major Issues in 2012

Antidumping and Subsidies/CVD:

On October 25, 2012, Rules Chair Wayne McCook held an open-ended informal meeting of the Rules Group to provide a brief summary of his activities since assuming the chairmanship and provide a forum for Members to share their views. Chairman McCook acknowledged that the rules negotiations were at an impasse and that there was little appetite to try to move the discussions forward without further substantive progress in other areas. Many Members expressed support for the antidumping technical group, with suggestions that the discussions be more inclusive to encourage the participation of more Members. The Friends of Fish (Australia, Argentina, Chile, Colombia, Iceland, New Zealand, Norway, Pakistan, Peru, and the United States) delivered a joint statement, pressing for an ambitious fisheries subsidies discipline and highlighting the need for transparency of programs in the short-term. There is no proposed date for a future meeting of the Rules Group.

Regional Trade Agreements:

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism (TM) for all regional trade agreements (WT/L/671), which was agreed upon in the Negotiating Group on Rules and implemented in 2007. In December 2010, the Rules Negotiating Group initiated a review of the operation of the RTA Transparency Mechanism, and the Chair invited Members to submit any proposals to modify the TM in light of the experience gained under its operation. While the TM has on the whole significantly improved transparency with respect to RTAs, some of its operational aspects could be improved. Most notably, while there is no doubt that the TM applies to all RTAs – whether negotiated under GATT 1994, the GATS, or the Enabling Clause – practical questions of the

[3] TN/RL/W/252, TN/RL/253, TN/RL/W/254, all dated April 21, 2011.

venue of consideration have arisen when parties to an agreement differ among themselves in their view of the relevant WTO provision for concluding a particular preferential agreement. While such underlying differences go beyond the scope of the review of the TM, the United States in January 2011 submitted a proposal to help ensure the consideration of RTAs that have been "duly notified" under such circumstances, so as to eliminate, or at least reduce, disagreement and procedural challenges in a way that is without prejudice to any underlying rights. The U.S. submission[4] proposes a specific solution, in the form of a proposed change to paragraph 18 of the TM, to consolidate the consideration of all RTAs in a single committee, the Committee on Regional Trade Agreements. There was no discussion on the operationalization of the RTA TM in 2012 in the Rules Negotiating Group.

Prospects for 2013

In 2013, the United States will continue to focus on, *inter alia*, preserving the effectiveness of trade remedy rules, improving transparency and due process in trade remedy proceedings, and strengthening existing subsidies rules. Concerning fisheries subsidies, the United States will continue to press for an ambitious outcome in the WTO, including by pursuing results to discipline fisheries subsidies through other fora such as the Trans-Pacific Partnership negotiations, which will assist our efforts to reach eventual agreement on fisheries subsidies in the WTO. Preparations will also continue for a fisheries subsidies symposium to take place in early 2013 to build on previous discussions in the Rules Negotiating Group.

On RTAs, the United States will continue to advocate for increased transparency and strong substantive standards for RTAs that support and advance the multilateral trading system. The TM will continue to be applied in the consideration of additional RTAs.

5. Negotiating Group on Trade Facilitation

Status

An important U.S. objective was met when WTO negotiations on Trade Facilitation were launched under the August 1, 2004 Decision by the General Council on the Doha Work Program. Opaque border procedures and unwarranted delays faced at the borders can add costs that are the equivalent of a significant tariff, and they are the non-tariff barriers that are most frequently cited by U.S. and other exporters. The trade facilitation negotiations are seeking to reduce these barriers through transparent and predictable multilateral trade rules under the WTO. The agreed negotiating mandate includes the specific objective of "further expediting the movement, release, and clearance of goods, including goods in transit," while also providing a path toward ambitious results in the form of modernized and strengthened WTO commitments governing how border transactions are conducted.

Major Issues in 2012

The work of the Negotiating Group on Trade Facilitation (NGTF) continued to have as its hallmark in 2012 broad-based and constructive participation by Members of all levels of development – a positive negotiating environment that is seen as offering "win-win" opportunities for all. There continued to be active leadership within the NGTF from individual developing country Members and from regional groupings to include the landlocked developing countries (LLDCs), least-developed countries (LDCs), and the African, Caribbean and Pacific (ACP) which, by working closely with the United States and other Members, have helped to steer the negotiations forward in a practical, problem-solving manner. The

[4] TN/RL/W/248, dated January 24, 2011.

United States also worked in various configurations of countries in bilateral and plurilateral formations to advance work on specific textual proposals.

As recent Free Trade Agreements (FTAs) undertaken by the United States have been implemented, there has been a positive synergy with the WTO negotiations on Trade Facilitation. With partners as diverse as Chile, Singapore, Australia, South Korea, Peru, Panama, Costa Rica, and Colombia, each FTA negotiated by the United States has included a separate, stand-alone chapter that contains significant commitments on customs administration, most of which are reflected in proposals at the NGTF. Many of the United States' current and future FTA partners have become important partners and champions in Geneva for moving the negotiations ahead and toward a rules-based approach to trade facilitation.

For many developing country Members, results from the negotiations that bring improved transparency and an enhanced rules-based approach to border regimes will be an important element of broader ongoing domestic strategies to increase economic output and attract greater investment. There is also a growing understanding that such an outcome would squarely address one of the factors holding back increased regional integration and south-south trade. Most Members see the negotiations as bringing particular benefits to the ability of small and medium sized businesses to participate in the global trading system.

The modalities for conducting the trade facilitation negotiations, set forth as part of the August 1, 2004 General Council decision launching the negotiations, include the following: "Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII, and X of the GATT 1994 with a view to further expediting the movement, release, and clearance of goods, including goods in transit. Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues." The modalities also include references that underscore the importance of addressing implementation issues such as costs, potential implications with regard to infrastructure, capacity building, the status of LDC Members, and the work of other international organizations.

The work of the NGTF during 2012 was characterized by intensive, Member-driven, text-based negotiations. Significantly, the draft consolidated negotiating text is not a "Chair's text," based on the Chair's perception of Members' desired outcomes. Rather, the text reflects all proposals on the table and modifications to those proposals that Members have suggested. Consistent with the Member-driven, "bottom up" approach that has characterized the NGTF from the outset, the NGTF's work requires continued engagement of Members with each other to resolve differences. During 2012, that engagement occurred in various formats, both formal and informal, as proponents and Chair-appointed facilitators for various sections of the text stepped forward to lead efforts to close gaps. The NGTF met in plenary sessions in January, April, July, October, and December to capture progress achieved through the intervening small group and facilitator-led work and to further refine the text. New revisions of the draft negotiating text that successively reduced the number of open issues were released in April, October and December, and are publicly available on the WTO website at www.wto.org.

The proposals reflected in the draft negotiating text cover each of the areas provided for in the NGTF modalities. There are a number of proposals to promote transparent rules and procedures, including publication requirements, such as a U.S. proposal on Internet publication, proposals to promote appeal procedures and enquiry points, and a proposal on advance administrative rulings. There are also several proposals to expedite release and clearance of goods, including through pre-arrival processing, separation of release and clearance, and expedited shipment procedures (the last item a U.S. proposal), and to simplify and eliminate fees and formalities. Likewise the draft consolidated negotiating text includes provisions on transit procedures and customs cooperation, and establishing disciplines on customs penalties originally proposed by the United States.

During 2012, the NGTF also continued its work on addressing the challenge of implementing the results of the negotiations that will face many developing country Members. The draft consolidated negotiating text includes textual proposals from the United States and other Members on transition provisions for developing and least developed country Members, intended to provide these Members with the flexibility necessary for them to fully implement the negotiating outcome, as well as the assurance that they will have the time and assistance to do so. The negotiating sessions in 2012 made significant progress in creating a coherent text that has helped to focus discussion on these special and differential treatment (S&D) provisions. In addition, the December 2012 NGTF meeting featured Member presentations on different means to advance the text, including by the United States. The presentations highlighted that core elements of the S&D provisions of the draft negotiating text that address transition periods for implementation are already agreed to by Members, but that divergences related to notifying transition periods and conditions placed on implementation remain.

As part of the substantial assistance already being provided for trade facilitation, the WTO and assistance organizations like USAID have, over the course of the negotiations, provided training programs with developing country Members to help them undertake assessments of their individual situations regarding capacity and make progress in implementing the proposals under negotiation. The Member assessments, which are currently being updated, have made it apparent that many of the developing country Members have implemented – or are taking steps to do so – a number of the concrete measures proposed as new WTO commitments. At the same time, it is also clear that many developing country Members openly recognize that they have an offensive interest in seeking implementation by their neighbors of any new commitments in this area. The WTO's training efforts have also included regional workshops for senior customs and trade officials of developing country Members to help them gain a deeper understanding of proposed measures and of issues relating to future implementation.

The draft NGTF provisions for specific new and strengthened WTO commitments generally reflect measures that would capture forward-looking practices that would bring improved efficiency, transparency, and certainty to border regimes while diminishing opportunities for corruption.

Prospects for 2013

In 2013, the NGTF will continue its efforts to refine the draft consolidated negotiating text through the Member driven, bottom-up process, consistent with the efforts of WTO Members to move forward on areas where progress is possible in the Doha Round negotiations. As negotiations toward new and strengthened trade facilitation disciplines move forward, it will remain important that work proceeds in a methodical and practical manner on the issue of how all Members can meet the challenge of implementing the results of the negotiations – including with regard to the issues of S&D and technical assistance.

6. Committee on Trade and Environment, Special Session

Status

Following the 2001 WTO Ministerial Conference at Doha, the TNC established a Special Session of the Committee on Trade and Environment (CTESS) to implement the mandate in paragraph 31 of the Doha Declaration. Paragraph 31 of the Doha Declaration includes a mandate to pursue negotiations, without prejudging their outcome, in three areas:

i. the relationship between existing WTO rules and specific trade obligations (STOs) set out in Multilateral Environmental Agreements (MEAs) (with the negotiations limited to the

applicability of existing WTO rules among parties to such MEAs and without prejudice to the WTO rights of Members that are not parties to the MEAs in question);

ii. procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting observer status; and

iii. the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade in environmental goods and services.

Major Issues in 2012

The CTESS did not meet in 2012.

Prospects for 2013

The United States remains fully committed to the WTO and to a positive trade and environment agenda; however, given the deep substantive divergences that have proven difficult to resolve in the CTESS, we will approach these negotiations with fresh thinking. This year, we are committed to exploring creative and innovative trade and environment solutions that can yield meaningful outcomes. In particular, we will consider ways to build on the results we achieved in APEC on environmental goods liberalization (*see Chapter III.B.3*).

7. Dispute Settlement Body, Special Session

Status

Following the Doha Ministerial Conference in 2001, the Trade Negotiations Committee established the Special Session of the Dispute Settlement Body (DSB) to fulfill the Ministerial mandate found in paragraph 30 of the Doha Declaration which provides: "We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far, as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter." In July 2003, the General Council decided that: (1) the timeframe for conclusion of the negotiations on clarifications and improvements of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) be extended by one year (*i.e.*, to aim to conclude the work by May 2004 at the latest); (2) this continued work will build on the work done to date, and take into account proposals put forward by Members as well as the text put forward by the Chair of the Special Session of the DSB (DSB-SS); and (3) the first meeting of the DSB-SS when it resumed its work be devoted to a discussion of conceptual ideas. Due to complexities in negotiations, deadlines were not met. In August 2004, the General Council decided that Members should continue work toward clarification and improvement of the DSU, without establishing a deadline.

Major Issues in 2012

The DSB-SS met seven times during 2012 in an effort to implement the Doha mandate. In previous phases of the review of the DSU, Members had engaged in a general discussion of the issues. Following that general discussion, Members tabled proposals to clarify or improve the DSU. Members then reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals. The Chair of the review issued a Chair's text in July 2008 "to take stock of" the work to date

and to provide a basis for its continuation. In 2012, the Chair continued a more intensive process, in which delegations engaged on the basis of the comments received in the previous phase, and Members concluded their discussions of the Chair's text.

The United States has advocated two proposals, both of which are reflected in the Chair's text. One would expand transparency and public access to dispute settlement proceedings. The proposal would open WTO dispute settlement proceedings to the public as the norm and give greater public access to submissions and panel reports. In addition to open hearings, public submissions and early public release of panel reports, the U.S. proposal calls on WTO Members to consider rules for "*amicus curiae*" submissions – submissions by nonparties to a dispute. WTO rules currently allow such submissions but do not provide guidelines on how they are to be considered. Guidelines would provide a clearer roadmap for handling such submissions.

In addition, the United States and Chile submitted a proposal to help improve the effectiveness of the WTO dispute settlement system in resolving trade disputes among Members. The joint proposal contained specifications aimed at giving parties to a dispute more control over the process and greater flexibility to settle disputes. Under the present dispute settlement system, parties are encouraged to resolve their disputes, but do not always have all the tools with which to do so. As part of this proposal, the United States has also proposed guidance for WTO Members to provide to WTO adjudicative bodies in three particular areas where important questions have arisen in the course of various disputes.

Prospects for 2013

In 2013, Members will continue to work to complete the review of the DSU. Members will be meeting a number of times over the course of 2013.

8. Council for Trade-Related Aspects of Intellectual Property Rights, Special Session

Status

The work of the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), Special Session was limited in 2012. With a view to completing the work started in the TRIPS Council on the implementation of Article 23.4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Ministers agreed at the 2001 Doha Ministerial Conference to negotiate the establishment of a multilateral system of notification and registration of geographical indications (GIs) for wines and spirits. At the 2005 Hong Kong Ministerial Conference, Ministers agreed to intensify their work in order to complete these negotiations within the overall timeframe for the conclusion of the Doha negotiations. This matter is the only one before the Special Session of the TRIPS Council.

Major Issues in 2012

The TRIPS Council Special Session held one informal meeting in 2012, and the TRIPS Council Chair held a number of informal consultations with Members. The United States and its allies on this issue conveyed a consistent message throughout the year, *i.e.*, the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits must: be voluntary; have no legal effects for non-participating members; be simple and transparent; respect different systems of protection of GIs; respect the principle of territoriality; preserve the balance of the Uruguay Round; and, consistent with the mandate, be limited to the protection of wines and spirits. The Joint Proposal group continued to stress that the mandate of the TRIPS Council Special Session is clearly limited to the

establishment of a system of notification and registration of GIs for wines and spirits, and that discussions cannot move forward on any other basis.

Members' views continue to diverge sharply on several core issues. Key positions are reflected in a 2005 WTO Secretariat document (TN/IP/W/12), which contains a side-by-side presentation of the three proposals that are before the Special Session. The Secretariat expanded this document in May 2007, with an addendum that describes the various arguments and that presents questions raised by proponents of the proposals (TN/IP/W/12/Add. 1). In an April 2011 report to the Trade Negotiations Committee (TN/IP/21), the Chair of the TRIPS Council Special Session highlighted, in particular, ongoing divergences with respect to participation in the multilateral register system (*i.e.*, whether the system would apply to all Members or only to those opting to participate in it), the nature of the legal obligations provided for in the system (*i.e.*, the extent to which legal effects at the domestic level determine the effect of registration of a GI for a wine or spirit in the system), and to the mandate of the Special Session (*i.e.*, whether the Special Session has the authority to address GIs for goods other than wines and spirits). In 2011, the Chair led meetings of a drafting group made up of representatives of the sponsors of the three competing proposals, to negotiate a text covering six elements, namely: (1) notification; (2) registration; (3) legal effects/consequence of registration; (4) fees and costs; (5) S&D; and (6) participation. The April 2011 report includes an annex with the Draft Composite Text (JOB/IP/3/Rev. 1), reflecting the current status of the discussions.

The United States, together with Argentina, Australia, Canada, Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Israel, Japan, Korea, Mexico, New Zealand, Nicaragua, Paraguay, the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu, and South Africa, support the Joint Proposal under which Members would voluntarily notify the WTO of their GIs for wines and spirits for incorporation into a registration system. During 2011, Israel formally became a cosponsor of the Joint Proposal. The Joint Proposal cosponsors submitted a revised Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits to the Special Session to set out clearly in draft legal form, a means by which Members could implement the mandate from paragraph 18 of the Doha Ministerial Declaration and Article 23.4 of the TRIPS Agreement, and to reflect changes that Joint Proposal proponents had made during the informal drafting process. Members choosing to use the system would agree to consult the system when making any decisions under their domestic laws related to GIs, or in some cases, trademarks. Implementation of this proposal would not impose any additional obligations – with regard to GIs – on Members that chose not to participate, nor would it place undue burdens on the WTO Secretariat.

The EU, together with a number of other Members, continued to support their alternative proposal for a binding, multilateral system for the notification and registration of GIs for all products, not only wines and spirits, which all Members would be required to use. The current EU position on GIs combines two proposals: the multilateral GI register for wines and spirits and an amendment to the TRIPS Agreement to extend Article 23-level GI protection to products other than wines and spirits. The effect of this proposal would be to expand the scope of the negotiations to all GI products and to propose that any GI notified to the EU's proposed register would benefit from a presumption of eligibility for protection as a GI in other WTO Members. In addition, the notified GI would be presumed valid against a competing rights holder, including a prior rights holder. Essentially, the system proposed by the EU could, as a practical matter, enable one Member to mandate GI protection in another Member simply by notifying that GI to the system. Such a proposal would negatively affect preexisting trademark rights, as well as investments in generic food terms, and would directly contradict the principle of territoriality with respect to intellectual property in favor of a system based upon the unilateral and extraterritorial application of domestic law and national intellectual property regimes. Although a third proposal, from Hong Kong, China remains on the table, this proposal has received little support.

In 2011, the proponents of the Joint Proposal made important gains, advancing support for substantive provisions of the Proposal. In addition, cosponsors were added to the Joint Proposal, and certain proponents of the EU proposal expressed support for key Joint Proposal provisions. The Draft Consolidated Text reflects these developments. For example, that text shows India and Brazil's support for several key components of the Joint Proposal (*e.g.*, participation). Sponsors of the Joint Proposal emphasized, repeatedly, that the Special Session's mandate is limited to GIs for wines and spirits. There was limited discussion of the Joint Proposal in 2012 and no progress in resolving divergent views, with Members instead continuing to adhere to entrenched positions.

Prospects for 2013

There will be continued discussion regarding the Special Session's mandate. In particular, Members will discuss whether negotiations are limited to GIs for wines and spirits (the position of the Joint Proposal proponents, based on the unambiguous text of Article 23.4 of the TRIPS Agreement) or whether these negotiations should be extended to cover GIs for goods other than wines and spirits (the position of the EU and certain other WTO members). The United States will aggressively pursue additional support for the Joint Proposal in the coming year and will seek a more flexible and pragmatic approach from supporters of the EU proposal.

9. Committee on Trade and Development, Special Session

Status

The Special Session of the Committee on Trade and Development (CTD-SS) was established by the TNC in February 2002, to fulfill the Doha Round mandate to review all S&D provisions "with a view to strengthening them and making them more precise, effective, and operational." Under existing S&D provisions, Members provide developing country Members with technical assistance and transitional arrangements toward implementation of the WTO Agreement. S&D provisions also enable Members to provide developing country Members with better than MFN access to markets.

As part of the S&D review, developing country Members submitted 88 Agreement-Specific Proposals (ASPs) to augment existing S&D provisions in the WTO Agreement. Thirty-eight of these proposals were referred to other negotiating groups and WTO bodies for consideration (Category II proposals). Of the proposals remaining for consideration in the Special Session, Members reached an "in principle" agreement on draft decisions for 28 proposals at the 2003 Cancun Ministerial Conference, following intensive negotiations in 2002 and 2003. Due to the breakdown of the DDA negotiations, these proposals were not adopted at Cancun, and in 2012, Members resumed work to review and take stock of these proposals ("Cancun 28").

At the 2005 Hong Kong Ministerial Conference, Members reached agreement on these five ASPs: access to WTO waivers; coherence; duty-free and quota-free treatment (DFQF) for LDC Members; Trade-Related Investment Measures (TRIMS); and flexibility for LDC Members that have difficulty implementing their WTO obligations. The decisions on these proposals are contained in Annex F of the Hong Kong Ministerial Declaration.

Ministers at Hong Kong instructed the Special Session to expeditiously complete the review of all the outstanding Agreement specific proposals and report to the General Council, with clear recommendations for a decision. With respect to the 38 Category II proposals, the Special Session was instructed to continue to coordinate its efforts with relevant bodies to ensure that work on those proposals was concluded and recommendations for a decision made to the General Council. Ministers at Hong Kong

also mandated the Special Session to resume work on all outstanding issues, including a new proposal by the African Group to negotiate a Monitoring Mechanism (MM) for effective monitoring of S&D provisions.

Following the Hong Kong Ministerial, the CTD-SS conducted a thorough "accounting" of the remaining agreement-specific proposals. Though the number of proposals had been reduced considerably since their introduction, divergences among Members' positions on the remaining proposals were quite wide. The Chair of the CTD-SS continues to work closely with the Chairs of the other negotiating groups and Committees to which the proposals had been referred due to their technical complexity. The Chairs report that there has been very little development on these proposals. However, some of the Chairs of the negotiating bodies indicate that a number of the issues raised in the proposals form an integral part of the ongoing negotiations. In addition, there are a number of bodies in which discussions on the proposals are continuing on the basis of revised language tabled by the proponents.

At the Eighth Ministerial Conference, Ministers agreed to focus in 2012 on expedited work to finalize the MM, and to take stock of the Cancun 28 with a view to formal adoption of those agreed. With respect to the remaining proposals still under consideration in the CTD-SS, Members have focused their text based discussions on six of the 16 remaining Agreement specific proposals. These proposals cover issues relating to Articles 10.2 and 10.3 of the Agreement on Sanitary and Phytosanitary Measures (SPS) and Article 3.5 of the Agreement on Import Licensing Procedures.

Major Issues in 2012

The bulk of the Special Session's work in 2012 has been dedicated to informal, open-ended meetings to make progress on the MM, Cancun 28, and the six ASPs relating to the SPS and Import Licensing Procedures Agreements. The Chair set up an ambitious schedule of weekly, later reduced to bi-weekly, informal meetings for Members to consider these three issues. In addition, the Special Session held three formal meetings in July and November 2012. The meetings involved intensive negotiations and engagement on language in the six ASPs and on a Chair's text for an MM with some introductory discussions on the Cancun 28.

At the end of 2010, a group of Ambassadors attempted to capture the middle ground on the elements of the MM and proposed informal "guiding principles" to help take the process forward. Although some Members have called into question the guiding principles as a basis for discussion on the MM, the United States has tried to refocus attention on the substance. The Chair has issued "non-papers" after each informal meeting on the MM, with an updated version of the text of the MM and reflecting discussions among Members. With the consent of the Members, all consultations going forward will be based on the Chair's September 15 text. While acknowledging that nothing is agreed until everything is agreed, there appears to be convergence that the scope of the MM will apply to the monitoring of S&D provisions in the WTO Agreements and Ministerial and General Council Decisions. There also appears to be convergence that the MM will operate in dedicated sessions of the CTD and that its work will be based on inputs and submissions by Members, as well as on reports received from other WTO bodies. Prior to each such session, it is envisioned that the WTO Secretariat will compile a factual background document based on inputs and submissions received from Members and other WTO bodies, detailing information relating to the operation, utilization, and implementation of S&D provisions. However, there continues to be disagreement as to whether other negotiating groups and Committees with technical expertise should be involved in the monitoring of Agreement-specific S&D provisions. Members also hold divergent views on the issue of the review procedure and any recommendations made under this Mechanism not prejudging the legal nature of S&D provisions nor affecting Members' rights and obligations under the WTO Agreements.

Members have discussed the Cancun 28 in three informal meetings of the Special Session. Because of the large number of proposals, the Africa Group, who are the proponents, have expressed difficulty in convening all of their Members to review and consult on these proposals. In addition, while the Africa Group has stated that its position is that all of the Cancun 28 should be agreed, other Members have expressed a contrary view, noting, in particular, that considerable time has passed since the Cancun Ministerial, such that certain proposals have been overtaken by events or require modest updates. As a starting point for the discussions, the Secretariat prepared a document that identifies those proposals that, based on the Secretariat's analysis, have been affected by intervening developments. Members have agreed to begin discussions on the six proposals that the Secretariat identified as having been so affected. There are certain proposals for which Members reached agreement; however, the proponents have indicated that they view the Cancun 28 as a package that should be negotiated and concluded as such.

Members have also discussed the six ASPs related to the SPS and Import Licensing Procedures Agreements, primarily focused on the proposals related to Article 10.3 of the SPS Agreement. While discussion proceeded in a constructive manner, Members remained far from developing any common understanding and have not been able to bridge remaining gaps in their divergent positions. The Chair sought input from the Secretariat staff working on SPS to provide background and context for the Article 10.3 proposals. This aided in the discussion. The Chair has also indicated that he will reengage with the relevant Committee Chairs on the Category II proposals, but there was not much progress in 2012 on these proposals.

Prospects for 2013

In 2013, work will continue on the MM, Cancun 28, and remaining ASPs and on the underlying issues inherent in them.

C. Work Programs Established in the Doha Development Agenda

1. Working Group on Trade, Debt, and Finance

Status

Ministers at the 2001 Doha Ministerial Conference established the mandate for the Working Group on Trade, Debt, and Finance (WGTDF). Ministers instructed the WGTDF to examine the relationship between trade, debt, and finance and to examine and make recommendations on possible steps, within the mandate and competence of the WTO, to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed country Members. Ministers further instructed the WGTDF to consider possible steps to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability.

Major Issues in 2012

The WGTDF met three times in 2012. The first meeting was over two days on March 27 and March 28, 2012, for a seminar on the relationship between exchange rates and trade. The seminar comprised four different panels (private sector, government, international organizations, and academia) to provide different perspectives on the issue.

The second meeting was held on June 12, 2012. During this meeting, the WTO Secretariat reported on the WTO-hosted Expert Group on Trade Finance that met on May 15, 2012 and on the state of progress

on the G20's trade finance work. Also, during this meeting, Members discussed their views about the March seminar and whether to continue the discussion on the relationship between exchange rates and trade. Generally, Members were comfortable continuing further discussions about the effects of exchange rates on trade but did not reach consensus to move into a discussion about WTO rules relating to exchange rates. It was agreed that for the next meeting, the Secretariat would provide the working group with a limited update of its literature survey on the relationship between exchange rates and trade.

The third meeting was held on November 26, 2012. During this meeting, the WTO Secretariat reported on the WTO-hosted Expert Group on Trade Finance that met on October 25, 2012. Also during this meeting, Brazil presented a submission on exchange rate misalignment and trade remedies. Members provided initial reactions to Brazil's submission. Further discussions about potential work in the area of exchange rates and trade will take place at the next meeting.

Prospects for 2013

In 2013, the WGTDF will continue to discuss issues relating to the relationship between exchange rates and trade. The WGTDF will also continue to be a forum for discussing trade finance issues. Additionally, the WGTDF will continue its work under the 2001 mandate.

2. Working Group on Trade and Transfer of Technology

Status

During the 2001 Doha Ministerial Conference, WTO Ministers agreed to an "examination . . . of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries." To fulfill that mandate, the Trade Negotiations Committee (TNC) established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, and tasked the WGTTT to report on its progress to the 2003 Ministerial Conference at Cancun. At that meeting, Ministers extended the time period for the WGTTT's examination. During the 2005 Hong Kong Ministerial Conference, WTO Ministers recognized "the relevance of the relationship between trade and transfer of technology" and further agreed that, "building on the work carried out to date, this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration." The WGTTT met three times in 2012, continuing its work under the Doha Ministerial mandate to examine the relationship between trade and the transfer of technology. However, to date there has been little progress on reaching consensus on the nature of the relationship between trade and transfer of technology, or on recommendations that may be made to strengthen that relationship.

Major Issues in 2012

During 2012, the OECD and the WTO Secretariat made presentations on the role of global value chains on the transfer of technology to developing countries. The OECD presentation highlighted that organizations work in categorizing types of global value chains, and its conclusion that the extent of knowledge transfer varied and depended on the choice of model. The WTO Secretariat presentation focused on the impacts of fragmentation of production on international competitiveness. It highlighted the fact that services and manufacturing firms operated increasingly across regions and that Members' engagement in global value chains through foreign direct investment resulted in technology transfer and increased exports. The working group also heard a related presentation from UNCTAD on the effects of non-equity partnerships on technology transfer. In two recent studies, UNCTAD had concluded that modern supplier relationships often involve a significant level of non-equity investment in local

producers, and that such non-equity relationships played a crucial role in diffusion of technology and skills to local partners. However, the extent of such technology transfer depended on a variety of factors including local government policies and the nature of the contractual relationship.

In November 2012, Members also considered a communication from Colombia, Costa Rica, Mexico, and Peru for a seminar in 2013 on Trade and Transfer of Technology. Members indicated their openness to such a seminar involving outside speakers; however, Members did not reach a conclusion on the details of scope and timing of such a seminar.

Concerning any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries, in the period since the 2001 Doha Ministerial, the WGTTT has considered submissions from the Secretariat, WTO Members, other WTO bodies, and intergovernmental organizations. There were no new proposals made during 2012, and little in depth discussion of prior proposals. Members continued to focus on a 2008 submission made by India, Pakistan, and the Philippines, which included a proposal to improve the WTO website to allow Members to search more easily for submissions relating to technology transfer and to establish a forum for governments and the private sector to exchange information about technological needs and offers. While the United States has welcomed this approach to the work of the WGTTT, it has requested more information on the precise parameters of these proposals, and maintained its view that any such technology transfer be voluntary and on mutually agreed terms and conditions. In each of the meetings during 2012, the proponents stated that they were in the process of updating their proposal. However, to date, they have not submitted a revision.

Prospects for 2013

No WGTTT meetings have been scheduled yet for 2013. During 2013, Members will continue consideration of the proposal for a seminar. The working group will also welcome presentations by Members on their national experience with technology transfer and additional presentations by outside organizations.

3. Work Program on Electronic Commerce

Status

Pursuant to the 2005 Hong Kong Ministerial Declaration, Members continue to work on ways to advance the Work Program on Electronic Commerce. At the 2011 Ministerial Conference, Ministers agreed to extend once again, until the next Ministerial Conference, the current practice of not imposing customs duties on electronic transmissions. In addition, they agreed to continue the Work Program, with a specific focus on addressing developmental issues.

Major Issues in 2012

Several informal sessions of the Work Program were held in 2012 to review submissions from the United States and other Members relating to electronic commerce. The United States has outlined specific areas where liberalized trade using electronic commerce would be of particular benefit to Members, such as the robust global market for mobile application downloads and the evolving market of cloud computing.

Prospects for 2013

The United States will continue to work with Members to maintain a liberal trade environment for electronically traded goods and services, seeking to ensure that trade rules remain relevant to electronic commerce. The United States is working with Members to advance discussions on such issues through focused meetings and information exchanges involving experts, looking in particular at the developmental benefits of electronic commerce related technologies and services. The General Council will assess the Work Program progress, and consider any recommendations at the next Ministerial Conference, scheduled for December 2013. At that time, WTO Members will again be expected to address the status of the customs duties moratorium on electronic transmissions.

D. General Council Activities

Status

The WTO General Council is the highest level decision-making body in the WTO that meets on a regular basis during the year. It exercises all of the authority of the Ministerial Conference, which is required to meet no less than once every two years.

Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the WTO Agreement for consideration by Members, and grant waivers of obligations. The General Council or the Ministerial Conference must approve the terms for all accessions to the WTO. Technically, both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are General Council meetings that are convened for the purpose of discharging the responsibilities of the DSB and TPRB, respectively.

Four major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, the Council for Trade-Related Aspects of Intellectual Property Rights, and the Trade Negotiations Committee. In addition, the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance-of-Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trade Agreements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore in 1996 to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council, although these groups have been inactive since the Cancun Ministerial Conference in 2003. A number of subsidiary bodies report to the General Council through the Council for Trade in Goods or the Council for Trade in Services. The Doha Ministerial Declaration approved a number of new work programs and working groups which have mandates to report to the General Council, such as the Working Group on Trade, Debt, and Finance and the Working Group on Trade and Transfer of Technology. These mandates are part of the DDA set out in the Doha Ministerial Declaration, and this report reviews these groups' work in subsections of Section C entitled *Working Group on Trade, Debt, and Finance* and *Working Group on Trade and Transfer of Technology*.

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus-building. Throughout 2012, the Chairwoman of the General Council, together with the Director General, conducted informal consultations with large groupings comprising the Heads of Delegation of the entire WTO Membership and a wide variety of smaller groupings of WTO Members at various levels. The Chairwoman and Director General convened these consultations with a view to resolving outstanding issues on the General Council's agenda. Following Ministers' acknowledgment at the Eighth WTO Ministerial Conference in December 2011 that the DDA is at an impasse, in 2012, the

main focus of work in the DDA negotiations has been to advance discussion in those areas of the negotiation where progress can be made in the short term. Reports on all DDA negotiating groups are set out in other sections of this chapter.

Major Issues in 2012

Ambassador Elin Johansen of Norway served as Chairwoman of the General Council in 2012. In addition to work on the DDA, activities of the General Council in 2012 included:

WTO Accessions: In December 2011, the Eighth Ministerial Conference adopted a Decision on the Accession of LDCs (WT/L/846), which directed the Sub-Committee on LDCs to develop recommendations to further strengthen, streamline, and operationalize the 2002 Guidelines on Accession of LDCs (WT/L/508). Ministers also instructed the Sub-Committee to complete this work and make recommendations to the General Council not later than July 2012. After six months of negotiations, at the July General Council meeting, Members adopted in the form of a decision a set of recommendations, in line with the Ministers' mandate, that has become an addendum to the 2002 General Council Decision on LDC Accession.

In addition on accessions, the General Council established a Working Party for Liberia and agreed to new chairmen for the Working Parties for Afghanistan and Algeria. The General Council also adopted the Working Party reports of Laos and Tajikistan.

Waivers of Obligations: The General Council extended the Kimberley Process waiver, and Cuba's current waiver concerning Article XV:6 of the GATT 1994, and adopted a waiver for the European Union to extend additional autonomous trade preferences to Pakistan. The General Council also reviewed a number of previously agreed waivers, including U.S. waivers related to the Former Territory of the Pacific Islands, the Caribbean Basic Economic Recovery Act, the African Growth and Opportunity Act, and the Andean Trade Preference Act. Annex II of this report contains a detailed list of Article IX waivers currently in force.

Ukraine's request to renegotiate concessions under Article XXVIII of the GATT 1994: At both the October and December General Council meetings, 126 WTO Members, including the United States, pressed Ukraine to abandon its proposed action to renegotiate its tariff bindings on over 350 key agricultural and non-agricultural products.

Prospects for 2013

In addition to its management of the WTO and oversight of implementation of the WTO Agreement, the General Council will have detailed discussions throughout the year to plan for the Ninth Ministerial Conference, to be held from December 3-6, 2013 in Bali, Indonesia. The General Council will also play a key role in appointing the next Director General of the WTO. The term of office of the current Director General, Pascal Lamy, will end on August 31, 2013.

E. Council for Trade in Goods

Status

The WTO Council for Trade in Goods (CTG) oversees the activities of 12 committees (Agriculture, Antidumping Practices, Customs Valuation, Import Licensing, Information Technology, Market Access, Rules of Origin, Safeguards, Sanitary and Phytosanitary Measures, Subsidies and Countervailing

Measures, Technical Barriers to Trade, and Trade-Related Investment Measures) and the Working Party on State Trading Enterprises.

The CTG is the central oversight body in the WTO for all agreements related to trade in goods and the forum for discussing issues and decisions which may ultimately require the attention of the General Council for resolution or a higher-level discussion, and for putting issues in a broader context of the rules and disciplines that apply to trade in goods. For example, the CTG considers the use of the GATT 1994 Article IX waiver provisions and has given initial approval to waivers for trade preferences that the United States and the EU granted to ACP countries and the Caribbean Basin Initiative countries, respectively.

Major Issues in 2012

In 2012, the CTG held four formal meetings, in February, March, June, and November. The CTG devoted its attention primarily to providing formal approval of decisions and recommendations proposed by its subsidiary bodies. The CTG also served as a forum for raising concerns regarding actions that individual Members had taken with respect to the operation of goods related WTO agreements. In addition, two major issues were debated in the CTG in 2012:

Waivers: The CTG approved several requests for waivers related to the implementation of the Harmonized Tariff System and renegotiation of tariff schedules. The CTG approved WTO Members' request for extension of the waiver of certain WTO obligations to allow Members that are participants in the Kimberley Process Certification Scheme for rough diamonds to implement measures consistent with that scheme. The CTG also considered and approved an EU request for a waiver on additional autonomous preferences that it grants to Pakistan. The Philippines requested a waiver relating to special treatment for rice. The CTG included it on its agenda but decided to revert the issue to allow additional time for bilateral consultations among Members.

Market Access Complaints: The CTG also discussed concerns raised by individual Members, including concerns the United States raised, *inter alia*, regarding changes in Ecuador's tariff system, Argentina's import licensing measures and procedures, Indonesia's import licensing regime, and Ukraine's notification under Article XXVIII of the GATT 1994.

Prospects for 2013

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. Waiver requests and goods-specific market access concerns are likely to continue to be prominent issues on the CTG agenda.

1. Committee on Agriculture

Status

The WTO Committee on Agriculture (the Committee) oversees the implementation of the Agreement on Agriculture (the Agriculture Agreement) and provides a forum for Members to consult on matters related to provisions of the Agreement. In many cases, the Committee resolves problems on implementation, permitting Members to avoid invoking lengthy dispute settlement procedures. The Committee also has responsibility for monitoring the possible negative effects of agricultural reform on LDCs and net food importing developing country (NFIDC) Members.

Since its inception, the Committee has proven to be a vital instrument for the United States to monitor and enforce the agricultural trade commitments undertaken by Members in the Uruguay Round. Under the Agriculture Agreement, Members agreed to provide annual notifications of progress in meeting their commitments in agriculture, and the Committee has met frequently to review the notifications and monitor activities of Members to ensure that trading partners honor their commitments.

Under the watchful eye of the Committee, Members have, for the most part, complied with the agricultural commitments that they undertook as WTO Members. However, there have been important exceptions where certain Members' agricultural policies have adversely affected U.S. agricultural trade interests. In these situations, the Committee has frequently served as an indispensable tool for resolving conflicts before they became formal WTO disputes.

Major Issues in 2012

The Committee held four formal meetings, in March, June, September, and November 2012, to review progress on the implementation of commitments negotiated in the Uruguay Round. At the meetings, Members undertook reviews based on notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments.

In total, 170 notifications were subject to review during 2012. The United States participated actively in the review process and raised specific issues concerning the operation of Members' agricultural policies. For example, the United States regularly raised points with respect to domestic support in many countries, including Brazil, Canada, China, Costa Rica, Dominican Republic, the EU, India, Indonesia, and Thailand. The United States encouraged countries including Brazil, China, and India to bring their domestic support notifications up to date. In addition, the United States used the review process to question Brazil's Program for Product Flow (PEP – *Prêmio para Escoamento do Produto)* for rice, Thailand's rice support program, China's cotton reserves purchasing program, and India's wheat export policy. The United States continued to raise concerns regarding Costa Rica exceeding its bound Aggregate Measurement of Support (AMS) limits. The United States raised questions with respect to Japan and Korea's notifications on special safeguards. Points were also raised regarding Canada, Costa Rica, and the EU's export subsidy notifications. The United States also used the review process to raise concerns regarding trade distorting practices such as import licensing regulations and quantitative import restrictions in Indonesia and Ecuador; Egypt's import ban on cotton; and export prohibitions and restrictions by various countries, including India on cotton.

During 2012, the Committee addressed a number of other issues related to the implementation of the Agriculture Agreement, such as: (1) review of Members' notifications on tariff-rate quotas (TRQs) in accordance with the General Council's decision[5] regarding the administration of TRQ regimes in a transparent, equitable, and nondiscriminatory manner; (2) development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees, or insurance programs pursuant to Article 10.2 of the Agriculture Agreement, taking into account the effect of such disciplines on NFIDCs; (3) annual monitoring of the follow up to the Marrakesh NFIDC Decision on food aid of April 15, 1994; and (4) annual consultations, under Article 18.5 of the Agriculture Agreement, concerning Members' participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies.

The Committee is developing an electronic archiving system for formal questions and responses raised in the Committee. As Members indicated that the rules and disciplines on domestic support are crucial to

[5] WT/L/384 General Council - Implementation-Related Issues and Concerns - Decision of 15 December 2000.

the world agricultural trading system, the United States submitted two documents to engage and continue the Committee's work on improving the timeliness and transparency of domestic support notifications.

Prospects for 2013

The United States will continue to make full use of the Committee to ensure transparency through timely notification by Members and to enhance enforcement of Uruguay Round commitments as they relate to export subsidies, market access, domestic support, and trade distorting practices of WTO Members. The United States will continue to work closely with the Committee Chair and Secretariat to find ways to improve the timeliness and completeness of notifications and to increase the effectiveness of the Committee overall. In addition, the Committee will continue to monitor and analyze the impact of the possible negative effects of the reform process on LDCs and NFIDCs in accordance with the Agriculture Agreement.

2. Committee on Market Access

Status

In January 1995, WTO Members established the Committee on Market Access (MA Committee), which is responsible for the implementation of concessions related to tariffs and non-tariff measures that are not explicitly covered by another WTO body, as well as for verification of new concessions on market access in the goods area. The Committee reports to the WTO Council on Trade in Goods.

Major Issues in 2012

The MA Committee held two formal meetings in April and October 2012, and four informal sessions or consultations, to discuss the following topics: (1) ongoing and future work on WTO Members' tariff schedules to reflect changes to the Harmonized System (HS) tariff nomenclature and any other tariff modifications; (2) the WTO Integrated Data Base (IDB) and Consolidated Tariff Schedules (CTS) database; (3) the procedures for Member notifications of quantitative restrictions (QRs); and (4) other market access issues as raised by Members.

Updates to the HS nomenclature: The MA Committee examines issues related to the transposition and renegotiation of the schedules of Members that adopted the HS in the years following its introduction on January 1, 1988. Since then, the World Customs Organization has amended the HS tariff classification system relating to tariff nomenclature in 1996, 2002, and 2007, and again in 2012. Using agreed examination procedures, WTO Members have the right to object to modifications in another Member's tariff schedule that result from changes in the HS nomenclature, if such modifications affect the Member's bound tariff commitments. Members may pursue unresolved objections under Article XXVIII of GATT 1994.

The MA Committee continued its work concerning the introduction and verification of HS2002 changes to Members' WTO tariff schedules. Throughout the year, the United States worked closely with other Members and the WTO Secretariat to ensure all Members' bound tariff commitments are properly reflected in their updated schedule. To date, the HS2002 files for 103 Members – including the United States – have been certified, with only 15 files outstanding.

In 2011, the MA Committee agreed to commence work on the introduction and verification of HS 2007 changes to bound tariff schedules. The United States submitted its draft HS2007 transposition file to the WTO Secretariat according to the March 31, 2012 submission deadline established by the General

Council. The first multilateral review of 26 files under the HS2007 procedures was held at an informal Committee meeting in December 2012. The multilateral verification process in the Committee will be ongoing through 2013.

Concerning the HS2012 nomenclature changes, the General Council approved procedures (WT/L/831) to introduce those changes to schedules of concessions using the CTS database. However, that work will not commence for some time, as the Committee has only recently begun the process to update Members' bound commitments into HS2007 nomenclature. This lag can create difficulties in determining whether Members' MFN duties – to be applied in HS2012 nomenclature beginning January 1, 2012 – are consistent with their WTO bound commitments. The United States was the first WTO Member to submit its bound tariff schedule in HS2012 nomenclature to the WTO Secretariat, in September 2012.

Integrated Data Base (IDB): Members are required to notify information on annual tariffs and trade data, linked at the level of tariff lines, to the IDB as a result of a General Council Decision adopted in July 1997. On the tariff side, the IDB contains MFN current bound duties and MFN current applied duties. Additional information covering preferential duties is also included if provided by Members. On the trade side, it contains value and quantity data on imports by country of origin by tariff line. The WTO Secretariat periodically reports on the status of Member submissions to the IDB, the most recent of which can be found in WTO document G/MA/IDB/2/Rev.36. The United States notifies this data in a timely fashion every year. However, several Members are not up to date in their submissions. The public can access tariff and trade data notified to the IDB through the WTO's Tariff Online Analysis (TAO) facility at https://tariffanalysis.wto.org. The WTO Secretariat is also currently working to integrate into the IDB historical tariff and import information for 29 countries covering years 1988 to 1995.

CTS database: The MA Committee continued work on implementing an electronic structure for tariff and trade data. The CTS database includes tariff bindings for each WTO Member that reflect Uruguay Round tariff concessions, HS 1996 and 2002 amendments to tariff nomenclature and bindings, and any other Member rectifications/modifications to the WTO schedule (*e.g.*, participation in the Information Technology Agreement). The database also includes agricultural support tables. The CTS database has been linked to the IDB and serves as the vehicle for conducting the DDA negotiations in agriculture and non-agricultural market access.

Notification Procedures for QRs: On December 1, 1995, the Council for Trade in Goods adopted a Decision on Notification Procedures for Quantitative Restrictions, which provides that WTO Members should make complete notifications of the QRs which they maintain at two year intervals thereafter, and shall notify changes to their QRs when these changes occur.

In an effort to improve timeliness and completeness of QR notifications, and to reduce duplication of notifications made to other WTO Committees, the MA Committee approved revised notification procedures for QRs, and a Decision establishing these procedures was adopted by the Council for Trade in Goods in June 2012 (G/L/59/Rev.1). The United States submitted a QR notification in accordance with the decision in October 2012. This submission can be found in WTO document G/MA/QR/N/USA/1. Several other Members have also submitted notifications on QRs, including the Russian Federation, Hong Kong, Costa Rica, Turkey, Ukraine, Thailand, Korea, Australia, New Zealand, Macao China, and Canada.

Other Market Access Issues: At the October meeting, the Committee took note of market access concerns with respect to Ukraine's notification to renegotiate tariff concessions on over 350 tariff lines under GATT Article XXVIII. Twenty-two delegations (covering 57 WTO Members) – including the United States – expressed concerns.

The Committee also approved procedures for the derestriction of negotiating material of the Dillon Round and some negotiating material of the four earlier GATT rounds. The procedures are almost identical to those used by the WTO General Council to derestrict GATT 1947 restricted documents.

Prospects for 2013

The ongoing work program of the MA Committee, while highly technical, aims to ensure that all WTO Members' schedules of bound tariff commitments are up to date and available in electronic spreadsheet format. The Committee will continue to explore technical assistance needs related to data submissions, work to finalize Members' amended schedules based on the HS2002 amendments, and accelerate work on the transposition of Members' tariff schedules to HS2007.

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

The Committee on the Application of Sanitary and Phytosanitary Measures (the SPS Committee) provides a forum for the implementation and administration of the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), consultation on Members' existing and proposed SPS measures, technical assistance, other informational exchanges, and the participation of the international standard setting bodies recognized in the SPS Agreement. These international standard setting bodies are: for food safety, the Codex Alimentarius Commission (Codex); for animal health, the World Organization for Animal Health (OIE); and for plant health, the International Plant Protection Convention (IPPC).

The SPS Committee also discusses specific provisions of the SPS Agreement. These discussions provide an opportunity to develop procedures to assist Members in meeting specific SPS obligations. For example, the SPS Committee has issued procedures or guidelines regarding: notification of SPS measures; the "consistency" provisions under Article 5.5 of the SPS Agreement; equivalence; transparency regarding the provisions for S&D; and regionalization. Participation in the SPS Committee, which operates by consensus, is open to all WTO Members. Governments negotiating accession to the WTO may attend Committee meetings as observers. In addition, representatives from a number of international organizations attend Committee meetings as observers on an *ad hoc* meeting by meeting basis, including: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); Codex; the IPPC; the OIE; the International Trade Center; the Inter-American Institute for Cooperation on Agriculture (IICA); and the World Bank.

Major Issues in 2012

In 2012, the SPS Committee held meetings in March, July, and October. In these meetings, Members exchanged views regarding the implementation of SPS Agreement provisions with respect to transparency, equivalence, and regionalization, including their efforts to declare areas of their country free from specified pests and diseases.

The United States views these exchanges as positive developments, as they demonstrate a growing familiarity with the provisions of the SPS Agreement and increased recognition of the value of the SPS Committee as a forum for Members to discuss SPS related trade issues. Many Members, including the United States, utilized these meetings to raise concerns regarding new and existing SPS measures of other Members. In 2012, the United States raised a number of concerns with measures imposed by other Members, including Vietnam's restriction on offals, Indonesia's restrictions on meat, and bans imposed by

several Members on the use of a growth additive in cattle and swine. Further, the United States, with a view to transparency, informed the SPS Committee of U.S. measures, both new and proposed.

The Committee also continued work on the issuance of guidance regarding *ad hoc* consultations under Article 12.2 of the Agreement, as well as the use and development of international standards, guidelines, and recommendations by Codex, OIE, and IPPC. In October 2012, the WTO SPS Committee held a workshop on transparency for all Members.

Other important issues before the SPS Committee included private and commercial standards, along with various specific trade concerns and notifications.

Private and Commercial Standards: In 2012, the Committee began work on a number of possible actions related to the issue of private and commercial standards. The possible actions discussed included supporting the work of the three international standard setting bodies referenced in the SPS Agreement (Codex, OIE, and IPPC), various avenues to promote the exchange of information among Members and these bodies, and defining private and commercial standards. The Committee will only take action if there is agreement of all Members to do so. The United remains quite concerned about whether defining private and commercial standards is an appropriate issue to which the SPS Committee should be devoting resources and continues to work with the Committee and other Members to address that concern.

Notifications: Because it is critical for trading partners to know and understand each other's laws and regulations, the SPS notification process, with the Committee's consistent encouragement, is becoming an increasingly important mechanism in the facilitation of international trade. The process also provides a means for Members to report on determinations of equivalence and S&D. The United States made 183 SPS notifications to the WTO Secretariat in 2012, and submitted comments on 119 SPS measures notified by other Members.

Prospects for 2013

The SPS Committee will hold three meetings in 2013 with informal sessions anticipated to be held in advance of each meeting. The Committee has a standing agenda for meetings that can be amended to accommodate new or special issues. The SPS Committee will continue to monitor Members' implementation activities, and the discussion of specific trade concerns will continue to be an important part of the Committee's activities, including exchanges on bovine spongiform encephalopathy (BSE), avian influenza, food safety measures, and technical assistance.

In 2013, the Committee will work on priorities identified during the Second and Third Reviews of the Operation and Implementation of the SPS Agreement. The United States anticipates that the SPS Committee will continue discussions on the issuance of guidelines regarding *ad hoc* consultations under Article 12.2 of the Agreement, as well as on how to improve cooperation and coordination with Codex, OIE, and IPPC. In addition, the Committee will continue to monitor the use and development of international standards, guidelines, and recommendations by those three bodies.

4. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (the TRIMS Agreement), which entered into force with the establishment of the WTO in 1995, prohibits investment measures that are inconsistent with national treatment obligations under Article III:4 of the GATT 1994 and reinforces the prohibitions

on QRs set out in Article XI:1 of the GATT 1994. The TRIMS Agreement requires the elimination of certain measures imposing requirements on, or linking advantages to, certain actions of foreign investors, such as measures that require, or provide benefits for, the use of local inputs ("local content requirements") or measures that restrict a firm's imports to an amount related to the quantity of its exports or of its foreign exchange earnings ("trade balancing requirements"). The Agreement includes an illustrative list of measures that are inconsistent with Articles III:4 and XI:1 of the GATT 1994.

Developments relating to the TRIMS Agreement are monitored and discussed both in the CTG and in the Committee on Trade-Related Investment Measures (the "TRIMS Committee"). Since its establishment in 1995, the TRIMS Committee has been a forum for the United States and other Members to address concerns, gather information, and raise questions about the maintenance, introduction, or modification of TRIMS by Members.

Major Issues in 2012

The TRIMS Committee held two formal meetings during 2012, in May and October, during which the United States and other Members continued to discuss particular local content measures of concern to the United States. The United States explored these concerns through written questions to seek a better understanding of a variety of potentially trade-distortive local content requirements. For example, the United States, joined by Japan and the European Union, continued to raise questions about possible local content requirements in Indonesia's measures pertaining to mineral and coal mining and oil and gas exploration, noting that it had raised these concerns every year since 2009. The United States posed further follow-up questions to Indonesia in document G/TRIMS/W/108. The United States, Japan, and the European Union also raised questions about possible local content requirements in India for participation in certain solar power projects. A second set of factual questions from the United States are contained in WTO document G/TRIMS/W/106. The United States, the European Union, Japan, and Canada also continued to press Nigeria to respond to earlier questions on possible local content requirements in measures pertaining to the oil and gas industry. The questions from the United States are contained in WTO document G/TRIMS/W/89. Nigeria did not provide a substantive response during the meeting. Finally, the United States, the European Union and Japan posed questions to Indonesia regarding potential TRIMS concerns in the telecommunications sector, an issue that was raised in the Committee in 2009 and 2010. The latest questions on this issue from Japan are contained in WTO document G/TRIMS/W/86.

In addition to these previously-raised issues, Members highlighted new local content issues during 2012. The United States and Japan pointed to certain local content requirements for telecommunications contained in the results of a bidding process on rights to use specific radio frequencies to provide commercial mobile radio services. The United States posed formal written questions to Brazil in document G/TRIMS/W/93, and Brazil provided responses in document G/TRIMS/W/99. The United States posed follow-up questions in document G/TRIMS/W/107. The United States also raised the issue of preferences to domestically manufactured electronic goods in India, under a February 10, 2012 policy notice published by India's Department of Information Technology (DIT). The United States raised questions about this measure in the May 2012 meeting of the TRIMS committee, and in document G/TRIMS/W/94. India responded to those questions in document G/TRIMS/W/97. The United States posed follow-up questions in document G/TRIMS/W/105, and again raised the issue in the October 2012 meeting of the committee.

Other Members also raised local content measures. In the October 2012 meeting of the committee, Australia and the European Union expressed concern about certain tax preferences for domestically manufactured automobiles in Brazil. They posed written questions about these measures in document G/TRIMS/W/110. The European Union also raised questions in document G/TRIMS/W/109 about

certain local content provisions contained in amendments to Ukraine's Law on Electricity to promote the generation of electricity from renewable resources. This issue was discussed in the October 2012 meeting of the committee.

With the expiration of the transitional review mechanism pursuant to paragraph 18 of the protocol of accession of the People's Republic of China to the World Trade Organization, the United States raised one issue that had previously been addressed under that mechanism during the regular work of the Committee. Specifically, the United States drew Members' attention to certain investment measures in the steel sector. The United States filed written questions for China in document G/TRIMS/W/103, and discussed the matter further during the October 2012 meeting of the committee. The United States noted that some of China's laws and regulations, although revised after accession to the WTO, seemingly continued to encourage technology transfer or the use of local content in an inappropriate manner. Even when laws and regulations have not expressly required it, enterprises from the United States and other Members have continually reported that some Chinese government officials, who would typically retain a high degree of discretion when reviewing investment applications, still considered factors such as technology transfer and local content when deciding whether to approve an investment. These concerns were shared by Australia, the European Union and Japan.

Finally, having acceded to the WTO in August of 2012, the Russian Federation filed its required notification under Article 6.2 of the TRIMS Agreement identifying the names of publications in which TRIMs might be found. The United States noted that it was also looking forward to reviewing the anticipated notification of the Russian Federation under Article 5.1 of the Agreement pursuant to the "Timeline for Submission of Notifications" contained in Table 38 of the Report on the Working Party on the Accession of the Russian Federation.

Prospects for 2013

The United States will continue to engage other Members in efforts to promote compliance with the TRIMS Agreement.

5. Committee on Subsidies and Countervailing Measures

Status

The Agreement on Subsidies and Countervailing Measures (the SCM Agreement) provides rules and disciplines for the use of government subsidies and the application of remedies – through either WTO dispute settlement or countervailing duty (CVD) action taken by individual WTO Members – to address subsidized trade that causes harmful commercial effects. Subsidies contingent upon export performance or the use of domestic over imported goods are prohibited. All other subsidies are permitted but are actionable (through CVD or WTO dispute settlement actions) if they are (i) "specific", *i.e.*, limited to a firm, industry, or group thereof within the territory of a WTO Member, and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another Member.

Major Issues in 2012

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two regular meetings and two special meetings in 2012, in April and October. The Committee continued to review the consistency of Members' domestic laws, regulations, and actions with the SCM Agreement's requirements, as well as Members' notifications of their subsidy programs to the SCM Committee. Other

items addressed in the course of the year included: the U.S. "counter notification" of unreported subsidy programs in China and India; submission by the United States of questions to China under Article 25.8 of the SCM Agreement; examination of ways to improve the timeliness and completeness of subsidy notifications; the "export competitiveness" of India's textile and apparel sector; review and approval of specific export subsidy program extension requests for certain small economy developing country Members; filling two openings on the five-member Permanent Group of Experts; and updating the eligibility threshold for developing countries to provide export subsidies under Annex VII(b) of the SCM Agreement. Further information on these various activities is provided below.

Review and Discussion of Notifications: Throughout the year, Members submitted notifications of: (1) new or amended CVD legislation and regulations; (2) CVD investigations initiated and decisions taken; and (3) Members' subsidy programs. Notifications of CVD legislation and actions, as well as subsidy notifications, were reviewed and discussed by the SCM Committee at its April and October meetings.

In reviewing notified CVD legislation and subsidies, SCM Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the SCM Agreement. As of the end of 2012, 99 WTO Members (counting the European Union as a single Member) have notified their CVD legislation or lack thereof; 31 Members have so far failed to make a legislative notification.[6] In 2012, the SCM Committee reviewed notifications of new or amended CVD laws and regulations from the United States, Tonga, Burkina Faso, Australia, Brazil, Indonesia, Nepal and Pakistan.[7]

As for CVD measures, eight Members notified CVD actions they took during the latter half of 2011, and eight Members notified actions they took in the first half of 2012. Specifically, the SCM Committee reviewed actions taken by several Members, including Australia, Brazil, Canada, China, the EU, Mexico, Pakistan, Peru, and the United States.

In 2012, the SCM Committee examined new and full subsidy notifications: 29 from 2011 and one from 2009. Included in the review of 2011 new and full notifications was the notification of the United States. The United States submitted questions to China on its 2009 new and full notification which have not yet been answered. Unfortunately, numerous Members have yet to make even an initial subsidy notification to the WTO, although many of them are least-developed country Members.

Counter notifications: Under Article 25.1 of the SCM Agreement, Members are obligated to regularly provide a subsidy notification to the SCM Committee. Prior to October 2011, China had only submitted a single subsidy notification in 2006 (covering the years 2001 – 2004). India submitted a subsidies notification in 2010 – that only included three programs – after not providing any notification for ten years. The United States and other Members have repeatedly expressed deep concern about the notification record of China and India (among others). During the 2010 fall meeting of the SCM Committee, the United States foreshadowed potential resort to the counter notification mechanism under Article 25.10 of the SCM Agreement. This provision states that when a Member fails to notify a subsidy, any other Member may bring the matter to the attention of the Member failing to notify.

Pursuant to Article 25.10, the United States filed counter notifications in October 2011 with respect to over 200 unreported subsidy programs in China and 50 unreported subsidy programs in India – the first

[6] These 99 notifications do not include notifications submitted by Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic and Slovenia before these Members acceded to the European Communities.

[7] In keeping with WTO practice, the review of legislative provisions which pertain or apply to both antidumping and CVD actions by a Member generally took place in the Antidumping Committee.

counter notifications ever filed by the United States. While China submitted its second subsidy notification (covering 2005 – 2008) shortly after the U.S. counter notification, it covered very few of the subsidy programs referenced in the U.S. counter notification. At the April 2012 meeting of the Committee, the United States brought these matters to the notice of the SCM Committee under the provisions of Article 25.10. In May, India submitted a supplemental subsidy notification covering certain fishery programs, including programs at the sub-central level. However, none of the programs in the supplemental notification were those referenced by the U.S. counter notification of programs in India. At the November meeting of the SCM Committee, the United States continued to press China and India to notify the outstanding programs identified in the U.S. counter notifications.

Submission of Article 25.8 questions: Article 25.8 of the Agreement provides: "Any Member may, at any time, make a written request for information on the nature and extent of any subsidy granted or maintained by another Member (including any subsidy referred to in Part IV), or for an explanation of the reasons for which a specific measure has been considered as not subject to the requirement of notification". Because China's two notifications to date have been significantly incomplete (*e.g.*, only central government-level programs have been notified) and late (*e.g.*, the notification filed in 2011 only covered up through 2008), the United States submitted extensive, detailed questions to China covering a wide range of subsidy programs in numerous sectors that appear should have been notified. Under Article 25.9, China is obligated to provide a response "as quickly as possible and in a comprehensive manner".

Notification Improvements: In March 2009, the Chairman of the Trade Policy Review Body, acting through the Chairman of the General Council, requested that all committees discuss "ways to improve the timeliness and completeness of notifications and other information flows on trade measures." The United States fully supported the continuation of this initiative in 2012 in light of Members' poor record in meeting their subsidy notification obligations. In 2010, the United States took the initiative under this agenda item to review the subsidy notification record of several large exporters in failing to provide complete and timely subsidy notifications. Of primary concern in this regard was China. The United States continues to devote significant time and resources to researching, monitoring, and analyzing China's subsidy practices. These efforts helped to identify the very significant omissions in the two subsidy notifications submitted by China to date and lay the groundwork for the further pursuit of these issues in the context of the SCM Committee's work and other fora.

In 2011, the United States submitted a specific proposal under Article 25.8 of the SCM Agreement to strengthen and improve the notification procedures of the SCM Committee. As noted above, under Article 25.8, any Member may make a written request for information on the nature and extent of a subsidy subject to the requirement of notification. Under Article 25.9, Members that receive such a request must provide such information "as quickly as possible and in a comprehensive manner". Unfortunately, many requests under Article 25.8 have not been answered or are only partially answered orally after significant delay. To address this problem, the United States proposed that the SCM Committee establish deadlines for the submission of written answers to Article 25.8 questions and include all unanswered Article 25.8 questions on the bi-annual agendas of the SCM Committee until the questions are answered.[8] In 2012, the Committee continued to examine the U.S. proposal. Many countries supported the proposal; while several other countries, such as China, India, and South Africa, voiced concerns. Work will continue on the U.S. proposal in 2013.

The "export competitiveness" of India's textile and apparel sector: Under the SCM Agreement, developing countries receive S&D treatment with respect to certain subsidy disciplines under Article 27.

[8] G/SCM/W/555; 21 October 2011.

For developing countries listed in Annex VII of the SCM Agreement, which includes India, the general prohibition on export subsidies does not apply until: (1) per capita GNP reaches a designated threshold of $1,000 per annum or (2) eight years after the country achieves "export competitiveness" for a particular product. Article 27.6 of the SCM Agreement defines export competitiveness as the point when an exported product reaches a share of 3.25 percent of world trade for two consecutive calendar years. Export competitiveness is determined to exist either via notification by the Annex VII developing country having reached export competitiveness or on the basis of a computation undertaken by the WTO SCM Committee Secretariat at the request of any Member.

In February 2010, the United States formally requested the Secretariat, pursuant to Article 27.6 of the SCM Agreement, to compute the export competitiveness of India's textile and apparel sector. The Secretariat submitted its results to the Committee in March 2010. The calculations appear to support the conclusion that India has reached export competitiveness in the textile and apparel sector. In light of the Secretariat's calculations, the United States has pressed India to identify the current export subsidy programs that benefit the textile and apparel sector and commit to a phase-out schedule to end all such programs to the extent they benefit the textile and apparel sector. In response, India has raised certain technical questions as to the appropriate definition of "product" and the precise starting point of the phase-out period under Articles 27.5 and 27.6. The United States will continue to pursue this issue.

Extension of the transition period for the phase out of export subsidies: Under the SCM Agreement, most developing country Members were obligated to eliminate their export subsidies by December 31, 2002. To address the concerns of certain small economies, a special procedure within the context of Article 27.4 of the SCM Agreement was adopted at the 2001 Doha Ministerial Conference to provide for facilitated annual extensions of the time available to eliminate certain notified export subsidies.[9] In 2007, the General Council, acting on an SCM Committee recommendation, decided to extend the application of the special procedure. An important outcome of these negotiations, insisted upon by the United States and other developed and developing countries, was that the beneficiaries must eliminate all export subsidy programs no later than 2015, and that they will have no recourse to further extensions beyond 2015.

Pursuant to the General Council's decision, beneficiary Members are obligated to meet certain transparency and standstill requirements each year. At its October 2012 meeting, the SCM Committee conducted a review of the transparency and standstill requirements in the General Council's decision and agreed to continue the requested extensions of the transition period for calendar year 2013. This was the last extension to be given under the General Council decision. The final two-year phase-out period (2014-2015) is provided for in Article 27.4 of the SCM Agreement and shall end no later than December 31, 2015.

Permanent Group of Experts: Article 24 of the SCM Agreement directs the SCM Committee to establish a Permanent Group of Experts (PGE), "composed of five independent persons, highly qualified in the fields of subsidies and trade relations." The SCM Agreement articulates three possible roles for the PGE: (i) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy, within the meaning of Article 3 of the SCM Agreement; (ii) to provide, at the request of the SCM Committee, an advisory opinion on the existence and nature of any subsidy; and (iii) to provide, at the request of a Member, a "confidential" advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. To date, the PGE has not yet been called upon to perform any of the aforementioned duties.

[9] Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Uruguay have made yearly requests since 2002 under these special procedures.

Article 24 of the SCM Agreement further provides for the SCM Committee to elect the experts to the PGE, with one of the five experts being replaced every year.

As noted in last year's report, a consensus could not be reached as to a replacement for Dr. Manzoor Ahmad (Pakistan), whose term expired in 2011. Consequently, at the beginning of 2012, the Permanent Group of Experts had only four members, Mr. Zhang Yuqing (China); Mr. Jeffrey A. May (United States); Mr. Gérard Depayre (EU) and Mr. Akio Shimizu (Japan). At the regular meeting held in April 2012, the Committee elected Mr. Zhang Yuqing to replace Dr. Manzoor as from Spring 2011 and Mr. Welber Barral (Brazil) to replace Mr. Zhang Yuqing as from Spring 2012 as members of the PGE. Therefore, at the end of 2012, the five members of the PGE were: Mr. Jeffrey A. May (until Spring 2013); Mr. Gérard Depayre (until Spring 2014); Mr. Akio Shimizu (until Spring 2015); Mr. Zhang Yuqing (until Spring 2016) and Mr. Welber Barral (until Spring 2017).

The Methodology for Annex VII (b) of the SCM Agreement: Annex VII of the SCM Agreement identifies certain lesser developed country Members that are eligible for particular S&D. Specifically, the export subsidies of these Members are not prohibited, and therefore, are not actionable as prohibited subsidies under the dispute settlement process. The Members identified in Annex VII include those WTO Members designated by the United Nations as "least-developed countries" (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under $1,000 per annum and are specifically listed in Annex VII(b).[10] A country automatically "graduates" from Annex VII (b) status when its per capita GNP rises above the $1,000 threshold. At the Fourth Ministerial Conference, decisions were made, which, *inter alia*, led to the adoption of an approach to calculate the $1,000 threshold in constant 1990 dollars and to require that a Member be above this threshold for three consecutive years before graduation. The WTO Secretariat updated these calculations in 2012.[11]

Prospects for 2013

In 2013, the United States expects to review China's answers to the United States' outstanding questions on China's 2009 new and full subsidy notification, as well as the questions submitted under Article 25.8, and will focus on those programs not notified, particularly those that may be prohibited under the SCM Agreement and those administered at the provincial and local levels. The United States will press China and India to notify the outstanding programs included in the U.S. counter notifications. Furthermore, the United States will continue to seek to engage India bilaterally to commit to a phase out of its export subsidy programs to the extent that they benefit the textile and apparel sector. More generally, the SCM Committee will continue to work in 2013 to improve the timeliness and completeness of Members' subsidy notifications and, in particular, will continue to discuss the proposal made by the United States to improve and strengthen the SCM Committee's procedures under Article 25.8 of the SCM Agreement. Finally, the United States will likely submit its next subsidies notification to the SCM Committee in 2013, covering fiscal years 2011 and 2012.

[10] Members identified in Annex VII(b) are: Bolivia, Cameroon, Congo, Cote d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka, and Zimbabwe. In recognition of the technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.
[11] See G/SCM/110/Add.9.

6. Committee on Customs Valuation

Status

The purpose of the Agreement on the Implementation of GATT Article VII (known as the WTO Agreement on Customs Valuation, referred to herein as the "Valuation Agreement") is to ensure that determinations of the customs value for the application of duty rates to imported goods are conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Adherence to the Agreement is important for U.S. exporters, particularly to ensure that market access opportunities achieved through tariff reductions are not negated by unwarranted and unreasonable "uplifts" in the customs value of goods to which tariffs are applied. The use of arbitrary and inappropriate "uplifts" in the valuation of goods by importing countries when applying tariffs can result in an unwarranted doubling or tripling of effective duties.

Major Issues in 2012

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2012. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO), with a view to ensuring, at the technical level, uniformity in interpretation and application of the Valuation Agreement. The Technical Committee also held two meetings in 2012.

In accordance with a 1999 recommendation of the WTO Working Party on Preshipment Inspection that was adopted by the General Council, the Customs Valuation Committee continued to provide a forum for reviewing the operation of various Members' preshipment inspection regimes and the implementation of the WTO Agreement on Preshipment Inspection.

The use of minimum import prices, a practice inconsistent with the provisions of the Agreement, continues to diminish, and no Members currently maintain the special and differential reservation concerning the use of minimum values. The United States has used the Customs Valuation Committee as an important forum for addressing concerns on behalf of U.S. exporters across all sectors – including agriculture, automotive, textile, steel, and information technology – that have experienced difficulties related to the conduct of customs valuation regimes, as well as preshipment inspection regimes, outside of the disciplines set forth under the Agreements.

Achieving universal adherence to the Valuation Agreement in the Uruguay Round was an important objective of the United States. The Agreement was initially negotiated in the Tokyo Round, but its acceptance was voluntary until mandated as part of membership in the WTO. A proper valuation methodology under the Agreement, avoiding arbitrary determinations or officially established minimum import prices, is essential for the realization of market access commitments. Just as important, the implementation of the Agreement also often represents the first concrete and meaningful steps taken by developing country Members toward reforming their customs administrations and diminishing corruption and ultimately moving to a rules-based trade facilitation environment.

An important part of the Customs Valuation Committee's work is the examination of implementing customs valuation legislation. As of December 2012, 89 Members had notified their national legislation on customs valuation (these figures do not include the 27 individual EU Members). In addition, 60 Members have notified the checklist of issues. Some 41 Members have not yet made any notification of their national legislation on customs valuation. At the Committee's May and October 2012 meetings, the Committee undertook its examination of the customs valuation legislation of Bahrain, Belize, Cambodia,

Cape Verde, China, Costa Rica, Ecuador, Nigeria, Rwanda, St. Vincent and the Grenadines, Thailand, Tunisia, and Ukraine. The Committee also looked at first time notifications by Nicaragua and the Russian Federation. With the exception of Thailand, whose review the Committee agreed to conclude, the Committee's examination of these Members' customs valuation legislation will continue in 2013.

Working with information provided by U.S. exporters, the United States played a leading role in these examinations, submitting in some cases a series of detailed questions as well as suggestions toward improved implementation. In addition to raising questions for Members whose customs valuation legislation is under examination, the United States also repeated its request that Indonesia notify its preshipment inspection program to the Committee.

The Customs Valuation Committee's work throughout 2012 continued to reflect a cooperative focus among all Members to ensure appropriate implementation of the Valuation Agreement. The Committee took note of technical assistance activities carried out by the Secretariat of the World Customs Organization (WCO) and its Members, related to customs valuation. The Committee also noted that technical assistance in the area of customs valuation is now incorporated into the WTO-wide technical assistance program, which encompasses regional activities on market access issues, including customs valuation.

Prospects for 2013

The Customs Valuation Committee's work in 2013 will include reviewing the relevant implementing legislation and regulations notified by Members, along with addressing any further requests by other Members concerning implementation deadlines. The Committee will monitor progress by Members with regard to their respective work programs that were included in the decisions granting transitional reservations or extensions of time for implementation. In this regard, the Committee will continue to provide a forum for sustained focus on issues arising from practices of all Members that have implemented the Valuation Agreement, to ensure that such Members' customs valuation regimes do not utilize arbitrary or fictitious values, such as through the use of minimum import prices. Finally, the Committee will continue to address technical assistance issues as a matter of high priority.

7. Committee on Rules of Origin

Status

The objective of the Agreement on Rules of Origin (the ROO Agreement) is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. The ROO Agreement provides important disciplines for conducting preferential and nonpreferential origin regimes, such as the obligation to provide binding origin rulings upon request to traders within 150 days of that request. In addition to setting forth disciplines related to the administration of rules of origin, the ROO Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for non-preferential trade. The Harmonization Work Programme (HWP) is more complex than initially envisioned under the Agreement, which originally provided for the work to be completed within three years after its commencement in July 1995. This work program continued throughout 2012 and will continue into 2013.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which met formally twice in 2012 and held informal consultations throughout the year. The Committee also serves as a forum to exchange views on notifications by Members concerning their national rules of origin, along with those relevant judicial decisions and administrative rulings of general application. The

ROO Agreement also established a Technical Committee on Rules of Origin with the World Customs Organization to assist in the HWP.

Major Issues in 2012

As of December 2012, 85 Members have notified the WTO concerning nonpreferential rules of origin. In these notifications, 42 Members notified that they apply nonpreferential rules of origin, and 43 Members notified that they did not have a nonpreferential rule of origin regime. Forty-four Members have not notified nonpreferential rules of origin.

Virtually all WTO Members have notified the WTO that they apply preferential rules of origin either to the ROO Committee or other WTO bodies. Six Members have notified that they did not have preferential rules of origin.

Virtually all issues and problems cited by U.S. exporters as arising under the origin regimes of U.S. trading partners arise from administrative practices that are not transparent, allow discrimination, and lack predictability. Substantial attention has been given to the implementation of the ROO Agreement's important disciplines related to transparency, which constitute internationally recognized "best customs practices."

Many of the ROO Agreement's obligations, such as issuing binding rulings upon request of traders in advance of trade, have frequently been cited as a model for more broad-based commitments that could emerge from future WTO work on Trade Facilitation.

The ROO Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the ROO Committee has been active in its review of the Agreement's implementation. The ongoing HWP leading to the multilateral harmonization of nonpreferential product specific rules of origin has attracted a great deal of attention and resources. Progress has been made toward completion of this effort, despite the large volume and magnitude of complex issues, which must be addressed for hundreds of specific products.

The ROO Committee continued to focus on the work program to achieve multilateral harmonization of nonpreferential rules of origin. U.S. proposals for the HWP have been developed under the auspices of a Section 332 study, which was conducted by the U.S. International Trade Commission pursuant to a request by USTR. The U.S. proposals reflect input received from ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the ROO Committee. Representatives from several U.S. Government agencies continue to be involved in the HWP, including USTR, Customs and Border Protection (formerly the U.S. Customs Service), the U.S. Department of Commerce, and the U.S. Department of Agriculture.

In addition to the June and November 2012 formal meetings, the ROO Committee conducted informal consultations related to the HWP negotiations. The Committee's work in 2012 proceeded in response to the July 28, 2006 General Council extension of the deadline for completion of work on the 94 core policy issues. The General Council then agreed that following resolution of the core policy issues, the Committee would complete its remaining work on the HWP by December 2007. Notwithstanding this deadline, the HWP has not been completed.

While the ROO Committee made some progress towards fulfilling the mandate of the ROO Agreement to establish harmonized nonpreferential rules of origin, the Committee is still grappling with a number of fundamental issues, including many product specific rules for agricultural and industrial goods, and the

scope of the prospective obligation to apply equally for all purposes the harmonized nonpreferential rules of origin.

This issue and the remaining "core policy issues" are among the most difficult and sensitive matters for the Members; continued commitment and flexibility from all Members will be required to conclude the work program and implement the nonpreferential rules of origin.

Because of the impasse among Members on: (i) the product specific rules related to the 94 core policy issues; (ii) the absence of a common understanding of the scope of the prospective obligation to apply equally for all purposes the harmonized nonpreferential rules of origin; and (iii) the growing concern among Members that the final result of the HWP negotiations would not be consistent with the objectives of the HWP set forth in Article 9 of the ROO Agreement, the General Council recognized that its guidance was needed on how to resolve these issues. In 2007, the General Council endorsed the recommendation of the ROO Committee that substantive work on these issues be suspended until the ROO Committee receives the necessary guidance from the General Council on how to reconcile the differences among Members on the aforementioned issues. The General Council also agreed with the recommendation of the Chair of the ROO Committee that the Committee would continue its work with a view to resolving all technical issues and report periodically to the General Council on its efforts in this regard.

In the two 2012 ROO Committee meetings, the Members focused on the technical issues, including the technical aspects of the overall architecture that would be used for applying the rules of origin. A new Chair (China) was elected. In addition, the ROO Committee initiated the transposition of draft harmonized rules of origin (originally negotiated in the 1996 version of the Harmonized System or HS) into more recent versions of the HS nomenclature. The ROO Committee started the review of the first two stages of that work, specifically the transposition of draft rules into the 2002 and 2007 versions of the HS nomenclature. One Member also introduced a proposal for a technical workshop on rules of origin and labeling requirements, to be organized in 2013.

Prospects for 2013

Further progress in the HWP will remain contingent on achieving appropriate resolution of the "core policy issues," reaching a consensus on the scope of the prospective obligation to apply equally for all purposes of the harmonized nonpreferential rules of origin, and achieving a result that is consistent with the objectives set forth in Article 9 of the ROO Agreement. In accordance with the decision taken by the General Council in July 2007, and subject to further guidance from the General Council in the future, the ROO Committee will continue to focus on technical issues, including the technical aspects of the overall architecture of the HWP product specific rules, through informal consultations. The Committee will also continue to review the work done by the Secretariat on the transposition of the current HWP to more recent versions of the HS nomenclature. The ROO Committee will continue to report periodically to the General Council on its progress in resolving these technical issues.

8. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (the TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary standards and mandatory technical regulations for products and the procedures (such as testing or certification) used to determine whether a particular product meets such voluntary standards or technical regulations. One of the main objectives of

the TBT Agreement is to prevent the use of regulations as unnecessary barriers to trade while ensuring that Members retain the right to regulate, *inter alia*, for the protection of health, safety, or the environment, at the levels they consider appropriate.

The TBT Agreement applies to industrial as well as agricultural products, although it does not apply to SPS measures or specifications for government procurement, which are covered under separate agreements. TBT Agreement rules help to distinguish legitimate standards, conformity assessment procedures, and technical regulations from protectionist measures and other measures that act as unnecessary obstacles to trade. For example, the TBT Agreement requires Members to apply standards, technical regulations, and conformity assessment procedures in a nondiscriminatory fashion and, in particular, requires that technical regulations be no more trade restrictive than necessary to meet a legitimate objective and based on relevant international standards, except where international standards would be ineffective or inappropriate to meet a legitimate objective.

The Committee on Technical Barriers to Trade (the TBT Committee)[12] serves as a forum for consultation on issues associated with implementing and administering the TBT Agreement. The TBT Committee is composed of representatives of each WTO Member and provides an opportunity for Members to discuss concerns about specific standards, technical regulations, and conformity assessment procedures that a Member proposes or maintains. The TBT Committee also allows Members to discuss systemic issues affecting implementation of the TBT Agreement (*e.g.*, transparency, use of good regulatory practices, regulatory cooperation), and to exchange information on Members' practices related to implementing the TBT Agreement and relevant international developments.

Transparency and Availability of WTO/TBT Documents: The TBT Agreement requires each Member to establish a central contact point, known as an inquiry point, which is responsible for responding to requests for information on its standards, technical requirements, and conformity assessment procedures, or making the appropriate referral. The TBT Agreement also requires Members to notify proposed technical regulations and conformity assessment procedures and to take comments received from other Members into account. These obligations provide a key benefit to the public. Through the U.S. Government's implementation of these obligations, the public is able to obtain information on proposed technical regulations and conformity assessment procedures of other WTO Members, and to provide written comments for consideration on those proposals before they are finalized.

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point for purposes of the TBT Agreement. (NIST can be contacted via email at: ncsci@nist.gov or notifyus@nist.gov; or via the internet at: http://www.nist.gov/ncsci or http://www.nist.gov/notifyus.) NIST maintains a reference collection of standards, specifications, test methods, codes, and recommended practices. This reference material includes U.S. Government agencies' technical regulations and conformity assessment

[12] Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed on by the General Council. Representatives of a number of organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the *Bureau International des Poids et Mesures* (BIPM), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA), the International Telecommunications Union (ITU), the Southern African Development Community (SADC), and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis.

procedures, and standards of nongovernmental standardizing bodies. The inquiry point responds to requests for information concerning Federal and State standards, technical regulations, and conformity assessment procedures, as well as voluntary standards and conformity assessment procedures developed or adopted by nongovernmental bodies. Upon request, NIST will provide copies of notifications of proposed technical regulations and conformity assessment procedures that other Members have made under the TBT Agreement, as well as contact information for other Members' TBT inquiry points. NIST maintains the "Notify U.S. Service" through which U.S. entities receive, via e-mail, notifications of drafts or changes to domestic and foreign technical regulations and conformity assessment procedures for manufactured products. U.S. entities can access the services through the website https://tsapps.nist.gov/notifyus/data/index/index.cfm. NIST refers requests for information concerning SPS measures to the U.S. Department of Agriculture, which is the U.S. inquiry point pursuant to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: http://www.wto.org. TBT Committee documents are indicated by the symbols, "G/TBT/..." Notifications by Members of proposed technical regulations and conformity assessment procedures that are available for comment are issued as: G/TBT/N (the "N" stands for "notification")/USA (which in this case stands for the United States of America; three letter symbols will be used to designate the WTO Member originating the notification)/X (where "x" will indicate the numerical sequence for that Member).[13] Parties in the United States interested in submitting comments to foreign governments on their proposals should contact the U.S. inquiry point, as discussed above. As a general rule, written information that the United States provides to the TBT Committee is submitted on an "unrestricted" basis and is available to the public on the WTO website. The WTO Secretariat has expanded the information it provides on its "technical barriers to trade" website that is available to the public, including summaries of meetings, agendas, workshops, technical assistance, and key documents.

The opportunity provided by the TBT Agreement for interested parties in the United States to influence the development of proposed technical regulations and conformity assessment procedures being developed by other Members by allowing them to provide written comments on drafts and submit them through the U.S. inquiry point helps to prevent the establishment of technical barriers to trade. The TBT Agreement has functioned well in this regard, although discussions on how to improve its operation occur as part of the triennial review process *(see below)*. Disciplines and obligations, such as the prohibition on discrimination and the requirement that technical regulations not be more trade restrictive than necessary to fulfill legitimate regulatory objectives, have been useful in evaluating potential trade barriers and in seeking ways to address them.

The TBT Committee also plays an important monitoring and oversight role. It has served as a constructive forum for discussing and resolving issues and avoiding disputes. Since its inception, an increasing number of Members, including developing countries, have used the Committee to highlight trade problems.

Article 15.4 of the TBT Agreement requires the Committee to review the operation and implementation of the TBT Agreement every three years. Six such reviews have now been completed (G/TBT/5, G/TBT/9, G/TBT/13, G/TBT/19, G/TBT/26, and G/TBT/32). From the U.S. perspective, a key benefit of these reviews is that they prompt WTO Members to review and discuss all of the provisions of the TBT Agreement, which facilitates a common understanding of Members' rights and obligations. The reviews have also prompted the Committee to host workshops on various topics of interest, including technical

[13] Before 2000, the numbering of notifications of proposed technical regulations and conformity assessment procedures read: "G/TBT/Notif./..." (followed by a number).

assistance, conformity assessment, labeling, good regulatory practice, international standards, and regulatory cooperation.

Major Issues in 2012

The TBT Committee met three times in 2012, March (G/TBT/M/56), June (G/TBT/M/57), and November (G/TBT/M/58). At some of these meetings, Members made statements informing the Committee of measures they had taken to implement the TBT Agreement and to administer measures in compliance with the Agreement. Members also used Committee meetings to raise concerns about specific technical regulations, standards, or conformity assessment procedures that have been proposed or adopted by other Members. Measures garnering significant Committee attention included proposed tobacco measures from Australia and Brazil; regulations for EU REACH (Registration, Evaluation, Authorization, and Restriction of Chemicals); the continued development of China specific standards in the information technology sphere; Korea's cosmetics measures; Turkey's measures on medical devices and pharmaceuticals; Vietnam's conformity assessment procedures for cosmetics, mobile phones, and alcoholic beverages; and India's testing and certification requirements for telecommunications products.

In 2012, the Committee continued its exchange of experiences on good regulatory practice, conformity assessment procedures, transparency, technical assistance, international standards, and S&D treatment. In November, the Committee agreed to several recommendations to take forward further work in these areas under the Sixth Triennial Review (G/TBT/32).

At its March 2012 meeting, the TBT Committee adopted the Sixteenth Annual Review of the Implementation and Operation of the TBT Agreement under Article 15.3 (G/TBT/31). The WTO Secretariat also updated the relevant lists of standardizing bodies that have accepted the Code of Good Practice for the Preparation, Adoption, and Application of Standards set out in Annex 3 of the Agreement (G/TBT/CS/1/Add.16 and G/TBT/CS/2/Rev.18).

During the 2012 meetings of the TBT Committee, representatives of observers to the Committee, including Codex, IEC, ISO, ITC, OECD, UNECE, and ITU updated the Committee on their activities relevant to its work, including on technical assistance.

Prospects for 2013

The TBT Committee will continue to monitor Members' implementation of the TBT Agreement. In 2013, U.S. priorities will continue to focus on resolving specific trade concerns, as well as furthering the outcomes generated by the Sixth Triennial Review of the Operation and Implementation of the TBT Agreement. In this regard, among the U.S. priorities for the Committee in 2013 will be to identify a list of mechanisms and principles of good regulatory practices to guide Members in implementing the TBT Agreement more efficiently and effectively. In addition, the United States will focus on increasing transparency in standard setting through review of the implementation by Members of the Code of Good Practice (Annex 3 of the Agreement). Lastly, the United States will support the Committee's work to inform Members on the choice and design of conformity assessment procedures.

9. Committee on Antidumping Practices

Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement) sets forth detailed rules and disciplines prescribing the manner and basis

on which Members may take action to offset the injurious dumping of products imported from another Member. Implementation of the Antidumping Agreement is overseen by the Committee on Antidumping Practices (the Antidumping Committee), which operates in conjunction with two subsidiary bodies, the Working Group on Implementation (formerly the *Ad Hoc* Group on Implementation), and the Informal Group on Anticircumvention.

The Antidumping Committee is an important venue for reviewing Members' compliance with the detailed provisions in the Antidumping Agreement, improving mutual understanding of those provisions, and providing opportunities to exchange views and experiences with respect to Members' application of antidumping remedies.

The Working Group on Implementation (the Working Group) is an active body which focuses on practical issues and concerns relating to implementation. The activities of the Working Group permit Members to develop a better understanding of their respective policies and practices for implementing the provisions of the Antidumping Agreement based on papers submitted by Members on specific topics. Where possible, the Working Group endeavors to develop draft recommendations on the topics it discusses, which it forwards to the Antidumping Committee for consideration. To date, the Antidumping Committee has adopted Working Group recommendations on the following five antidumping topics: (1) the period of data collection for antidumping investigations; (2) the timing of notifications under Article 5.5; (3) the contents of preliminary determinations; (4) the time period to be considered in making a determination of negligible imports for purposes of Article 5.8; and (5) an indicative list of elements relevant to a decision on a request for extension of time to provide information pursuant to Articles 6.1 and 6.1.1.

The Working Group has drawn a high level of participation by Members, and in particular, by capital-based experts and officials of antidumping administering authorities. Since the inception of the Working Group, the United States has submitted papers on most topics and has been an active participant at all meetings. While not a negotiating forum in either a technical or formal sense, the Working Group serves an important role in promoting improved understanding of the Antidumping Agreement's provisions and exploring options for improving practices among antidumping administrators.

At Marrakesh in 1994, Ministers adopted a Decision on Anticircumvention, directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established the Informal Group on Anticircumvention (the Informal Group). Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision by Ministers.

Major Issues in 2012

In 2012, the Antidumping Committee held meetings in April and October. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Antidumping Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken over the preceding six months.

The following is a list of the more significant activities that the Antidumping Committee, the Working Group, and the Informal Group undertook in 2012.

Notification and Review of Antidumping Legislation: To date, 74 Members have notified that they currently have antidumping legislation in place, and 35 Members have notified that they maintain no such legislation. In 2012, the Antidumping Committee reviewed new notifications of antidumping legislation

and/or regulations submitted by Australia, Brazil, Ecuador, India, Indonesia, Nepal, Pakistan, Togo, and the United States. In addition, the Russian Federation has notified its antidumping legislation for review by Members, and that review will be undertaken as part of the April 2013 Antidumping Committee meeting. Several Members, including the United States, were active in formulating written questions and in making follow up inquiries at Antidumping Committee meetings.

Notification and Review of Antidumping Actions: In 2012, 32 Members notified that they had taken antidumping actions during the latter half of 2011, whereas 34 Members did so with respect to the first half of 2012. Members identified these actions, as well as outstanding antidumping measures currently maintained by Members, in semi-annual reports submitted for the Antidumping Committee's review and discussion. The semi-annual reports for the second half of 2011 were issued in document series "G/ADP/N/223/…," and the semi-annual reports for the first half of 2012 were issued in document series "G/ADP/N/230/…" At its April and October 2012 meetings, the Antidumping Committee reviewed Members' notifications of preliminary and final actions pursuant to Article 16.4 of the Antidumping Agreement.

Working Group on Implementation: The Working Group held meetings in April and October 2012. Beginning in 2003, the Working Group has held discussions on several agreed topics, including: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; (4) judicial, arbitral, or administrative reviews under Article 13; and (5) price undercutting by dumped imports. In 2009, the Working Group agreed to include the following additional topics for discussion: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset reviews. The discussions in the Working Group on all of these topics have focused on submissions by Members describing their own practices.

For the April 2012 meeting, three papers were discussed: two submitted by Colombia – one on other known causes of injury and the other on sunset reviews – and a third paper submitted by New Zealand on the adequacy and accuracy test. Several Members, including the United States, posed questions on the papers discussed.

For the October 2012 meeting, no new papers were submitted for discussion.

Informal Group on Anticircumvention: In 2012, the Informal Group held meetings in April and October. There were no new papers submitted for discussion in 2012. Members did not actively engage in discussions on what constitutes circumvention, what is being done by Members confronted with what they consider to be circumvention, or to what extent circumvention can be dealt with under the relevant WTO rules. Nevertheless, it was agreed that the Informal Group should continue to meet in the future to provide a forum to discuss such topics, as Members deem appropriate.

Prospects for 2013

Work will proceed in 2013 on the areas that the Antidumping Committee and the Working Group addressed this past year, and the Informal Group will continue to meet on relevant topics as the Members deem appropriate. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This ongoing review process in the Antidumping Committee is important for ensuring that Members' antidumping laws are properly drafted and implemented, thereby contributing to a well-functioning, rules-based trading system. Since notifications

of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other Members that should assist them in better understanding the operation of such laws and in taking them into account in commercial planning.

The preparation by Members and review in the Antidumping Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2013. The semi-annual reports are accessible to the general public from the WTO website. This transparency promotes improved public knowledge and appreciation of the trends and focus of all WTO Members' antidumping actions.

Discussions in the Working Group on Implementation will continue to play an important role, as more Members enact antidumping laws and begin to apply them. There has been a sharp and widespread interest in clarifying the many complex provisions of the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Working Group, which is the forum best suited to provide the necessary technical and administrative expertise. For these reasons, the United States will continue to use the Working Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss, not only the laws as written, but also the operational practices that Members employ to implement them. In 2013, the Working Group will continue its discussion of topics that it has been discussing for several years, and recently added topics, as described in the last section.

The work of the Informal Group on Anticircumvention will also continue in 2013, according to the framework for discussion on which Members have agreed.

10. Committee on Import Licensing

Status

The Committee on Import Licensing (the Import Licensing Committee) was established to administer the Agreement on Import Licensing Procedures (Import Licensing Agreement) and to monitor compliance with the mutually agreed rules for the application of these widely used measures. The Import Licensing Committee normally meets twice a year to review information on import licensing requirements submitted by WTO Members in accordance with the obligations set out in the Agreement. The Committee also receives questions from Members on the licensing regimes of other Members, whether or not those regimes have been notified to the Committee. The Committee meetings also address specific observations and complaints concerning Members' licensing systems. These reviews are not intended to substitute for dispute settlement procedures; rather, they offer Members an opportunity to focus multilateral attention on licensing measures and procedures that they find problematic, to receive information on specific issues and to clarify problems, and possibly to resolve issues before they become disputes.

Major Issues in 2012

In 2012, the Import Licensing Committee held its meetings in April and October. In accordance with Articles 1.4(a), 5.4, and 8.2(b) of the Agreement and procedures agreed to by the Committee, all Members, upon membership to the WTO must notify the sources of the information pertaining to their laws, regulations, and administrative procedures relevant to import licensing. Any subsequent changes to these laws, regulations, and administrative procedures must also be published and notified. Since the entry into force of the WTO Agreement, 102 Members[14] have notified the Committee of their legislation

[14] The European Union and its Member States counted as one Member.

and/or publications under these provisions. During 2012, the Committee received 16 notifications from the following 16 Members: Albania; Ecuador; the European Union; Georgia; Israel; Liechtenstein; Macao China; Malawi; Morocco; Nicaragua; the Russian Federation; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Switzerland; Trinidad and Tobago; Turkey; and Vietnam.

With regard to notifications of new import licensing procedures or changes in such procedures (required by Articles 5.1-5.4 of the Agreement), the Committee received 20 notifications from 10 Members in 2012: Argentina, the European Union, Indonesia, Israel, Kuwait, Malawi, Malaysia, Morocco, Thailand, and Vietnam. Since the entry into force of the WTO Agreement, 40 Members have submitted notifications under these provisions.

Article 7.3 of the Import Licensing Agreement requires all Members to provide prompt replies to the annual Questionnaire on Import Licensing Procedures; Committee procedures set a deadline of September 30 each year. While not all Members provide responses every year, since the entry into force of the WTO Agreement, 104 Members have made notifications under this provision. The number of Members submitting annual notifications has increased from 11 Members in 1995 when the WTO was established to 37 Members in 2012. All of these notifications, including the U.S. responses to the Questionnaire on Import Licensing Procedures, may be found in document series G/LIC/N/3/- (http://docsonline.wto.org/gen_home.asp).

During 2012, five Members submitted, for the first time, notifications to the Committee under various Articles of the Agreement: under Articles 1.4(a) Vietnam; under Article 5 Morocco and Kuwait; and, under Article 7.3 Nepal and Paraguay.

The United States remained one of the most active members of the Import Licensing Committee in 2012, using the forum to gather information and to discuss import licensing measures applied to its trade by other Members. U.S. submissions to the Committee in 2012 included the response to the annual Questionnaire (G/LIC/N/3/USA/9). The United States also focused its presentations on the continuing problems with Argentina's import licensing policies and procedures. The United States, together with the delegations of Australia, the European Union, Japan, Korea, Norway, and Turkey, co-sponsored an agenda item for the April 2012 Committee meeting relating to shared concerns about Argentina's import licensing practices. This agenda item served to supplement the joint statement of concerns delivered by Deputy United States Trade Representative, Ambassador Michael Punke, on behalf of Australia, Costa Rica, the European Union, Israel, Japan, Korea, Mexico, New Zealand, Norway, Panama, Switzerland, Chinese Taipei, Thailand, Turkey, and the United States at a meeting of the Goods Council in March 2012. At the Import Licensing Committee, Thailand, New Zealand, Costa Rica, Colombia, Canada, Peru, Chinese Taipei and Switzerland echoed the U.S. concerns. The United States, along with the European Union and Japan, has since requested the establishment of a dispute settlement panel to examine Argentina's import restrictions, including import licensing.

Through its interventions, the United States also continued to question India, Indonesia, and Vietnam concerning the basis for, and operation of, their licensing practices and to press them for adequate responses to requests for information that had not yet been provided. Questions on these issues were submitted in writing by the United States and other Members.

Notifications and Other Documentation: The United States continues to work within the Committee to streamline documentation in an effort to enhance Members' ability to comply with the Agreement's notification requirements. In so doing, transparency remains the primary goal.

Prospects for 2013

The administration of import licensing continues to be a significant topic of discussion in the day to day implementation of Members' WTO obligations. The use of such measures to monitor and to regulate imports has increased, especially in light of global economic circumstances. The United States will continue to advocate for increased efforts to provide transparency, proper use of import licensing procedures, and insurance that licensing procedures do not, in themselves, restrict imports in a manner not consistent with WTO provisions. Licensing continues to be a factor in the administration of tariff-rate quotas and the application of safeguard measures, technical regulations, and sanitary and phytosanitary requirements applied to imports as well. The proliferation of import licensing requirements raises additional concerns, as many such requirements appear to be administered in a manner that restricts trade. The Import Licensing Committee will continue to be the point of first multilateral contact in the WTO for Members with complaints or questions on the licensing regimes of other Members, and as a forum for discussion and review.

11. Committee on Safeguards

Status

The Committee on Safeguards (the Safeguards Committee) was established to administer the WTO Agreement on Safeguards (the Safeguards Agreement). The Safeguards Agreement establishes rules for the application of safeguard measures as provided in Article XIX of GATT 1994. Effective rules on safeguards are important to the viability and integrity of the multilateral trading system. The availability of a safeguard mechanism gives WTO Members the assurance that they can act quickly to help industries adjust to import surges, providing them with flexibility they would not otherwise have to open their markets to international competition. At the same time, WTO rules on safeguards ensure that such actions are of limited duration and are gradually less restrictive over time.

The Safeguards Agreement incorporates into WTO rules many of the concepts embodied in U.S. safeguards law (section 201 of the Trade Act of 1974, as amended). Among its key provisions, the Safeguards Agreement: requires a transparent, public process for making injury determinations; sets out clearer definitions of the criteria for injury determinations; requires that safeguard measures be steadily liberalized over their duration; establishes maximum periods for safeguard actions; requires a review no later than the midterm of any measure with a duration exceeding three years; allows safeguard actions to be taken for three years, without the requirement of compensation or the possibility of retaliation; and prohibits so-called "grey area" measures, such as voluntary restraint agreements and orderly marketing agreements.

The Safeguards Agreement requires Members to notify the Safeguards Committee of their laws, regulations, and administrative procedures relating to safeguard measures. It also requires Members to notify the Safeguards Committee of various safeguards actions, such as: (1) the initiation of an investigatory process; (2) a finding by a Member's investigating authority of serious injury or threat thereof caused by increased imports; (3) the taking of a decision to apply or extend a safeguard measure; and (4) the proposed application of a provisional safeguard measure.

Major Issues in 2012

During its two regular meetings in April and October 2012, the Safeguards Committee continued its review of Members' laws, regulations, and administrative procedures, based on notifications required under Article 12.6 of the Safeguards Agreement. The Committee reviewed the national legislation of

Ecuador, India, Indonesia, and Togo. In addition, the Russian Federation had notified its safeguard legislation for review by Members, the review of which will be undertaken as part of the April 2013 Safeguards Committee meeting.

The Safeguards Committee reviewed Article 12.1(a) notifications regarding the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it, or the initiation of a review process relating to the extension of an existing measure, from the following Members: Brazil on Fine or Table Wine; Chile on Maize Otherwise Worked; Costa Rica on Pounded Rice; Egypt on Cotton Textile and Mixed Cotton Textile, with a separate initiation on Cotton Yarn, and Polypropylene; India on Dioctyl Phthalate; Indonesia on Conveyor Belts or Belting, Articles of Finished Casing and Tubing, Mackerel, and Wheat Flour; Jordan on Bars and Rods of Iron and Steel; Morocco on Certain Bars and Rods of Iron and Steel; and the Russian Federation on Combine Harvesters, Tableware and Kitchenware of Porcelain, and Woven Fabrics of Man-made Fiber and Filaments.

The Safeguards Committee reviewed Article 12.1(b) notifications, regarding a finding of serious injury or threat thereof caused by increased imports from the following Members: Chile on Maize Otherwise Worked; Egypt on Cotton Yarn; India on Phthalic Anhydride; Indonesia on Tarpaulins, Awnings, and Sunblinds of Synthetic Fibers, Mackerel, Conveyor Belts or Belting, and Articles of Iron or Steel Wire; Israel on Glass Wool and Rock Wool; the Philippines on Steel Angle Bar and Testliner Board; Turkey on Spectacle Frames, Travel Goods, Handbags, and Similar Containers, and Polyethylene Terephthalate; and Ukraine on Casing and Pump-Compressor Seamless Steel Pipes.

The Safeguards Committee reviewed Article 12.1(c) notifications regarding a decision to apply or extend a safeguard measure from the following Members: the Dominican Republic on Certain Sports and Other Socks; Egypt on Cotton Yarn; Indonesia on Tarpaulins, Awnings, and Sunblinds of Synthetic Fibers, Mackerel, Conveyor Belts or Belting, and Articles of Iron and Steel Wire; Jordan on Ceramic Tiles; the Philippines on Float Glass and Testliner Board, Steel Angle Bars, and Ceramic Floor and Wall Tiles; Turkey on Spectacle Frames Cotton Yarn, Travel Goods, Handbags, and Similar Containers, Certain Electrical Appliances, Polyethylene Terephthalate, Matches, Motorcycles, and Footwear; and Ukraine on Casing and Pump-Compressor Seamless Steel Pipes.

The Safeguards Committee reviewed Article 12.4 notifications regarding the application of a provisional safeguard measure from the following Members: Chile on Maize Otherwise Worked; Egypt on Cotton Textile and Mixed Cotton Textile, and separately on Cotton Yarn, and Polypropylene; and India on Phthalic Anhydride.

The Safeguards Committee received notifications of the termination of a safeguard investigation with no definitive safeguard measure imposed, or the expiration or termination of a definitive safeguard measure, from the following Members: Egypt on Cotton Textile and Mixed Cotton Textile; Jordan on Ceramic Tiles; Mexico on Steel Tubes; Indonesia on Conveyor Belts or Belting; and Ukraine on Certain Products of Crude Oil Processing.

A written request for consultations under Article 13.1(b) of the Safeguards Agreement was submitted by Colombia regarding measures taken by Ecuador during a specific safeguards investigation on windshields. This was the first time that a Member has submitted that an action be taken under Article 13.1(b). A factual report was presented by the Committee Chair and discussed informally by the Committee. The Chair then sent a report on her own responsibility to the Council for Trade in Goods.

At the Committee meeting in April, Cuba, Ecuador, and Turkey submitted a joint paper on the surveillance function they believe is envisioned by Article 13.1(b) of the Safeguards Agreement. Several

Members, including the United States, made interventions regarding the joint paper. The Committee took note of the statements made.

At the Committee meeting in October, a new ten-delegation group of WTO Members – the Friends of Safeguards Procedures (FSP) – introduced a working document[15] for Committee consideration and discussion. The FSP was originally organized by the United States and consists of Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Taiwan, Singapore, and the United States. The group originally came together to develop a way to address systemic issues relating to safeguard investigations, such as transparency and due process. The increase in safeguard actions in recent years has heightened the group's concerns. The working paper identified five specific areas of concern: (1) imposition of provisional measures without clear evidence, (2) lack of rationale and consistency in the data examined during the investigation, (3) suspension of safeguard measures instead of their termination as envisaged in the Safeguards Agreement, (4) untimely notifications to the Committee, and (5) unwarranted safeguard investigations. The FSP called on all Members to work together to deal with these systemic issues. Several Members made positive interventions related to the working document and the United States encouraged the Committee to continue to take up this issue in future meetings.

Prospects for 2013

The Safeguards Committee's work in 2013 will continue to focus on the review of safeguard actions that have been notified to the Committee and on the review of notifications of any new or amended safeguards legislation. The United States will also work on its own, as well as with the FSP, to continue to address the systemic issues raised in the FSP working document, and identify additional areas of concern as they arise.

12. Working Party on State Trading Enterprises

Status

Article XVII of the GATT 1994 requires Members, *inter alia*, to ensure that state trading enterprises (STEs), as defined in that Article, act in a manner consistent with the general principle of nondiscriminatory treatment, make purchases or sales solely in accordance with commercial considerations, and abide by other GATT disciplines. The Understanding on the Interpretation of Article XVII of the GATT 1994 (the Article XVII Understanding) defines a state trading enterprise more narrowly for the purposes of providing a notification that is required under the Understanding. Members must notify the Working Party of enterprises in their respective territories that meet this definition, whether or not such enterprises have imported or exported goods. Members are required to submit new and full notifications to the Working Party for review every two years.

The Working Party on State Trading Enterprises (WP-STE) was established in 1995 to review, *inter alia*, Member notifications of STEs and the coverage of STEs that are notified, and to develop an illustrative list of relationships between Members and their STEs and the kinds of activities engaged in by these enterprises.

[15] See G/SG/W/226.

Major Issues in 2012

The WP-STE held two formal meetings on June 8 and October 27, 2012. At the June 8 meeting, Members discussed the issue of frequency of notifications and agreed to extend indefinitely the decision to allow for biennial, rather than annual, notifications by Members of their STEs.

The October formal meeting reviewed Member STE notifications from Australia, Canada, Chile, Colombia, European Union, Japan, Korea, New Zealand, Switzerland, Chinese Taipei, Turkey, Ukraine, United States, and Uruguay. During the meeting, Australia posed questions relating to the notification of Japan. Both Australia and the United States noted the problem of failures to notify and suggested the Working Party undertake efforts to improve notifications. India submitted its notification in December, after the Working Party meeting.

Prospects for 2013

The WP-STE is scheduled to meet in October 2013. The WP-STE will continue its review of new notifications and its examination of how to improve Member compliance with STE notification obligations to enhance transparency of STEs.

F. Council on Trade-Related Aspects of Intellectual Property Rights

Status

The WTO Council for Trade-Related Aspects of Intellectual Property Rights (the TRIPS Council) monitors implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement. The TRIPS Agreement sets minimum standards of protection for copyrights and related rights, trademarks, geographical indications (GIs), industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights (IPR) through civil actions for infringement, actions at the border and, at least with respect to copyright piracy and trademark counterfeiting, in criminal actions.

The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural, chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods.

Developed Members were required to fully implement the obligations of the TRIPS Agreement by January 1, 1996, and developing country Members generally had to achieve full implementation by January 1, 2000. Least developed country (LDC) Members have had their deadline for full implementation of the TRIPS Agreement extended to July 1, 2013, as part of a package that also requires them to provide information on their priority needs for technical assistance to facilitate TRIPS Agreement implementation. This action is without prejudice to the existing extension, based on a proposal made by the United States at the Doha Ministerial Conference, of the transition period for LDC Members to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement with respect to pharmaceutical products, or to enforce rights with respect to such products, until January 1, 2016. In 2002, the WTO General Council, on the recommendation of the TRIPS Council, similarly waived until 2016 the obligation for LDC Members to provide exclusive marketing rights for certain pharmaceutical products if those Members did not provide product patent protection for pharmaceutical inventions.

Major Issues in 2012

In 2012, the TRIPS Council held three formal meetings. In addition to its continuing work on reviewing the implementation of the Agreement, the TRIPS Council's activities in 2012 focused on the relationship of the TRIPS Agreement to the Convention on Biological Diversity, and on ongoing consideration of issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health. In addition, the TRIPS Council discussed IP and innovation, securing supply chains from counterfeit goods, and the Anti-Counterfeiting Trade Agreement (ACTA), under agenda items sponsored by the United States.

Intellectual Property (IP) and Innovation: At the November TRIPS Council meeting, the United States and Brazil co-sponsored an agenda item on IP and innovation, in which WTO Members exchanged views on national innovation strategies and the role intellectual property protection plays in fostering innovation, with the goal of providing stable and predictable environments to promote and benefit from that innovation. Fifteen developed, developing, and least-developed WTO Members– Australia, Brazil, Canada, Chile, China, Chinese Taipei, the EU, Japan, Korea, Mexico, New Zealand, Peru, Switzerland, Tanzania, United States and two international organizations, OAPI (African Intellectual Property Organization), and the World Intellectual Property Organization – intervened to describe the contributions of IP protection to innovation. Several WTO Members provided details on specific national IP policies designed to promote and commercialize innovation.

Securing Supply Chains Against Counterfeit Goods: The United States sponsored an agenda item on securing supply chains against counterfeit goods at the June TRIPS Council meeting, and submitted a paper on that subject as the basis for discussion (see IP/C/W/570). Members had a constructive exchange of views on the nature and scope of the counterfeiting problem, including with respect to the negative economic consequences that counterfeit goods cause and the serious threat to the health and safety of consumers such goods impose. Members also discussed mechanisms to further secure supply chains, including risk modelling by customs authorities, reviewing of government procurement processes, and developing innovative technologies for consumers to identify counterfeit goods.

Enforcement Trends: At the request of Australia, Canada, the EU, Korea, Japan, New Zealand, Singapore, Switzerland, and the United States, the enforcement of intellectual property rights was added to the agenda for the February TRIPS Council meeting. The TRIPS Council had a fruitful discussion on IPR enforcement issues, including on ACTA. The United States and the other cosponsors of this agenda item answered questions raised by WTO Members about particular provisions of the Agreement and addressed several misconceptions about the nature and scope of the text.

Review of Developing Country Members' TRIPS Implementation: During 2012, the TRIPS Council continued to conduct ongoing reviews of developing country Members' and newly acceded Members' implementation of the TRIPS Agreement, and to provide assistance to developing country Members in implementing the Agreement. The United States continued to press for full implementation of the TRIPS Agreement by developing country Members, and participated actively during the reviews of legislation by highlighting specific concerns regarding individual Members' implementation of the Agreement's obligations. While ongoing reviews continued, the TRIPS Council did not undertake any new reviews of implementing legislation.

Intellectual Property and Access to Medicines: The August 30, 2003 solution (the General Council Decision on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health," in light of the statement read out by the General Council Chairperson) continues to apply to each Member until the formal amendment to the TRIPS Agreement replacing its provisions takes effect for that Member. The amendment text adopted by the General Council in December 2005, and the

statement by the Chairperson, preserve all substantive aspects of the August 30, 2003 solution and do not alter the substance of the previously agreed to solution. The United States was the first Member to submit its acceptance of the amendment to the WTO. As of December 20, 2012, a total of 45 Members had accepted the amendment, which will enter into force for those Members that have accepted it upon its acceptance by two thirds of the membership of the WTO.

TRIPS-related WTO Dispute Settlement Cases: In April 2007, the United States initiated WTO dispute settlement proceedings over deficiencies in China's legal regime for the protection and enforcement of IPR by requesting consultations with China. On September 25, 2007, the WTO Dispute Settlement Body (DSB) established a panel to consider the dispute.

The panel circulated its report on January 26, 2009. The panel found that China's denial of copyright protection to works that do not meet China's content review standards is inconsistent with the TRIPS Agreement. The panel also found it inconsistent with the TRIPS Agreement for China to provide for simple removal of an infringing trademark as the only precondition for the sale at public auction of counterfeit goods seized by Chinese customs authorities.

With respect to the U.S. claim regarding thresholds in China's law that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties, the panel clarified that China must provide for criminal procedures and penalties to be applied to willful trademark counterfeiting and copyright piracy on a commercial scale. The panel agreed with the United States that Article 61 of the TRIPS Agreement requires China not to set its thresholds for prosecution of piracy and counterfeiting so high as to ignore the realities of the commercial marketplace. The Panel did find, however, that it needed more evidence in order to decide whether the actual thresholds for prosecution in China's criminal law are so high as to allow commercial scale counterfeiting and piracy to occur without the possibility of criminal prosecution.

The DSB adopted the panel report on March 20, 2009. On April 15, 2009, China notified the DSB that China intends to implement the recommendations and rulings of the DSB in this dispute, and stated it would need a reasonable period of time for implementation. On June 29, 2009, the United States and China notified the DSB that they had agreed on a one year period of time for implementation, which ended on March 20, 2010. In 2011, the United States monitored China's compliance with the 2009 DSB recommendations and rulings.

During 2012, the United States continued to monitor EU compliance with a 2005 ruling of the DSB that the EU's regulation on food related GIs is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States has raised certain questions and concerns with regard to the revised EU regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute.

The United States also continues to monitor WTO Members' implementation of their TRIPS Agreement obligations and will consider the further use of the WTO dispute settlement mechanism as appropriate.

Geographical Indications (GI): The Doha Declaration directed the TRIPS Council to discuss "issues related to extension" of the level of protection provided under Article 23 of the TRIPS Agreement to GIs for products other than wines and spirits, and to report to the Trade Negotiations Committee (TNC) by the end of 2002 for appropriate action. Because no consensus could be reached in the TRIPS Council on how the Chairperson should report to the TNC on the issues related to the extension of Article 23 level protection to GIs for products other than wines and spirits, and in light of the strong divergence of positions on the way forward on GIs and other implementation issues, the TNC Chairperson closed the discussion by saying he would consult further with Members. At the December 2005 Hong Kong

Ministerial Conference, the Ministers directed the Director General to continue his consultative process on all outstanding implementation issues, including on extension of Article 23 level protection to GIs for products other than wines and spirits.

In 2012, the Director General did not hold any consultations on the extension issue. While some WTO Members seek to conduct negotiations in the TRIPS Council Special Session on whether to include other non-wine or spirit GIs, the United States and its allies on this issue continue to oppose any expansion of the Article 24.3 mandate in the Special Session to include negotiations on extension.

Review of Article 27.3(b), Relationship Between the TRIPS Agreement and the Convention on Biological Diversity, and Protection of Traditional Knowledge and Folklore: As called for in the TRIPS Agreement, the TRIPS Council initiated a review of Article 27.3(b) of the TRIPS Agreement (permitting Members to exclude from patentability plants and animals and biological processes used for the production of plants and animals). The Doha Declaration directs the TRIPS Council, in pursuing its work program under the review of Article 27.3(b), to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore. Consideration of this set of issues also continues to be guided by the direction of Ministers in the Hong Kong Declaration, that all implementation issues (including the relationship of the TRIPS Agreement and the CBD) should be the subject of consultations facilitated by the WTO Director General. Furthermore, Ministers agreed that work would continue in the TRIPS Council on this issue.

A number of developing country Members continue to advocate for amending the patent provisions of the TRIPS Agreement to require disclosure of the source of the genetic resource or traditional knowledge, as well as evidence of prior informed consent to obtain the genetic resource and adequate benefit sharing with the custodian community or country of the genetic resource in order to obtain a patent. In 2006, a group of developing country Members submitted draft text for such an amendment to the TRIPS Agreement. There is, however, no consensus in the TRIPS Council that an amendment should be pursued. In 2012, the Director General did not hold consultations with Members on this issue.

Technical Cooperation and Capacity Building: As in each past year, the United States and other Members provided reports on their activities in connection with technical cooperation and capacity building for consideration at the November TRIPS Council meeting (see IP/C/W/582/Add.6). Priority needs reports submitted by LDCs were discussed in the TRIPS Council as well as in informal consultations.

Implementation of Article 66.2: Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives for enterprises and institutions in their territories to promote and encourage technology transfer to least developed country Members in order to enable them to create a sound and viable technological base. This provision was reaffirmed in the Doha Decision on Implementation related Issues and Concerns, and the TRIPS Council was directed to put in place a mechanism for ensuring monitoring and full implementation of the obligation. Developed country Members are required to provide detailed reports every third year, with annual updates, on these incentives. In November 2012, the United States provided an updated report on specific U.S. Government institutions and incentives, as required (see IP/C/W/580/Add.6).

Implementation of the TRIPS Agreement by LDCs: In November 2012, Haiti, on behalf of LDC Members, submitted a request to the TRIPS Council to extend the TRIPS Agreement transition period (see IP/C/W/583).

Non-Violation and Situation Complaints: The Chairman of the TRIPS Council held consultations with Members on how to advance discussions regarding the moratorium on non-violation and situation

complaints, which was extended for an additional two years at the Eighth Session of the Ministerial Conference held in December 2011. At the request of Members, the Secretariat also updated its Summary Note of the points raised by Members in the substantive discussion of this agenda item to date (see IP/C/W/349/Rev.2).

Australian Plain Packaging Legislation: In February 2012, Members discussed whether Australia's proposed legislation requiring plain packaging of tobacco products was a necessary measure to protect public health or, if not, was inconsistent with the TRIPS Agreement provisions on trademark protection. Cuba, El Salvador, Honduras, Nicaragua, Nigeria, the Ukraine, and Uruguay spoke out against the plain packaging legislation, saying that it would have a severely adverse impact upon developing countries and their intellectual property rights. Some questioned the scientific basis for Australia's decision making. Norway, New Zealand, and Switzerland supported Australia's right to protect public health and plain packaging as a means to protect public health. Brazil, China, India, and the European Union were also supportive of WTO Members' rights to take measures to protect public health, noting that an appropriate balance with the need to respect intellectual property rights may be necessary.

Prospects for 2013

In 2013, the TRIPS Council will continue to focus on its built-in agenda and the additional mandates established in the Doha Declaration, including possibly issues related to the LDC transition period for implementing the TRIPS Agreement, the extension of Article 23 level protection for GIs for products other than wines and spirits, on the relationship between the TRIPS Agreement and the CBD, and on traditional knowledge and folklore, as well as enforcement and other relevant new developments.

U.S. objectives for 2013 continue to be to:

- resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- continue efforts to ensure that developing country Members fully implement the TRIPS Agreement;
- engage in constructive dialogue regarding the technical assistance and capacity related needs of developing countries, and especially LDCs, in connection with TRIPS Agreement implementation;
- continue to encourage a fact-based discussion within the TRIPS Council on enforcement and other provisions of the TRIPS Agreement; and
- ensure that provisions of the TRIPS Agreement are not weakened.

G. Council for Trade in Services

Status

The General Agreement for Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade in services, and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely supplied across national borders or that discriminate against locally established services firms with foreign ownership. The GATS provides a legal framework for addressing barriers to trade and investment in services. It includes specific commitments by WTO Members to restrict their use of those barriers and provides a forum for further negotiations to open services markets around the world. These commitments are contained in Member schedules, similar to the Member schedules for tariffs.

The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council. In addition, the CTS is responsible for a technical review of GATS Article XX.2 provisions; waivers from specific commitments pursuant to paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the WTO; a periodic review of developments in the air transport sector; the transitional review mechanism under Section 18 of the Protocol on the Accession of the People's Republic of China; implementation of GATS Article VII; the MFN review; and notifications made to the General Council pursuant to GATS Articles III.3, V.5, V.7, and VII.4. Other bodies that report to the CTS include: the Committee on Specific Commitments, the Committee on Trade in Financial Services, the Working Party on Domestic Regulation, and the Working Party on GATS Rules.

Major Issues in 2012

The CTS met in March, June, October, and December 2012. The CTS appointed the Ambassador from Sweden as its new Chairperson in March.

The CTS received a number of notifications pursuant to GATS Article III:3 (transparency) and GATS Article V:7 (economic integration). India raised specific questions related to certain definitions and U.S. obligations on temporary entry with regard to the U.S. notifications on our agreements with Korea, Panama and Peru.

During 2012, the CTS discussed issues related to Information, Communication, and Technology (ICT) and electronic commerce. These issues were raised by the United States in communications initially submitted in 2011.

The United States continued its lead role in this area, urging Members to take up a more detailed discussion of the ICT principles and its paper on cloud computing and mobile applications, including the possibility of a workshop on these issues. The European Union and Australia also submitted new papers on ICT principles, further invigorating the discussion over the course of the year. In March, the Australian delegation also held a symposium on international mobile roaming (IMR).

At the request of Jamaica, the CTS reopened the Fifth Protocol to the GATS relating to financial services, for their acceptance. The Protocol entered into force for Jamaica on December 4, 2012. Brazil remains the only Member not to have accepted the Protocol. In addition, Australia continued to raise concerns related to the entry into force of the EC 25 schedule of commitments pursuant to GATS Article XXI and the procedures outlined in S/L/80 and S/L/84. Finally, the United States and other Members involved in the possible negotiation of an International Services Agreement (ISA) provided updates on the progress of those discussions for transparency purposes.

Prospects for 2013

The CTS will continue discussions related to its mandated reviews and various notifications related to GATS implementation, as well as other topics raised by Members. In particularly, Members may continue work on e-commerce through a workshop dedicated to specific issues of interest.

1. Committee on Trade in Financial Services

Status

The Committee on Trade in Financial Services (CTFS) provides a forum for Members to explore financial services market access or regulatory issues, including implementation of existing trade commitments.

Major Issues in 2012

The CTFS met in March, June, October, and December 2012. During the March 2012 meeting, the Committee elected the delegate from Germany as the new Chairperson.

Members continued to urge Brazil and Jamaica to take the necessary steps to accept the Fifth Protocol to the GATS. In accepting the protocol, financial services commitments made in 1994 would be replaced by those agreed during the 1995-1997 extended negotiations on financial services. All other Members have accepted the protocol. In October 2012, Jamaica notified Members that it had accepted the Fifth Protocol to the GATS. The Chair invited the other Members to provide information on the status of their domestic ratification efforts. Brazil reported no progress.

In June 2012, the CTFS held a workshop on trade in financial services and development. Members continue to explore the relationship between financial services trade and development in the Committee. Members may raise additional relevant topics for discussion, to be supported by the Secretariat. Similarly, Members also took up classification issues to enable a better understanding of specific commitments in financial services. Further work in this area will be driven by Member proposals.

The Committee considered a proposal from Ecuador to hold a dedicated discussion on macroprudential regulation. At the December meeting, Members agreed to hold a dedicated discussion within the Committee whereby members could share experiences with such regulation.

Prospects for 2013

The CTFS will continue to use its broad and flexible mandate to discuss various issues, including ratification of existing commitments as well as market access and regulatory issues, such as organization of the dedicated discussion based on Ecuador's proposal on macroprudential regulation. Discussions will continue on classification issues and will likely also continue regarding trade in financial services and development.

2. Working Party on Domestic Regulation

Status

The Working Party on Domestic Regulation addresses issues concerning licenses and other procedures for obtaining authorization to supply services. GATS Article VI:4 on Domestic Regulation provides for Members to develop any necessary disciplines relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures. A Ministerial Decision assigned priority to the professional services sector and Members subsequently established the Working Party on Professional Services (WPPS). In May 1997, the WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998, although their full implementation is suspended pending completion of the ongoing round of services negotiations. The text of these disciplines is found in WTO document S/L/64 (December 17, 1998).

In May 1999, the CTS established a new Working Party on Domestic Regulation (WPDR) which took on the work of the predecessor WPPS and its existing mandate. The WPDR is charged with determining whether any new disciplines are deemed necessary beyond those negotiated for the accountancy sector. At the December 2005 Hong Kong Ministerial Conference, Ministers directed the WPDR to develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end

of the current round of negotiations. In April, in parallel with a slowdown in negotiations of market access in services, the Chairperson suspended the intensified work on domestic regulations. The Chairperson issued a status report reflecting the state of the negotiations, including an annex capturing the variety of textual proposals for disciplines under discussion as of that time (S/WPDR/W/45 (April 14, 2011)).

Major Issues in 2012

After April 2011 there was a significant slowdown in work in the WPDR, and that slower pace continued through 2012. In response to a proposal by Canada, in November 2011 Members submitted factual questions relating to practices on granting licenses and determinations of qualification. Discussions during 2012 focused on those factual questions, and comparing the variety of practices in different members. In June 2012 the WTO Secretariat prepared a note on "Regulatory issues in sectors and modes of supply" (circulated as WTO document S/WPDR/W/48). This Note is a wide-ranging discussion of "the regulatory environment and trends affecting sectors and modes, [highlighting] where relevant, issues that may have a particular bearing on trade in services." It is not intended to be a summary of the practices of WTO Members. To date, there has been no discussion of this Secretariat Note.

The United States continues to take the view that any horizontal disciplines must respect the right of WTO Members to regulate, as recognized by the GATS, in a manner which meets the legitimate policy objectives of national and subnational regulatory authorities. The United States' focus remains on the development of horizontal disciplines for regulatory transparency in the procedures used for granting authorization to supply services.

Prospects for 2013

During 2013, we expect that the WPDR will continue to focus on broad thematic questions submitted by Members, as well as discussion of the Note prepared by the WTO Secretariat on regulatory issues.

3. Working Party on GATS Rules

Status

The Working Party on GATS Rules (WPGR) provides a forum to discuss the possibility of new disciplines on emergency safeguard measures, government procurement, and subsidies in the context of the GATS in accordance with the Doha Work Program resulting from the Hong Kong Ministerial Conference in December 2005. That program called for Members to intensify their efforts to conclude the negotiations on rulemaking under GATS Articles X (emergency safeguard mechanism), Article XIII (government procurement), and Article XV (subsidies).

Major Issues in 2012

There was little activity in the WPGR during 2012, reflecting the overall slowdown in negotiations at the WTO. Proponents of an emergency safeguard measure (ESM) continued to take the view that, with the general slowdown in the services negotiations, they considered that the WPGR was entering into "a period of reflection" on the ESM issue. On government procurement of services, the EU continued to urge Members to begin discussions of possible benefits of opening procurement markets, procedural rules, S&D treatment, the relationship to the plurilateral Government Procurement Agreement (GPA), and most-favored nation application. However, there was little engagement on this topic. Finally, with respect to subsidies, the WPGR continued to face an impasse among Members on next steps for

advancing this issue. Some Members, particularly Switzerland, argued that Members should begin negotiations on specific disciplines on subsidies. The United States, however, joined by several other members argued that it was premature to develop such disciplines, because the WPGR had been presented with no examples of practical trade problems with respect to subsidies in services; indeed, the United States in 2010 proposed a series of questions designed to elicit such specific concerns (contained in document S/WPGR/W/59) and had not received a single response. Absent such a factual basis, Members had no guidance on the problems any disciplines should address.

Prospects for 2013

Future work in the WPGR is likely to slow further. Members seem to be in agreement that, in light of this slowdown, there seems to be little purpose served in holding formal meetings of the working group. The WPGR may turn its focus to technical issues such as improving statistical information which may be used to demonstrate a surge in imports which could warrant an ESM and encouraging further submissions to the information exchange on subsidies.

4. Committee on Specific Commitments

Status

The Committee on Specific Commitments (CSC) examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the GATS negotiations, and oversees the application of the procedures for the modification of schedules under GATS Article XXI. The CSC also oversees implementation of commitments in Members' schedules in sectors for which there is no sectoral body, which is currently the case for all sectors except financial services. As a result of the impasse in the overall Doha Round negotiations, the CSC has focused its efforts on ways to improve the classification of services, so that scheduled commitments reflect the service activity, particularly with regard to new or evolving services.

Major Issues in 2012

The CSC held meetings in March, June, October, and December 2012. During the March meeting, the CSC also elected the delegate from Argentina as its new Chairperson.

The CSC resumed its ongoing discussion of classification issues in various sectors, including audiovisual distribution, express delivery, legal, and maritime transport services. The Secretariat has prepared a compilation of these issues to facilitate Members discussions. In addition, Members reviewed the procedures for the modification of schedules under GATS Article XXI, based on a communication from Australia.

Prospects for 2013

Work will continue on technical issues and any other issues that Members raise.

H. Dispute Settlement Understanding

Status

The Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding or DSU), which is annexed to the WTO Agreement, provides a mechanism to settle

disputes under the Uruguay Round Agreements. Thus, it is key to the enforcement of U.S. rights under these Agreements.

The DSU is administered by the Dispute Settlement Body (DSB), which consists of representatives of the entire membership of the WTO, and is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB, and authorize retaliation. The DSB makes all its decisions by consensus unless the WTO Agreement provides otherwise.

Major Issues in 2012

The DSB met 18 times in 2012 to oversee disputes and to address responsibilities such as appointing members to the Appellate Body and approving additions to the roster of governmental and nongovernmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be "well-qualified," such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of nongovernmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates' qualifications and encouraging the appointment of well qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2012, the DSB approved by consensus a number of additional names for the roster. The United States scrutinized the credentials of these candidates to assure the quality of the roster.

Pursuant to the requirements of the Uruguay Round Agreements Act (URAA), the present WTO panel roster appears in the background information in Annex II. The list in the roster notes the areas of expertise of each roster member (goods, services, and/or TRIPS).

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for WTO dispute settlement and, on December 3, 1996, adopted the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes in these Rules in 2012.

The Rules of Conduct elaborate on the ethical standards built into the DSU to maintain the integrity, impartiality, and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals called upon to participate in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings, and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts.

The Rules of Conduct also provide parties an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by the U.S. Congress in section 123(c) of the URAA, which directed USTR to seek conflict of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also: (1) arbitrators; (2) experts participating in the dispute settlement mechanism (*e.g.*, the Permanent Group of Experts under the SCM Agreement); (3)

members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chair of the Textile Monitoring Body (TMB) and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings, or observations under the Agreement on Textiles and Clothing; and (5) the support staff of the Appellate Body.

As noted above, the Rules of Conduct established a disclosure based system. Examples of the types of information that covered persons must disclose are set forth in Annex II to the Rules, and include: (1) financial interests, business interests, and property interests relevant to the dispute in question; (2) professional interests; (3) other active interests; (4) considered statements of personal opinion on issues relevant to the dispute in question; and (5) employment or family interests.

Appellate Body: Pursuant to the DSU, the DSB appoints seven persons to serve on an Appellate Body, which is to be a standing body with members serving four year terms, except for three initial appointees determined by lot whose terms expired at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. The DSB also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members were Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Mr. Claus-Dieter Ehlermann of Germany, Mr. Said El-Naggar of Egypt, Mr. Florentino Feliciano of the Philippines, Mr. Julio Lacarte-Muró of Uruguay, and Mr. Mitsuo Matsushita of Japan. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano, and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing on 11 December 1997. At its meeting held on October 27, 1999 and November 3, 1999, the DSB agreed to renew the terms of Messrs. Bacchus and Beeby for a final term of four years, commencing on December 11, 1999, and to extend the terms of Mr. El-Naggar and Mr. Matsushita until the end of March 2000. On April 7, 2000, the DSB agreed to appoint Mr. Georges Michel Abi-Saab of Egypt and Mr. A.V. Ganesan of India to a term of four years commencing on June 1, 2000. On May 25, 2000, the DSB agreed to the appointment of Mr. Yasuhei Taniguchi of Japan to serve through December 10, 2003, the remainder of the term of Mr. Beeby, who passed away on March 19, 2000. On September 25, 2001, the DSB agreed to appoint Mr. Luiz Olavo Baptista of Brazil, Mr. John S. Lockhart of Australia, and Mr. Giorgio Sacerdoti of Italy to a term of four years commencing on December 11, 2001. On November 7, 2003, the DSB agreed to appoint Ms. Merit Janow of the United States to a term of four years commencing on December 11, 2003, to reappoint Mr. Taniguchi for a final term of four years commencing on December 11, 2003, and to reappoint Mr. Abi-Saab and Mr. Ganesan for a final term of four years commencing on June 1, 2004. On September 27, 2005, the DSB agreed to reappoint Mr. Baptista, Mr. Lockhart, and Mr. Sacerdoti for a final term of four years commencing on December 12, 2005. On July 31, 2006, the DSB agreed to the appointment of Mr. David Unterhalter of South Africa to serve through December 11, 2009, the remainder of the term of Mr. Lockhart, who passed away on January 13, 2006. At its meeting held on November 19 and 27, 2007, the DSB agreed to appoint Ms. Lilia R. Bautista of the Philippines and Ms. Jennifer Hillman of the United States as members of the Appellate Body for four years commencing on December 11, 2007, and to appoint Mr. Shotaro Oshima of Japan and Ms. Yuejiao Zhang of China as members of the Appellate Body for four years commencing on June 1, 2008. On November 12, 2008, Mr. Baptista notified the DSB that he was resigning for health reasons, effective in 90 days. On December 22, 2008, the DSB decided to deem the term of the position to which Mr. Baptista was appointed to expire on June 30, 1999, and to fill the position previously held by Mr. Baptista for a four-year term. On June 19, 2009, the DSB agreed to appoint Mr. Ricardo Ramírez Hernández of Mexico as a member of the Appellate Body for four years commencing on July 1, 2009, to appoint Mr. Peter Van den Bossche of Belgium as a member of the Appellate Body for four years commencing on December 12, 2009, and to reappoint Mr. Unterhalter for a final term of four years commencing on December 12, 2009. On November 18, 2011, the DSB agreed to appoint Mr. Thomas Graham of the United States and Mr. Ujal Bhatia of India as members of the Appellate Body for four years commencing on December 11,

2011. On May 24, 2012, the DSB agreed to appoint Mr. Seung Wha Chang of Korea as a member of the Appellate Body for four years commencing on June 1, 2012. *(The names and biographical data for the Appellate Body members during 2012 are included in Annex II of this report.)*

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued a revision of the Working Procedures, providing for a two year term for the first Chairperson, and one year terms for subsequent Chairpersons. In 2001, the Appellate Body amended its working procedures to provide for no more than two consecutive terms for a Chairperson. Mr. Lacarte-Muró, the first Chairperson, served until February 7, 1998; Mr. Beeby served as Chairperson from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairperson from February 7, 1999 to February 6, 2000; Mr. Feliciano served as Chairperson from February 7, 2000 to February 6, 2001; Mr. Ehlermann served as Chairperson from February 7, 2001 to December 10, 2001; Mr. Bacchus served as Chairperson from December 15, 2001 to December 10, 2003; Mr. Abi-Saab served as Chairperson from December 13, 2003 to December 12, 2004; Mr. Taniguchi served as Chairperson from December 17, 2004 to December 16, 2005; Mr. Ganesan served as Chairperson from December 17, 2005 to December 16, 2006; Mr. Sacerdoti served as Chairperson from December 17, 2006 to December 17, 2007; Mr. Baptista served as Chairperson from December 18, 2007, to December 17, 2008; Mr. Unterhalter served as Chairperson from December 18, 2008 to December 16, 2010; Ms. Bautista served as Chairperson from December 17, 2010 to June 14, 2011; Ms. Hillman served as Chairperson from June 15, 2011 until December 10, 2011; and Ms. Zhang served as Chairperson from December 11, 2011 to December 31, 2012.

In 2012, the Appellate Body issued six reports, on a challenge by the United States, the EU, and Mexico to China's export restrictions on certain raw materials; the EU's challenge to measures affecting trade in large civil aircraft; Indonesia's challenge to U.S. measures affecting the production and sale of clove cigarettes; Mexico's challenge to U.S. measures concerning the importation, marketing, and sale of tuna products; Canada and Mexico's challenges to U.S. country of origin labeling requirements on beef and pork products; and the U.S. challenge to China's antidumping duties on grain oriented flat-rolled electrical steel. In each dispute, the United States participated as a party.

Dispute Settlement Activity in 2012: During the DSB's first 17 years in operation, WTO Members filed 454 requests for consultations (22 in 1995, 42 in 1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, 37 in 2002, 26 in 2003, 19 in 2004, 11 in 2005, 20 in 2006, 14 in 2007, 19 in 2008, 14 in 2009, 17 in 2010, 8 in 2011, and 27 in 2012). During that period, the United States filed 104 complaints against other Members' measures and received 143 complaints on U.S. measures. Several of these complaints involved the same issues as other complaints (6 U.S. complaints against others and 27 complaints against the United States). A number of disputes commenced in earlier years remained active in 2012. What follows is a description of those disputes in which the United States was a complainant, defendant, or third party during the past year.

Prospects for 2013

While there were improvements to the multilateral trading system's dispute settlement system as a result of the Uruguay Round, there is still room for improvement. Accordingly, the United States has used the opportunity of the ongoing review to seek improvements in its operation, including greater transparency. In 2013, we expect the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. Participants will continue to consider reform proposals in 2013.

a. Disputes Brought by the United States

In 2012, the United States continued to be one of the most active participants in the WTO dispute settlement process. This section includes brief summaries of dispute settlement activity in 2012 where the United States was a complainant. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in a number of cases the United States has been able to achieve satisfactory outcomes by invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel proceedings.

Argentina — Measures Affecting the Importation of Goods (DS444):

On August 21, 2012, the United States requested consultations with Argentina regarding certain measures affecting the importation of goods into Argentina. These measures include the broad use of non-transparent and discretionary import licensing requirements that have the effect of restricting U.S. exports as well as burdensome trade balancing commitments that Argentina requires as a condition for authorization to import goods.

Since 2008, Argentina has greatly expanded the list of products subject to non-automatic import licensing requirements. Import licenses are required for approximately 600 eight-digit tariff lines in Argentina's goods schedule. In February 2012, Argentina adopted an additional licensing requirement that applies to all imports of goods into the country. The affected products include, but are not limited to, laptops, home appliances, air conditioners, tractors, machinery and tools, autos and auto parts, agricultural products, plastics, chemicals, tires, toys, footwear, textiles and apparel, luggage, bicycles and paper products. In conjunction with these licensing requirements, Argentina has adopted informal trade balancing requirements and other schemes, whereby companies seeking to obtain authorization to import products must agree to export goods of an equal or greater value, make investments in Argentina, lower prices of imported goods, and/or refrain from repatriating profits.

Through these measures, Argentina appears to have acted inconsistently with its WTO obligations. In particular, the measures appear to be inconsistent with Article XI:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), which generally prohibits restrictions on imports of goods, including those made effective through import licenses. The measures also appear to breach various provisions of the *Agreement on Import Licensing Procedures*, which contains requirements related to the administrative procedures used to implement import licensing regimes.

The United States and Argentina held consultations on September 20-21, 2012, but these consultations failed to resolve the dispute. On December 17, 2012, the United States requested the WTO to establish a dispute settlement panel to examine Argentina's import restrictions. The European Union and Japan have also requested the establishment of panels to examine these measures.

China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products (DS363):

On April 10, 2007, the United States requested consultations with China regarding certain measures related to the import and/or distribution of imported films for theatrical release, audiovisual home entertainment products (*e.g.*, video cassettes and DVDs), sound recordings, and publications (*e.g.*, books, magazines, newspapers, and electronic publications). On July 10, 2007, the United States requested supplemental consultations with China regarding certain measures pertaining to the distribution of imported films for theatrical release and sound recordings.

Specifically, the United States was concerned that certain Chinese measures: (1) restricted trading rights (such as the right to import goods into China) with respect to imported films for theatrical release, audiovisual home entertainment products, sound recordings, and publications; and (2) restricted market access for, or discriminated against, imported films for theatrical release and sound recordings in physical form, and foreign service providers seeking to engage in the distribution of certain publications, audiovisual home entertainment products, and sound recordings. The Chinese measures at issue appeared to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and *General Agreement on Trade in Services* (GATS), as well as specific commitments made by China in its WTO accession agreement.

The United States and China held consultations on June 5-6, 2007 and July 31, 2007, but they did not resolve the dispute. On October 10, 2007, the United States requested the establishment of a panel, and on November 27, 2007, a panel was established. On March 27, 2008, the Director General composed the panel as follows: Mr. Florentino P. Feliciano, Chair; and Mr. Juan Antonio Dorantes and Mr. Christian Häberli, Members.

The report of the panel was circulated to WTO Members and made public on August 12, 2009. In the final report, the panel made three critical sets of findings. First, the panel found that China's restrictions on foreign invested enterprises (and in some cases foreign individuals) from importing films for theatrical release, audiovisual home entertainment products, sound recordings, and publications are inconsistent with China's trading rights commitments as set forth in China's protocol of accession to the WTO. The panel also found that China's restrictions on the right to import these products are not justified by Article XX(a) of the GATT 1994. Second, the panel found that China's prohibitions and discriminatory restrictions on foreign owned or controlled enterprises seeking to distribute publications and audiovisual home entertainment products and sound recordings over the Internet are inconsistent with China's obligations under the GATS. Third, the panel also found that China's treatment of imported publications is inconsistent with the national treatment obligation in Article III:4 of the GATT 1994.

In September 2009, China filed a notice of appeal to the WTO Appellate Body, appealing certain of the panel's findings. First, China contended that its restrictions on importation of the products at issue are justified by an exception related to the protection of public morals. Second, China claimed that while it had made commitments to allow foreign enterprises to partner in joint ventures with Chinese enterprises to distribute music, those commitments did not cover the electronic distribution of music. Third, and finally, China claimed that its import restrictions on films for theatrical release and certain types of sound recordings and DVDs were not inconsistent with China's commitments related to the right to import because those products were not goods and therefore were not subject to those commitments. The United States filed a cross appeal on one aspect of the panel's analysis of China's defense under GATT Article XX(a). On December 21, 2009, the Appellate Body issued its report. The Appellate Body rejected each of China's claims on appeal. The Appellate Body also found that the Panel had erred in the aspect of the analysis that the United States had appealed. The DSB adopted the Appellate Body and panel reports on January 19, 2010. On July 12, 2010, the United States and China notified the DSB that they had agreed on a 14 month period of time for implementation, to end on March 19, 2011.

China subsequently issued several revised measures, and repealed other measures, relating to the market access restrictions on books, newspapers, journals, DVDs and music. As China acknowledged, however, it did not issue any measures addressing theatrical films. Instead, China proposed bilateral discussions with the United States in order to seek an alternative solution. The United States and China reached agreement in February 2012 on a Memorandum of Understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year and substantial additional revenue for foreign film producers. The MOU will be reviewed after five years in order to discuss additional compensation for the U.S. side.

China – Measures Relating to the Exportation of Various Raw Materials (DS394):

On June 23, 2009, the United States requested consultations with China regarding China's export restraints on a number of important raw materials. The materials at issue are: bauxite, coke, fluorspar, magnesium, manganese, silicon metal, silicon carbide, yellow phosphorus, and zinc. These materials are inputs for numerous downstream products in the steel, aluminum, and chemical sectors.

The United States challenged China's export restraints on these raw materials as inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994*, as well as specific commitments made by China in its WTO accession agreement. Specifically, the United States challenged certain Chinese measures that impose: (1) QRs in the form of quotas on exports of bauxite, coke, fluorspar, silicon carbide, and zinc ores and concentrates, as well as certain intermediate products incorporating some of these inputs; and (2) export duties on several raw materials. The United States also challenged other related export restraints, including export licensing restrictions, minimum export price requirements, and requirements to pay certain charges before certain products can be exported, as well as China's failure to publish relevant measures.

The United States and China held consultations on July 30 and September 1-2, 2009, but did not resolve the dispute. The European Union and Mexico also requested and held consultations with China on these measures.

On November 19, 2009, the European Union and Mexico joined the United States in requesting the establishment of a panel, and on December 21, 2009, the WTO Dispute Settlement Body established a single panel to examine all three complaints. On March 29, 2010, the Director General composed the panel as follows: Mr. Elbio Rosselli, Chair; Ms. Dell Higgie and Mr. Nugroho Wisnumurti, Members. The panel's final report was circulated to Members on July 5, 2011. The panel found that the export duties and export quotas that China maintains on various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, and zinc constitute a breach of WTO rules and that China failed to justify those measures as legitimate conservation measures, environmental protection measures, or short supply measures. The panel also found that China's imposition of minimum export price, export licensing, and export quota administration requirements on these materials, as well as China's failure to publish certain measures related to these requirements, is inconsistent with WTO rules.

On January 30, 2012, the Appellate Body issued a report affirming the panel's findings on all significant claims. In particular, the Appellate Body confirmed that: China may not seek to justify its imposition of export duties as environmental or conservation measures; China failed to demonstrate that certain of its export quotas were justified as measures for preventing or relieving a critical shortage; and the Panel correctly made recommendations for China to bring its measures into conformity with its WTO obligations. The Appellate Body also found that the Panel erred in making findings related to licensing and administration claims, declaring those findings moot and in its legal interpretation of one element of the exception set forth in Article XX(g) of the GATT 1994.

The DSB adopted the Appellate Body report, and the panel report as modified by the Appellate Body report, on February 22, 2012. The United States, the European Union, Mexico, and China agreed that China would have until December 31, 2012, to comply with the rulings and recommendations.

China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States (DS414):

On September 15, 2010, the United States filed a request for consultations regarding China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of grain oriented flat rolled electrical steel (GOES) from the United States.

In June 2009, China's Ministry of Commerce (MOFCOM) initiated two investigations on GOES from the United States. On April 10, 2010, based on determinations that American steel had been dumped into their market and subsidized, MOFCOM imposed antidumping duties ranging from 7.8 percent to 64.8 percent and countervailing duties ranging from 11.7 percent and 44.6 percent.

China's antidumping and subsidy determinations in the GOES investigations appeared to violate numerous WTO requirements. Specifically, the United States was concerned, *inter alia*, that China initiated the countervailing duty investigation without sufficient evidence; failed to objectively examine the evidence; failed to disclose "essential facts" underlying its conclusions; failed to provide an adequate explanation of its calculations and legal conclusions; improperly used investigative procedures; and failed to provide non-confidential summaries of Chinese submissions.

The United States and China held consultations on November 1, 2010, but did not resolve the dispute. In March 2011, the United States requested the establishment of a panel. In May 2011, the DSB established a panel. On May 10, 2011, the panel was composed by the agreement of the parties, as follows: Mr. John Adank, Chair; and Mr. Anthony Abad and Mr. Jan Heukelman, Members. Hearings before the Panel took place in September and December 2011.

In June 2012, the Panel issued its report, upholding U.S. claims that China had breached a number of substantive and procedural obligations under the WTO Agreement in imposing AD and CVD duties on GOES from the United States. The Panel found that China initiated the countervailing duty investigation with respect to several alleged programs based on insufficient evidence, failed to provide non-confidential summaries of submissions containing confidential information, calculated the subsidy rates for U.S. companies in a manner unsupported by the facts, calculated the "all others" subsidy rate and dumping margin without a factual basis, failed to disclose essential facts and failed to explain the calculation of the "all others" subsidy rate and dumping margin, and made unsupported findings that U.S. exports caused injury to China's domestic industry.

In July 2012, China filed a notice of appeal challenging certain aspects of the panel report. The Appellate Body held a hearing in August 2012. In October 2012, the Appellate Body issued its report, and rejected all of China's claims on appeal.

In November 2012, the Dispute Settlement Body adopted the panel and Appellate Body reports. The same month, China announced its intention to implement the DSB recommendations and rulings in the dispute, and stated that it would need a reasonable period of time in which to do so.

China – Certain Measures Affecting Electronic Payment Services (DS413):

On September 15, 2010, the United States requested consultations with China concerning issues relating to certain restrictions and requirements maintained by China pertaining to electronic payment services (EPS) for payment card transactions and the suppliers of those services. EPS enable transactions involving credit card, debit card, charge card, check card, automated teller machine (ATM) card, prepaid card, or other similar card or money transmission product, and manage and facilitate the transfers of funds between institutions participating in such card-based electronic payment transactions.

EPS provide the essential architecture for card-based electronic payment transactions, and EPS are supplied through complex electronic networks that streamline and process transactions and offer an efficient and reliable means to facilitate the movement of funds from the cardholders purchasing goods or services to the individuals or businesses that supply them. EPS consist of a network, rules and procedures, and operating system that allow cardholders' banks to pay merchants' banks the amounts they are owed. EPS suppliers receive, check and transmit the information that processors need to conduct the transactions. The rules and procedures established by the EPS supplier give the payment system stability and integrity, and enable net payment flows among the institutions involved in card-based electronic transactions. The best known EPS suppliers are credit and debit card companies based in the United States.

China instituted and maintains measures that operate to block foreign EPS suppliers, including U.S. suppliers, from supplying these services, and that discriminate against foreign suppliers at every stage of a card-based electronic payment transaction. The United States challenged China's measures affecting EPS suppliers as inconsistent with China's national treatment and market access commitments under the WTO's General Agreement on Trade in Services (GATS).

The United States and China held consultations on October 27 and 28, 2010, but these consultations did not resolve the dispute. The United States requested the establishment of a panel on February 11, 2011. On March 25, 2011, the DSB established a panel to consider the claims of the United States. On July 4, 2011, the Director General composed the panel as follows: Mr. Virachai Plasai, Chair; and Ms. Elaine Feldman and Mr. Martín Redrado, Members. The panel held its meetings with the parties on October 26-27, 2011, and December 13-14, 2011.

The Panel issued its report to the Parties on May 25, 2012. The Panel Report was circulated to the WTO Membership on July 16, 2012. China did not appeal the Panel's findings, and the Panel Report was adopted by the DSB on August 31, 2012.

The United States prevailed on significant threshold issues, including:

- EPS is a single service (or EPS are integrated services) and each element of EPS is necessary for a payment card transaction to occur.

- EPS is properly classified under the same subsector, item (viii) of the GATS Annex on Financial Services, which appears as subsector (d) of China's Schedule ("All payment and money transmission services, including credit, charge, and debit cards…") as the United States argued, and no element of EPS is classified as falling in item xiv of the GATS Annex on Financial services ("settlement and clearing of financial assets, including securities, derivative products, and other negotiable instruments"), as China argued and for which China has no WTO commitments.

- In addition to the "four-party" model of EPS (*e.g.*, Visa and MasterCard), the "three-party" model (*e.g.*, American Express) and other variations, and third party issuer processor and merchant processors also are covered by subsector (d) of China's Schedule.

With respect to the U.S. GATS national treatment claims, the Panel found the following violations:

- China imposes requirements on issuers of payment cards that payment cards issued in China bear the "Yin Lian/UnionPay logo," and furthermore, through these, China requires issuers to become members of the CUP network, and that the cards they issue in China meet certain uniform

business specifications and technical standards, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;

- China imposes requirements that all terminals (ATMs, merchant processing devices, and point of sale (POS) terminals) in China that are part of the national card inter-bank processing network be capable of accepting all payment cards bearing the Yin Lian/UnionPay logo, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;

- China imposes requirements on acquirers (those institutions that acquire payment card transactions and that maintain relationships with merchants) to post the Yin Lian/UnionPay logo, and furthermore, China imposes requirements that acquirers join the CUP network and comply with uniform business standards and technical specifications of inter-bank interoperability, and that terminal equipment operated or provided by acquirers be capable of accepting bank cards bearing the Yin Lian/UnionPay logo, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;

With respect to the U.S. GATS market access claims, the Panel found that China's requirements related to certain Hong Kong and Macao transactions are inconsistent with Article XVI:2(a) of the GATS because, contrary to China's Sector 7.B(d) mode 3 market access commitments, China maintains a limitation on the number of service suppliers in the form of a monopoly.

The United States and China agreed that a reasonable period of time for China to implement the DSB recommendations and rulings would be 11 months from the date of adoption of the recommendations and rulings, that is, until July 31, 2013.

China – Subsidies on Wind Power Equipment (DS419):

On December 22, 2010, the United States requested consultations with China concerning a program known as the Wind Power Equipment Fund. Under this program, China appeared to provide subsidies that were prohibited under WTO rules because the grants awarded under the program were contingent on Chinese wind power equipment manufacturers using parts and components made in China, rather than foreign made parts and components. The United States also included in its consultations request transparency-related claims, which addressed China's failure to comply with its obligation to notify the subsidies at issue under the WTO's Agreement on Subsidies and Countervailing Measures, and China's failure to translate the measure into one or more of the official languages of the WTO under China's Protocol of Accession. On December 31, 2010, China accepted the request for consultations.

The United States and China held consultations in February 2011. Following consultations, China issued a notice invalidating the measures that had created the program providing the challenged subsidies.

This case arose out of an investigation initiated in response to a petition filed by the United Steelworkers (USW) under section 301 of the Trade Act of 1974, as amended.

China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum (DS431)

On March 13, 2012, the United States requested consultations with China regarding China's export restraints on rare earths, tungsten and molybdenum. These materials are vital inputs in the manufacture of electronics, automobiles, steel, petroleum products, and a variety of chemicals that are used to produce

both everyday items and highly sophisticated, technologically advanced products, such as hybrid vehicle batteries, wind turbines and energy efficient lighting.

Specifically, the United States is concerned that certain Chinese measures: (1) impose QRs in the form of quotas on exports of rare earth, tungsten and molybdenum ores and concentrates, as well as certain intermediate products incorporating some of these inputs; (2) impose export duties on rare earths, tungsten and molybdenum; and (3) impose other export restraints including prior export performance and minimum capital requirements. The measures at issue appear to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994*, as well as specific commitments made by China in its WTO accession agreement.

The United States, together with the European Union and Japan, held consultations with China on April 25-26, 2012, but the consultations did not resolve the dispute.

On June 29, 2012, the European Union and Japan joined the United States in requesting the establishment of a panel, and on July 23, 2012, the WTO Dispute Settlement Body established a single panel to examine all three complaints. On September 24, 2012, 2012, the Director General composed the panel as follows: Mr. Nacer Benjelloun-Touimi, Chair; Mr. Hugo Cayrús and Mr. Darlington Mwape.

China — Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States (DS440)

On July 5, 2012, the United States filed a request for consultations regarding China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of certain automobiles from the United States.

In November 2009, China's Ministry of Commerce (MOFCOM) had initiated two investigations on certain automobiles from the United States. On December 14, 2011, based on affirmative determinations of injurious dumping and subsidization with respect to certain American-made automobiles, MOFCOM imposed antidumping duties ranging from 2.0 percent to 21.5 percent and countervailing duties ranging from 6.2 percent to 12.9 percent.

China's dumping and subsidy determinations in the autos investigations appear to breach numerous WTO obligations. Specifically, the United States is concerned that China failed to objectively examine the evidence, and made unsupported findings of injury to China's domestic industry. In addition, China failed to disclose "essential facts" underlying its conclusions, failed to provide an adequate explanation of its conclusions, improperly used investigative procedures, and failed to provide non-confidential summaries of Chinese submissions.

The United States and China held consultations on August 23, 2012, but did not resolve the dispute. In September 2012, the United States requested the establishment of a panel, and in October 2012 the DSB established a panel.

China — Certain Measures Affecting the Automobile and Automobile-Parts Industries (DS450):

On September 17, 2012, the United States requested consultations with China concerning China's auto and auto parts "export base" program. Under this program, China appears to provide extensive subsidies to auto and auto-parts exporting enterprises located in designated regions known as "export bases." It appears that China is providing these subsidies in contravention of its obligation under Article 3 of the *Agreement on Subsidies and Countervailing Measures* (Subsidies Agreement), which prohibits the provision of subsidies contingent upon export performance. China also appears to have failed to comply

with various transparency related obligations, including its obligation to notify the challenged subsidies as required by the Subsidies Agreement, and to publish the measures at issue in an official journal and to translate the measures into one or more of the official languages of the WTO as required by China's Protocol of Accession.

The United States and China held consultations in November 2012, but the dispute remains unresolved.

European Union – Measures concerning meat and meat products (hormones) (DS26, 48):

The United States and Canada challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. The panel found that the EU ban is inconsistent with the EU's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), and that the ban is not based on science, a risk assessment, or relevant international standards.

Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that, while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. In this case, the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed.

Because the EU did not comply with the recommendations and rulings of the DSB by May 13, 1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions with respect to certain products of the EU. The value of the suspension of concessions represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the level of suspension to be $116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $116.8 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products, but did not make any changes.

On November 3, 2003, the EU notified the WTO that it had amended its hormones ban. As discussed below (DS320), on November 8, 2004, the EU requested consultations with respect to "the United States' continued suspension of concessions and other obligations under the covered agreements" in the EU – Hormones dispute. The Appellate Body issued its report in the *U.S. – Continued Suspension* (WT/DS320) dispute on October 16, 2008.

On October 31, 2008, USTR again announced that it was considering changes to the list of EU products on which 100 percent *ad valorem* duties had been imposed in 1999. A modified list of EU products was announced by USTR on January 15, 2009.

On December 22, 2008, the EU requested consultations with the United States and Canada pursuant to Articles 4 and 21.5 of the DSU, regarding the EU's implementation of the DSB's recommendations and rulings in the EU–Hormones dispute. In its consultations request, the EU stated that it considered that it has brought into compliance the measures found inconsistent in EU–Hormones by, among other things, adopting its revised ban in 2003. Consultations took place in February 2009.

Pursuant to the MOU, further litigation in the EU–Hormones compliance proceeding has been suspended.

The initial phase outlined in the Beef MOU ran from August 2009 through August 2012. During phase 1,

the EU provided increased, duty-free access to the EU market for U.S. beef produced without certain growth promoting hormones. The United States was permitted to maintain increased duties on a reduced list of EU products.

In August 2012 the United States and the EU, by mutual agreement, entered into phase 2 of the Beef MOU. In accordance with its phase 2 obligations, the EU increased the amount of duty free access to the EU market for U.S. beef produced without certain growth promoting hormones. Consistent with its phase 2 obligations, the United States is no longer applying increased duties on EU products.

European Union – Measures affecting the approval and marketing of biotechnology products (DS291):

Since the late 1990s, the EU has pursued policies that undermine agricultural biotechnology and trade in biotechnological foods. After approving a number of biotechnological products through October 1998, the EU adopted an across the board moratorium under which no further biotechnology applications were allowed to reach final approval. In addition, six Member States (Austria, France, Germany, Greece, Italy, and Luxemburg) adopted unjustified bans on certain biotechnological crops that had been approved by the EU prior to the adoption of the moratorium. These measures have caused a growing portion of U.S. agricultural exports to be excluded from EU markets, and unfairly cast concerns about biotechnology products around the world, particularly in developing countries.

On May 13, 2003, the United States filed a consultation request with respect to: (1) the EU's moratorium on all new biotechnology approvals; (2) delays in the processing of specific biotech product applications; and (3) the product specific bans adopted by six EU Member States (Austria, France, Germany, Greece, Italy, and Luxembourg). The United States requested the establishment of a panel on August 7, 2003. Argentina and Canada submitted similar consultation and panel requests. On August 29, 2003, the DSB established a panel to consider the claims of the United States, Argentina, and Canada. On March 4, 2003, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Mohan Kumar and Mr. Akio Shimizu, Members.

The panel issued its report on September 29, 2006. The panel agreed with the United States, Argentina, and Canada that the disputed measures of the EU, Austria, France, Germany, Greece, Italy, and Luxembourg are inconsistent with the obligations set out in the SPS Agreement. In particular:

- The panel found that the EU adopted a *de facto*, across the board moratorium on the final approval of biotechnological products, starting in 1999 up through the time the panel was established in August 2003.

- The panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in "undue delays" in violation of the EU's obligations under the SPS Agreement.

- The panel identified specific, WTO inconsistent "undue delays" with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.

- The panel upheld the United States' claims that, in light of positive safety assessments issued by the EU's own scientists, the bans adopted by six EU Member States on products approved in the EU prior to the moratorium were not supported by scientific evidence, and were thus inconsistent with WTO rules.

The DSB adopted the panel report on November 21, 2006. At the meeting of the DSB held on December 19, 2006, the EU notified the DSB that the EU intended to implement the recommendations and rulings of the DSB in these disputes, and stated that it would need a reasonable period of time for implementation. On June 21, 2006, the United States, Argentina, and Canada notified the DSB that they had agreed with the EU on a one year period of time for implementation, to end on November 21, 2007. On November 21, 2007, the United States, Argentina, and Canada notified the DSB that they had agreed with the EU to extend the implementation period to January 11, 2008.

On January 17, 2008, the United States submitted a request for authorization to suspend concessions and other obligations with respect to the EU under the covered agreements at an annual level equivalent to the annual level of nullification or impairment of benefits accruing to the United States resulting from the EU's failure to bring measures concerning the approval and marketing of biotechnology products into compliance with the recommendations and rulings of the DSB. On February 6, 2008, the European Union requested arbitration under Article 22.6 of the DSU, claiming that the level of suspension proposed by the United States was not equivalent to the level of nullification or impairment. The European Union and the United States mutually agreed to suspend the Article 22.6 arbitration proceedings as of February 18, 2008. The United States may request resumption of the proceedings following a finding by the DSB that the EU has not complied with the recommendations and rulings of the DSB.

Subsequent to the suspension of the Article 22.6 proceeding, the United States has been monitoring EU developments, and has been engaged with the EU in discussions with the goal of normalizing trade in biotechnology products.

European Union – Subsidies on large civil aircraft (DS316):

On October 6, 2004, the United States requested consultations with the European Union, as well as with Germany, France, the United Kingdom, and Spain, with respect to subsidies provided to Airbus, a manufacturer of large civil aircraft. The United States alleged that such subsidies violated various provisions of the Subsidies and Countervailing Measures Agreement, as well as Article XVI:1 of the GATT 1994. Consultations were held on November 4, 2004. On January 11, 2005, the United States and the EU agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three month time frame for the negotiations and agreed that, during negotiations, they would not request panel proceedings.

The United States and the European Union were unable to reach an agreement within the 90 day time frame. Therefore, the United States filed a request for a panel on May 31, 2005. The panel was established on July 20, 2005. The U.S. request challenged several types of EU subsidies that appear to be prohibited, actionable, or both.

On October 17, 2005, the Deputy Director General composed the panel as follows: Mr. Carlos Pérez del Castillo, Chair; and Mr. John Adank and Mr. Thinus Jacobsz, Members. The panel met with the parties on March 20-21 and July 25-26, 2007, and met with the parties and third parties on July 24, 2007. The panel granted the parties' request to hold part of its meetings with the parties in public session. This portion of the panel's meetings was videotaped, and reviewed by the parties to ensure that business confidential information had not been disclosed, before being shown in public on March 22 and July 27, 2007.

The Panel issued its report on June 30, 2010. It agreed with the United States that the disputed measures of the European Union, France, Germany, Spain, and the United Kingdom were inconsistent with the SCM Agreement. In particular:

- Every instance of "launch aid" provided to Airbus was a subsidy because in each case, the terms charged for this unique low interest, success dependent financing were more favorable than were available in the market.

- Some of the launch aid provided for the A380, Airbus's newest and largest aircraft, was contingent on exports and, therefore, a prohibited subsidy.

- Several instances in which German and French government entities created infrastructure for Airbus were subsidies because the infrastructure was not general, and the price charged to Airbus for use resulted in less than adequate remuneration to the government.

- Several government equity infusions into the Airbus companies were subsidies because they were on more favorable terms than available in the market.

- Several EU and Member State research programs provided grants to Airbus to develop technologies used in its aircraft.

- These subsidies caused adverse effects to the interests of the United States in the form of lost sales, displacement of U.S. imports into the EU market, and displacement of U.S. exports into the markets of Australia, Brazil, China, Chinese Taipei, Korea, Mexico, and Singapore.

The EU filed a notice of appeal on July 21, 2010. The WTO Appellate Body conducted an initial hearing on August 3, 2010 to discuss procedural issues related to the need to protect business confidential information and highly sensitive business information and issued additional working procedures to that end on August 10, 2010. The Appellate Body held two hearings on the issues raised in the EU's appeal of the Panel's findings of WTO inconsistent subsidization of Airbus. The first hearing, held November 11-17, 2010, addressed issues associated with the main subsidy to Airbus, launch aid, and the other subsidies challenged by the United States. The second hearing, held December 9-14, 2010, focused on the Panel's findings that the European subsidies caused serious prejudice to the interests of the United States in the form of lost sales and declining market share in the European Union and other third country markets. On May 18, 2011, the Appellate Body issued its report. The Appellate Body affirmed the panel's central findings that European government launch aid had been used to support the creation of every model of large civil aircraft produced by Airbus. The Appellate Body also confirmed that launch aid and other challenged subsidies to Airbus have directly resulted in Boeing losing sales involving purchases of Airbus aircraft by easyJet, Air Berlin, Czech Airlines, Air Asia, Iberia, South African Airways, Thai Airways International, Singapore Airlines, Emirates Airlines, and Qantas – and lost market share, with Airbus gaining market share in the European Union and in third country markets, including China and South Korea, at the expense of Boeing. The Appellate Body also found that the panel applied the wrong standard for evaluating whether subsidies are export subsidies, and that the panel record did not have enough information to allow application of the correct standard.

On December 1, 2011, the EU provided a notification in which it claimed to have complied with the DSB recommendations and rulings. On December 9, 2011, the United States requested consultations regarding the notification and also requested authorization from the DSB to impose countermeasures. The United States and the EU held consultations on January 13, 2012. On March 30, 2012, in light of the parties' disagreement over whether the EU had complied with the DSB's recommendations and rulings, the United States requested that the DSB refer the matter to the original panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on April 13, 2012. On April 25, 2012, the compliance panel was composed with the members of the original panel: Mr. Carlos Pérez del Castillo, Chair; Mr. John Adank and Mr. Thinus Jacobsz, Members.

On December 22, 2011, the EU objected to the level of suspension of concessions requested by the United States, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On January 19, 2012, the United States and the EU requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

European Union – Regime for the importation, sale, and distribution of bananas – Recourse to Article 21.5 of the DSU by the United States (WT/DS27):

On June 29, 2007, the United States requested the establishment of a panel under Article 21.5 of the DSU to review whether the European Union had failed to bring its import regime for bananas into compliance with its WTO obligations and the DSB recommendations and rulings adopted on September 25, 1997. The request related to the EU's apparent failure to implement the WTO rulings in a proceeding initiated by Ecuador, Guatemala, Honduras, Mexico, and the United States. That proceeding had resulted in findings that the EU's banana regime discriminated against bananas originating in Latin American countries and against distributors of such bananas, including a number of U.S. companies. The EU was under an obligation to bring its banana regime into compliance with its WTO obligations by January 1999. The EU committed to shift to a tariff only regime for bananas no later than January 1, 2006. Despite these commitments, the banana regime implemented by the EU on January 1, 2006 included a zero duty tariff-rate quota allocated exclusively to bananas from African, Caribbean, and Pacific countries. All other bananas did not have access to this duty-free tariff-rate quota and were subject to a 176 euro per ton duty. The United States brought challenges under GATT Articles I:1 and XIII.

Ecuador requested the establishment of a similar compliance panel on February 23, 2007, and a panel was composed in response to that request on June 15. In response to the United States request, the panel was established on July 12, 2007. On August 13, 2007, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Kym Anderson and Mr. Yuqing Zhang, members. Mr. Häberli and Mr. Anderson were members of the original panel in this dispute.

The panel granted the parties' request to open the substantive meeting with the parties, as well as a portion of the third-party session, to the public. The public observed these meetings from a gallery in the room in which the meetings were conducted.

The panel issued its report on May 19, 2008. The panel agreed with the United States that the EU's regime was inconsistent with the EU's obligations under Articles I:1, XIII:1, and XIII:2 of the GATT 1994, and that the EU had failed to implement the recommendations and rulings of the DSB.

On August 28, 2008, the EU filed a notice of appeal. The Appellate Body granted a joint request by the parties to open its hearing to the public, and the public was able to observe the hearing via a closed circuit television broadcast. The Appellate Body issued its report on November 26, 2008. The Appellate Body found that the EU had failed to bring itself into compliance with the recommendations and rulings of the DSB. In particular, the Appellate Body rejected all of the EU's procedural arguments alleging the United States was barred from bringing the compliance proceeding and agreed with the panel that the EU's duty-free tariff-rate quota reserved only for some countries was inconsistent with Article XIII of the GATT 1994. The panel in this dispute had also found that the EU's banana import regime was in violation of GATT Article I. The EU did not appeal that finding. The DSB adopted the Appellate Body report on December 22, 2008.

On December 15, 2009, the United States and the EU initialed an agreement designed to lead to settlement of the dispute. In the agreement, the EU undertakes not to reintroduce measures that discriminate among bananas distributors based on the ownership or control of the distributor or the source of the bananas, and to maintain a nondiscriminatory, tariff only regime for the importation of bananas.

The United States-European Union agreement complements an agreement initialed on the same date between the EU and several Latin American banana supplying countries (the GATB). That agreement provides for staged EU tariff cuts that will bring the EU into compliance with its obligations under the WTO Agreement. The GATB was signed on May 31, 2010, and the United States-European Union agreement was signed on June 8, 2010. The agreements will enter into force following completion of certain domestic procedures. Upon entry into force, the EU will need to request formal WTO certification of its new tariffs on bananas. The GATB provides that once the certification process is concluded, the EU and the Latin American signatories to the GATB will settle their disputes and claims. Once that has occurred, the United States will also settle its dispute with the European Union.

European Communities – Tariff Treatment of Certain Information Technology Products (WT/DS375):

On May 28, 2008, the United States requested consultations with the European Union and its Member States regarding the tariff treatment accorded to set top boxes with a communication function, flat panel displays, "input or output units," and facsimile machines. The United States was concerned that certain EU measures appear to have resulted in the imposition of duties on these products. As a result of the Information Technology Agreement, the EU and its Member States, in their Schedules of Concessions to the GATT 1994, committed to provide duty-free treatment for these products.

The measures in question appeared to be inconsistent with the obligations of the EU and its Member States under Articles II:1(a) and II:1(b) of the GATT 1994. In addition, certain of the actions taken by the EU with respect to set top boxes appeared to be inconsistent with the EU's obligations under GATT 1994 Articles X:1 and X:2.

Japan and Chinese Taipei (on May 28, 2008, and June 12, 2008, respectively) also filed requests for consultations with the EU and its Member States on these measures. On August 18, the United States, Japan, and Chinese Taipei jointly requested the establishment of a panel. A panel was established at the meeting of the DSB on September 23, 2008. On January 22, 2009, the Director General composed the panel as follows: Mr. Wilhelm Meier, Chair; and Mr. David Evans and Ms. Valerie Hughes, Members.

The panel met with the parties on May 12 and 14, 2009 and on July 9, 2009, and met with the parties and third parties on May 13, 2009. Pursuant to the parties' request, the meetings with the parties, as well as a portion of the third party session, were open for public observation.

The panel issued its report on August 16, 2010. The panel agreed with the United States with respect to all three products at issue, finding that the EU measures result in the imposition of duties on products that are entitled to duty-free treatment under the EU's schedule of concessions and are inconsistent with GATT Article II:1(a) and (b). In addition, the Panel agreed with the United States that the EU's failure to promptly publish its Explanatory Note on set top boxes and its enforcement of an April 2007 set top box measure before its official publication were inconsistent with GATT Article X:1 and X:2, respectively.

The report was adopted at the meeting of the DSB on September 21, 2010. On October 13, 2010, the EU informed the Chairman of the DSB that it intended to implement the recommendations and rulings of the DSB and would need a reasonable period of time to do so. On December 20, 2010, the United States and the EU notified the DSB that they had agreed on a nine month and nine day period of time for implementation, to end on June 30, 2011. While the EU took some steps to bring its measures into compliance as of June 30, 2011, the United States remained concerned that certain products at issue would still be subject to duties. The United States has continued to engage with the EU to address the remaining concerns.

European Communities – Certain Measures Affecting Poultry Meat and Poultry Meat Products from the United States (DS389):

On January 16, 2009, the United States requested consultations regarding certain EU measures that prohibit the import of poultry meat and poultry meat products that have been processed with chemical treatments designed to reduce the amount of microbes on poultry meat, unless such pathogen reduction treatments (PRTs) have been approved. The EU further prohibits the marketing of poultry meat and poultry meat products if they have been processed with PRTs. In December 2008, the EU formally rejected the approval of four PRTs whose approval had been requested by the United States, despite the fact that EU scientists have repeatedly concluded that poultry meat and poultry meat products treated with any of these four PRTs does not present a health risk to European consumers. The EU's maintenance of its import ban and marketing regulation against PRT poultry appears to be inconsistent with its obligations under the SPS Agreement, the Agreement on Agriculture, the GATT 1994, and the Technical Barriers to Trade (TBT) Agreement. Consultations were held on February 11, 2009, but those consultations failed to resolve the dispute. The United States requested the establishment of a panel on October 8, 2009, and the DSB established a panel on November 19, 2009.

India — Measures Concerning the Importation of Certain Agricultural Products from the United States (DS430)

On March 6, 2012, the United States requested consultations with India regarding its import prohibitions on various agricultural products from the United States. India asserts these import prohibitions are necessary to prevent the entry of avian influenza into India. However, the United States has not had an outbreak of highly pathogenic avian influenza ("HPAI") since 2004. With respect to low pathogenic avian influenza ("LPAI"), the only kind of avian influenza found in the United States since 2004, international standards do not support the imposition of import prohibitions, including the type maintained by India.

The United States and India held consultations on April 16-17, 2012, but were unable to resolve the dispute. The United States requested the establishment of a WTO panel on May 24, 2012. At its meeting on June 25, 2012, the WTO dispute settlement body established a panel.

Philippines – Taxes on Distilled Spirits (DS403):

On January 14, 2010, the United States requested consultations regarding Philippine excise taxes on distilled spirits. The Philippines has taxed distilled spirits at rates that differ depending on the product from which the spirit is distilled. The Philippines taxed distilled spirits made from certain materials that are typically produced in the Philippines, such as sugar and palm, at a low rate (*e.g.*, 13.59 pesos per proof liter in 2009). Other distilled spirits have been taxed at significantly higher rates (from approximately 10 to 40 times higher) than the low rate applied to domestic products. The Philippine taxes on distilled spirits appeared not to tax similarly those distilled spirits that are imported compared to directly competitive or substitutable domestic distilled spirits, and the taxes appeared to be applied in a way that affords protection to the domestic products. In addition, the taxes appeared to subject imported distilled spirits to internal taxes in excess of those applied to like domestic products. Accordingly, the tax treatment of distilled spirits appeared inconsistent with Article III:2 of the GATT 1994. After consultations failed to resolve the dispute, the United States, on March 26, 2010, requested the establishment of a panel. At its meeting on April 20, 2010, the DSB established a panel and agreed that, as provided in Article 9.1 of the DSU in respect of multiple complainants, the panel established on January 19, 2010 to examine the complaint by the European Union (DS396) on the same measures, would also examine the U.S. complaint. The Director General composed the panel on July 5, 2010.

The United States and the European Union filed their respective first written submissions on September 2, 2010. The first meeting of the panel took place on November 17-18, 2010. The second meeting of the panel took place on February 9, 2011. The panel circulated its final report on August 15, 2011. The panel found that the Philippine excise taxes were inconsistent with the first and second sentences of Article III:2 of the GATT 1994.

The Philippines filed a notice of appeal on September 23, 2011. The Appellate Body hearing was held on October 25-26, 2011. The Appellate Body report was issued December 21, 2011. It confirmed the Panel's findings that the Philippine taxes were inconsistent with the first and second sentences of Article III:2 of GATT 1994.

On April 20, 2012, the United States, the European Union, and the Philippines agreed on a reasonable period of time for implementation of the recommendations and rulings in the dispute, ending on March 8, 2013.

During 2012, the Philippine Congress considered proposals to change the tax system on distilled spirits. On June 5, the Philippine House of Representatives passed a bill that included reform of the taxation system for distilled spirits, and the Senate followed suit with its own bill on November 20, 2012. The proposals were reconciled through a bicameral process, and approved by the full Philippine Congress. The reforms were signed into law on December 20, 2012.

Under the new system, which is scheduled to go into effect January 1, 2013, the raw materials requirement that was the basis for discrimination will be removed. All distilled spirits will subject to a two part tax: a 20 peso tax by proof, and an additional *ad valorem* tax of 15 percent by value in the first two years, rising to 20 percent on January 1, 2015. The specific tax of 20 pesos will increase 4 percent every year after 2015. The United States will review the implementation of the new tax system to evaluate whether the Philippines has fully implemented the recommendations and rulings in the dispute.

China – Countervailing and Anti-Dumping Duties on Chicken Broiler Products from the United States (DS427):

On September 20, 2011, the United States filed a request for consultations regarding China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of chicken broiler products from the United States.

On September 27, 2009, China's Ministry of Commerce (MOFCOM) initiated antidumping and countervailing duty investigations of imports of chicken broiler products from the United States. On September 26, 2010 and August 30, 2010, China imposed antidumping and countervailing duties, respectively. In the antidumping investigation, China imposed dumping duties ranging from 50.3 percent to 53.4 percent for the participating U.S. producers and exporters, and set an "all others" rate of 105.4 percent. In the countervailing duty investigation, China imposed countervailing duties between 4.0 percent and 12.5 percent for the participating U.S. producers and exporters and an "all others" rate of 30.3 percent.

In levying the antidumping and countervailing duties, China appears to have acted inconsistently with numerous WTO obligations. In particular, the United States is concerned that Chinese authorities failed to abide by applicable procedures and legal standards, including by finding injury to China's domestic industry without objectively examining the evidence, by improperly calculating dumping margins and subsidization rates, and by failing to adhere to various transparency and due process requirements.

The United States and China held consultations on October 28, 2011, but were unable to resolve the dispute. On December 8, 2011, the United States requested the establishment of a panel.

The United States and China filed their first written submissions on June 27, 2012 and August 7, 2012 respectively. The first meeting of the panel took place on September 27-28, 2012. The parties filed their second submissions on November 2, 2012. The second meeting of the panel took place on December 4-5, 2012.

b. Disputes Brought Against the United States

Section 124 of the URAA requires, *inter alia*, that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO: each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 2011 in which the United States was a responding party.

United States – Section 110(5) of the Copyright Act (DS160):

As amended in 1998 by the Fairness in Music Licensing Act, section 110(5) of the U.S. Copyright Act exempts certain retail and restaurant establishments that play radio or television music from paying royalties to songwriters and music publishers. The European Union claimed that, as a result of this exception, the United States was in violation of its TRIPS obligations. Consultations with the EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999. On August 6, 1999, the Director General composed the panel as follows: Ms. Carmen Luz Guarda, Chair; and Mr. Arumugamangalam V. Ganesan and Mr. Ian F. Sheppard, Members. The panel issued its final report on June 15, 2000 and found that one of the two exemptions provided by section 110(5) is inconsistent with the U.S. WTO obligations. The panel report was adopted by the DSB on July 27, 2000, and the United States has informed the DSB of its intention to respect its WTO obligations. On October 23, 2000, the European Union requested arbitration to determine the period of time to be given the United States to implement the panel's recommendation. By mutual agreement of the parties, Mr. J. Lacarte-Muró was appointed to serve as arbitrator. He determined that the deadline for implementation should be July 27, 2001. On July 24, 2001, the DSB approved a U.S. proposal to extend the deadline until the earlier of the end of the then current session of the U.S. Congress or December 31, 2001.

On July 23, 2001, the United States and the European Union requested arbitration to determine the level of nullification or impairment of benefits to the EU as a result of section 110(5)(B). In a decision circulated to WTO Members on November 9, 2001, the arbitrators determined that the value of the benefits lost to the EU in this case was $1.1 million per year. On January 7, 2002, the European Union sought authorization from the DSB to suspend its obligations vis-à-vis the United States. The United States objected to the details of the European Union request, thereby causing the matter to be referred to arbitration.

However, because the United States and the European Union had been engaged in discussions to find a mutually acceptable resolution of the dispute, the arbitrators suspended the proceeding pursuant to a joint request by the parties filed on February 26, 2002.

On June 23, 2003, the United States and the European Union notified the WTO of a mutually satisfactory temporary arrangement regarding the dispute. Pursuant to this arrangement, the United States made a lump sum payment of $3.3 million to the European Union, to a fund established to finance activities of general interest to music copyright holders, in particular awareness raising campaigns at the national and

international level and activities to combat piracy in the digital network. The arrangement covered a three year period, which ended on December 21, 2004.

United States – Section 211 Omnibus Appropriations Act (DS176):

Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questioned the consistency of Section 211 with the TRIPS Agreement and requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU, the WTO Director General composed the panel on October 26, 2000. The Director General composed the panel as follows: Mr. Wade Armstrong, Chair; and Mr. François Dessemontet and Mr. Armand de Mestral, Members. The panel report was circulated on August 6, 2001, rejecting 13 of the EU's 14 claims and finding that, in most respects, section 211 is not inconsistent with the obligations of the United States under the TRIPS Agreement. The EU appealed the decision on October 4, 2001. The Appellate Body issued its report on January 2, 2002.

The Appellate Body reversed the panel's one finding against the United States and upheld the panel's favorable findings that WTO Members are entitled to determine trademark and trade name ownership criteria. The Appellate Body found certain instances, however, in which section 211 might breach the national treatment and most favored nation obligations of the TRIPS Agreement. The panel and Appellate Body reports were adopted on February 1, 2002, and the United States informed the DSB of its intention to implement the recommendations and rulings. The reasonable period of time for implementation ended on June 30, 2005. On June 30, 2005, the United States and the European Union agreed that the European Union would not request authorization to suspend concessions at that time and that the United States would not object to a future request on grounds of lack of timeliness.

United States – Antidumping measures on certain hot-rolled steel products from Japan (DS184):

Japan alleged that the preliminary and final determinations of the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (USITC) in their antidumping investigations of certain hot rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999, were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claimed that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement and the Agreement Establishing the WTO. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 2000, the Director General composed the panel as follows: Mr. Harsha V. Singh, Chair; and Mr. Yanyong Phuangrach and Ms. Lidia di Vico, Members. On February 28, 2001, the panel circulated its report, in which it rejected most of Japan's claims, but found that, *inter alia*, particular aspects of the antidumping duty calculation, as well as one aspect of the U.S. antidumping duty law, were inconsistent with the WTO Antidumping Agreement. On April 25, 2001, the United States filed a notice of appeal on certain issues in the panel report.

The Appellate Body report was issued on July 24, 2001, reversing in part and affirming in part. The reports were adopted on August 23, 2001. Pursuant to a February 19, 2002 arbitral award, the United States was given 15 months, or until November 23, 2002, to implement the DSB's recommendations and rulings. On November 22, 2002, the U.S. Department of Commerce issued a new final determination in the hot rolled steel antidumping duty investigation, which implemented the recommendations and rulings of the DSB with respect to the calculation of antidumping margins in that investigation. The reasonable period of time ended on July 31, 2005. With respect to the outstanding implementation issue, on July 7, 2005, the United States and Japan agreed that Japan would not request authorization to suspend

concessions at that time and that the United States would not object to a future request on grounds of lack of timeliness.

United States – Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) (DS217/234):

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, South Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 U.S.C. § 754), which amended Title VII of the Tariff Act of 1930 to transfer import duties collected under U.S. antidumping and countervailing duty orders from the U.S. Treasury to the companies that filed the antidumping and countervailing duty petitions. Consultations were held on February 6, 2001. On May 21, 2001, Canada and Mexico also requested consultations on the same matter, which were held on June 29, 2001. On July 12, 2001, the original nine complaining parties requested the establishment of a panel, which was established on August 23, 2001. On September 10, 2001, a panel was established at the request of Canada and Mexico, and all complaints were consolidated into one panel. The panel was composed of: Mr. Luzius Wasescha, Chair; and Mr. Maamoun Abdel-Fattah and Mr. William Falconer, Members.

The panel issued its report on September 2, 2002, finding against the United States on three of the five principal claims brought by the complaining parties. Specifically, the panel found that the CDSOA constitutes a specific action against dumping and subsidies and, therefore, is inconsistent with the WTO Antidumping and SCM Agreements as well as Article VI of the GATT 1994. The panel also found that the CDSOA distorts the standing determination conducted by Commerce and, therefore, is inconsistent with the standing provisions in the Antidumping and SCM Agreements. The United States prevailed against the complainants' claims under the Antidumping and SCM Agreements that the CDSOA distorts Commerce's consideration of price undertakings (agreements to settle antidumping and countervailing duty investigations). The panel also rejected Mexico's actionable subsidy claim brought under the SCM Agreement. Finally, the panel rejected the complainants' claims under Article X:3 of the GATT, Article 15 of the Antidumping Agreement, and Articles 4.10 and 7.9 of the SCM Agreement. The United States appealed the panel's adverse findings on October 1, 2002.

The Appellate Body issued its report on January 16, 2003, upholding the panel's finding that the CDSOA is an impermissible action against dumping and subsidies, but reversing the panel's finding on standing. The DSB adopted the panel and Appellate Body reports on January 27, 2003. At the meeting, the United States stated its intention to implement the DSB recommendations and rulings. On March 14, 2003, the complaining parties requested arbitration to determine a reasonable period of time for U.S. implementation. On June 13, 2003, the arbitrator determined that this period would end on December 27, 2003. On June 19, 2003, legislation to bring the Continued Dumping and Subsidy Offset Act into conformity with U.S. obligations under the Antidumping Agreement, the SCM Agreement, and the GATT of 1994 was introduced in the U.S. Senate (S. 1299).

On January 15, 2004, eight complaining parties (Brazil, Canada, Chile, the EU, India, Japan, South Korea, and Mexico) requested WTO authorization to retaliate. The remaining three complaining parties (Australia, Indonesia, and Thailand) agreed to extend to December 27, 2004 the period of time in which the United States had to comply with the WTO rulings and recommendations in this dispute. On January 23, 2004, the United States objected to the requests from the eight complaining parties to retaliate, thereby referring the matter to arbitration. On August 31, 2004, the Arbitrators issued their awards in each of the eight arbitrations. They determined that each complaining party could retaliate, on a yearly basis, covering the total value of trade not exceeding, in U.S. dollars, the amount resulting from the following equation: amount of disbursements under CDSOA for the most recent year for which data are available relating to antidumping or countervailing duties paid on imports from each party at that time, as published by the U.S. authorities, multiplied by 0.72.

Based on requests from Brazil, the EU, India, Japan, South Korea, Canada, and Mexico, on November 26, 2004, the DSB granted these Members authorization to suspend concessions or other obligations, as provided in DSU Article 22.7 and in the Decisions of the Arbitrators. The DSB granted Chile authorization to suspend concessions or other obligations on December 17, 2004. On December 23, 2004, January 7, 2005 and January 11, 2005, the United States reached agreements with Australia, Thailand, and Indonesia that these three complaining parties would not request authorization to suspend concessions at that time, and that the United States would not object to a future request on grounds of lack of timeliness.

On May 1, 2005, Canada and the European Union began imposing additional duties of 15 percent on a list of products from the United States. On August 18, 2005, Mexico began imposing additional duties ranging from 9 to 30 percent on a list of U.S. products. On September 1, 2005, Japan began imposing additional duties of 15 percent on a list of U.S. products.

On February 8, 2006, U.S. President George W. Bush signed the Deficit Reduction Act into law. That Act included a provision repealing the CDSOA. Certain of the complaining parties nevertheless continued to impose retaliatory measures because they considered that the Deficit Reduction Act failed to bring the United States into immediate compliance. Thus, on May 1, 2006, the EU renewed its retaliatory measure and added eight products to the list of targeted imports. Japan renewed its retaliatory measure on September 1, 2006, retaining the same list of targeted imports. Mexico adopted a new retaliatory measure on September 14, 2006, imposing duties of 110 percent on certain dairy products through October 31, 2006. Since that date, Mexico has taken no further retaliatory measures. Canada did not renew its retaliatory measures once they expired on April 30, 2006.

Since 2007, only the EU and Japan have maintained retaliatory measures against the United States in connection with this dispute. On April 17, 2007, the EU announced that it would renew its retaliatory measure as of May 1, 2007, adding 32 more products to the 2006 list. The EU renewed its retaliatory measure again on April 3, 2008, removing 30 products from the 2007 list. On May 1, 2009, the EU renewed its 15 percent retaliatory measure, but removed 14 tariff headings from its retaliation list. On April 22, 2010, the EU announced that it would add 19 tariff items to the list of products subject to its 15 percent retaliatory measure. On April 8, 2011, the EU notified the WTO that it would remove 30 products from its retaliation list and apply a 15 percent retaliatory duty to a total value of trade that does not exceed $9.96 million. On April 11, 2012, the EU announced it would renew its retaliatory measure, maintaining unchanged the list of products subject to retaliation, but at a reduced rate of 6 percent covering, over one year, a total value of trade not exceeding $3.24 million.

On September 1, 2007, Japan once again renewed its retaliatory duties. On August 22, 2008, Japan announced that it would renew its retaliatory duties, but those duties would cover only ball bearings and tapered roller bearings, in contrast to the list of 15 products covered in the previous year. Effective September 1, 2009, Japan maintained its retaliatory duties on the same 2 products from the United States, but at a reduced rate of 9.6 percent. On August 25, 2010, Japan notified the WTO that it would maintain its retaliatory duties on the same two products but at a reduced rate of 4.1 percent. On August 26, 2011, Japan notified the WTO that it would maintain its retaliatory duties on the same two products, but at a reduced rate of 1.7 percent covering, over one year, a total value of trade that does not exceed $3.62 million. On August 23, 2012, Japan announced it would renew its retaliatory duties on tapered roller bearings at a rate of 4.0 percent covering, over one year, a total value of trade not exceeding $1.4 million.

United States – Subsidies on upland cotton (DS267):

On September 27, 2002, Brazil requested WTO consultations pursuant to Articles 4.1, 7.1, and 30 of the SCM Agreement, Article 19 of the Antidumping Agreement, and Article 4 of the DSU. The Brazilian

consultation request on U.S. support measures that benefit upland cotton claimed that these alleged subsidies and measures are inconsistent with U.S. commitments and obligations under the SCM Agreement, the Agreement on Agriculture, and the GATT 1994. Consultations were held on December 3, 4, and 19, 2002, and January 17, 2003.

On February 6, 2003, Brazil requested the establishment of a panel. Brazil's panel request pertained to "prohibited and actionable subsidies provided to U.S. producers, users and/or exporters of upland cotton, as well as legislation, regulations and statutory instruments and amendments thereto providing such subsidies (including export credit guarantees), grants, and any other assistance to the U.S. producers, users and exporters of upland cotton." The DSB established the panel on March 18, 2003. On May 19, 2003, the Director General appointed as panelists: Mr. Dariusz Rosati, Chair; and Mr. Daniel Moulis and Mr. Mario Matus, Members.

On September 8, 2004, the panel circulated its report to all WTO Members and the public. The panel made some findings in favor of Brazil on certain claims and other findings in favor of the United States:

- The panel found that the "Peace Clause" in the WTO Agreement on Agriculture did not apply to a number of U.S. measures, including: (1) domestic support measures; and (2) export credit guarantees for "unscheduled commodities" and rice (a "scheduled commodity"). Therefore, Brazil could proceed with certain of its challenges.

- The panel found that the GSM 102, GSM 103, and SCGP export credit guarantees for "unscheduled commodities" (such as cotton and soybeans) and for rice are prohibited export subsidies. However, the panel also found that Brazil had not demonstrated that the guarantees for other "scheduled commodities" exceeded U.S. WTO reduction commitments and therefore breached the Peace Clause. Further, Brazil had not demonstrated that the programs threaten to lead to circumvention of U.S. WTO reduction commitments for other "scheduled commodities" and for "unscheduled commodities" not currently receiving guarantees.

- Some U.S. domestic support programs (*i.e.*, marketing loan, countercyclical, market loss assistance, and so called "Step 2 payments,") were found to cause significant suppression of cotton prices in the world market in marketing years 1999-2002, causing serious prejudice to Brazil's interests. However, the panel found that other U.S. domestic support programs (*i.e.*, production flexibility contract payments, direct payments, and crop insurance payments) did not cause serious prejudice to Brazil's interests because Brazil failed to show that these programs caused significant price suppression. The panel also found that Brazil failed to show that any U.S. program caused an increase in U.S. world market share for upland cotton constituting serious prejudice.

- The panel did not reach Brazil's claim that U.S. domestic support programs threatened to cause serious prejudice to Brazil's interests in marketing years 2003-2007. The panel also did not reach Brazil's claim that U.S. domestic support programs *per se* cause serious prejudice in those years.

- The panel also found that Brazil had failed to establish that FSC/ETI tax benefits for cotton exporters were prohibited export subsidies.

- Finally, the panel found that Step 2 payments to exporters of cotton are prohibited export subsidies not protected by the Peace Clause, and Step 2 payments to domestic users are prohibited import substitution subsidies because they were only made for U.S. cotton.

On October 18, 2004, the United States filed a notice of appeal with the Appellate Body; Brazil then cross appealed. The Appellate Body circulated its report on March 3, 2005. The Appellate Body upheld the panel's findings appealed by the United States.

The Appellate Body also rejected or declined to rule on most of Brazil's appeal issues. On March 21, 2005, the DSB adopted the panel and Appellate Body reports, and on April 20, 2005, the United States advised the DSB that it intends to bring its measures into compliance.

On June 30, 2005, the United States announced that it would cease to issue GSM 103 export credit guarantees and that it was instituting a new fee structure for the GSM 102 export credit guarantee program. Further, on July 5, the United States proposed legislation relating to the export credit guarantee and Step 2 programs. On July 5, 2005, Brazil requested authorization to impose countermeasures and suspend concessions in connection with the prohibited export subsidies findings. On July 14, 2005, the United States objected to the request, thereby referring the matter to arbitration. On August 17, 2005, the United States and Brazil agreed to suspend the arbitration. On October 1, 2005, the United States ceased to issue export credit guarantees under the SCGP. On October 6, 2005, Brazil made a separate request for authorization to impose countermeasures and suspend concessions in connection with the "serious prejudice" findings. The United States objected to Brazil's request on October 17, 2005, thereby also referring that matter to arbitration. On November 21, 2005, the United States and Brazil agreed to suspend the arbitration.

On February 8, 2006, the President signed into law the Deficit Reduction Act of 2005. That Act includes a provision repealing the Step 2 program as of August 2006.

On August 18, 2006, Brazil requested the establishment of an Article 21.5 panel. On September 28, 2006, the DSB established a panel to consider Brazil's claims. On October 25, 2006, the Director General composed the panel as follows: Mr. Eduardo Pérez Motta, Chair; and Mr. Mario Matus and Mr. Ho-Young Ahn, Members. On December 18, 2007, the Article 21.5 panel circulated its report. The panel found, *inter alia*, that: (1) U.S. export credit guarantees issued under the modified GSM 102 program with respect to unscheduled and certain scheduled (rice, pig and poultry meat) commodities constituted prohibited export subsidies; and (2) U.S. marketing loan and countercyclical payments for upland cotton were continuing to cause serious prejudice to Brazil by significantly suppressing world upland cotton prices. The panel rejected Brazil's claim that payments under the marketing loan and countercyclical payment programs were responsible for an increase in U.S. market share in market year 2005 and thereby caused serious prejudice to Brazil's interests. The panel also found that the United States was not required to have refused to perform on export credit guarantees that were issued prior to the deadline for the implementation of the DSB's recommendations and rulings as to such guarantees (July 1, 2005) and that were still outstanding as of that date.

The United States appealed the compliance panel's adverse findings on February 12, 2008. Brazil filed its notice of other appeal on February 25, 2008.

The Appellate Body issued its report on June 2, 2008, in which it:

- upheld the compliance panel's finding that U.S. marketing loan and countercyclical payments cause significant price suppression in the market for upland cotton, thereby constituting present serious prejudice to Brazil;

- while agreeing with the United States that the compliance panel erred in dismissing U.S. Government budgetary data showing that U.S. export credit guarantee programs operate at a profit, nonetheless upheld the compliance panel's ultimate finding that GSM 102 export credit

guarantees with respect to unscheduled products and certain scheduled products (rice, pig meat, and poultry meat) were prohibited export subsidies; and

- upheld the compliance panel's finding that Brazil's claims as to marketing loan and countercyclical payments made after September 21, 2005, and Brazil's claims as to GSM 102 guarantees for exports of pig meat and poultry meat, were within the scope of the compliance proceeding.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body report, on June 20, 2008.

Brazil requested resumption of the arbitration process on August 25, 2008. On October 1, 2008, the United States and Brazil agreed that the arbitration would be carried out by the following individuals: Mr. Eduardo Pérez-Motta, Chair; and Mr. Alan Matthews and Mr. Daniel Moulis, Members. The meetings with the Arbitrators were held March 2-4, 2009.

The Arbitrators issued their awards on August 31, 2009. They issued one award concerning U.S. subsidies found to cause serious prejudice to Brazil's interests (marketing loan and countercyclical payments for cotton) and another award concerning U.S. subsidies found to be prohibited export subsidies (export credit guarantees under the GSM 102 program for a range of agricultural products, plus the repealed "Step 2" program for cotton).

The Arbitrators found that Brazil may impose countermeasures against U.S. trade:

1) for marketing loan and countercyclical payments for cotton, in an annual fixed amount of $147.3 million; and

2) for export credit guarantees under the GSM 102 program, in an annual amount that may change each year based on a formula.

The Arbitrators rejected Brazil's request for countermeasures for the Step 2 program.

The Arbitrators also found that, in the event that the total level of countermeasures that Brazil would be entitled to in a given year should increase to a level that would exceed a threshold based on a subset of Brazil's consumer goods imports from the United States, then Brazil would also be entitled to suspend certain obligations under the TRIPS Agreement and/or the GATS with respect to any amount of permissible countermeasures applied in excess of that figure.

On November 19, 2009, the WTO DSB granted Brazil authorization to suspend the application to the United States of concessions or other obligations consistent with the Arbitrators' awards.

On April 6, 2010, the United States and Brazil reached agreement on certain steps to help make progress in the dispute. Pursuant to this agreement, on April 20, 2010, the United States and Brazil signed a Memorandum of Understanding (MOU) establishing a fund of approximately $147.3 million per year on a *pro rata* basis to provide technical assistance and capacity building. The fund is scheduled to continue until the next Farm Bill or a mutually agreed solution to the Cotton dispute is reached. The MOU also provides that the United States may end the fund if Brazil imposes countermeasures.

With the conclusion of the MOU, Brazil announced that countermeasures would not be imposed for at least 60 days from signature of the MOU. During this period, the United States and Brazil negotiated a framework regarding the Cotton dispute. On June 17, 2010, Brazil approved the framework that the

governments had negotiated, and on June 21, it announced that it would not impose countermeasures as long as the framework remained in effect. The framework includes elements on cotton support, the GSM-102 program, and further discussion between the United States and Brazil.

Brazil and the United States met for the first discussions under the framework on October 20, 2010. They held discussions under the framework four times in both 2011 and 2012. During the meetings, the United States and Brazil discussed issues identified in the June 2010 Framework as part of the ongoing bilateral work program, including the GSM-102 export credit guarantee program and domestic support programs for upland cotton. They also discussed the technical assistance and capacity building fund the parties established in the Memorandum of Understanding in April 2010.

United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services (DS285):

On March 13, 2003, Antigua and Barbuda ("Antigua") requested consultations regarding its claim that U.S. Federal, State, and territorial laws on gambling violate U.S. specific commitments under the GATS, as well as Articles VI, XI, XVI, and XVII of the GATS, to the extent that such laws prevent or can prevent operators from Antigua from lawfully offering gambling and betting services in the United States. Consultations were held on April 30, 2003.

Antigua requested the establishment of a panel on June 12, 2003. The DSB established a panel on July 21, 2003. At the request of Antigua, the WTO Director General composed the panel on August 25, 2003, as follows: Mr. B. K. Zutshi, Chair; and Mr. Virachai Plasai and Mr. Richard Plender, Members. The panel's final report, circulated on November 10, 2004, found that the United States breached Article XVI (Market Access) of the GATS by maintaining three U.S. Federal laws (18 U.S.C. §§ 1084, 1952, and 1955) and certain statutes of Louisiana, Massachusetts, South Dakota, and Utah. It also found that these measures were not justified under exceptions in Article XIV of the GATS.

The United States filed a notice of appeal on January 7, 2005. The Appellate Body issued its report on April 7, 2005, in which it reversed and/or modified several panel findings. The Appellate Body overturned the panel's findings regarding the state statutes, and found that the three U.S. Federal gambling laws at issue "fall within the scope of 'public morals' and/or 'public order'" under Article XIV. To meet the requirements of the Article XIV chapeau, the Appellate Body found that the United States needed to clarify an issue concerning Internet gambling on horse racing.

The DSB adopted the panel and Appellate Body reports on April 20, 2005. On May 19, 2005, the United States stated its intention to implement the DSB recommendations and rulings. On August 19, 2005, an Article 21.3(c) arbitrator determined that the reasonable period of time for implementation would expire on April 3, 2006.

At the DSB meeting of April 21, 2006, the United States informed the DSB that the United States was in compliance with the recommendations and rulings of the DSB in the dispute. On June 8, 2006, Antigua requested consultations with the United States regarding U.S. compliance with the DSB recommendations and rulings. The parties held consultations on June 26, 2006. On July 5, 2006, Antigua requested the DSB to establish a panel pursuant to Article 21.5 of the DSU, and a panel was established on July 19, 2006. The chair of the original panel and one of the panelists were unavailable to serve. The parties agreed on their replacements, and the panel was composed as follows: Mr. Lars Anell, Chair; and Mr. Mathias Francke and Mr. Virachai Plasai, Members. The report of the Article 21.5 panel, which was circulated on March 30, 2007, found that the United States had not complied with the recommendations and rulings of the DSB in this dispute.

On May 4, 2007, the United States initiated the procedure provided for under Article XXI of the GATS to modify the schedule of U.S. commitments so as to reflect the original U.S. intent of excluding gambling and betting services.

The DSB adopted the report of the Article 21.5 panel on May 22, 2007. On June 21, 2007, Antigua submitted a request, pursuant to Article 22.2 of the DSU, for authorization from the DSB to suspend the application to the United States of concessions and related obligations of Antigua under the GATS and the TRIPS. On July 23, 2007, the United States referred this matter to arbitration under Article 22.6 of the DSU. The arbitration was carried out by the three panelists who served on the Article 21.5 panel.

On December 21, 2007, the Article 22.6 arbitration award was circulated. The arbitrator concluded that Antigua's annual level of nullification or impairment of benefits is $21 million, and that Antigua may request authorization from the DSB to suspend its obligations under the TRIPS Agreement in this amount.

During 2007 and early 2008, the United States reached agreement with every WTO Member, aside from Antigua, that had pursued a claim of interest in the GATS Article XXI process of modifying the U.S. schedule of GATS commitments so as to exclude gambling and betting services. Antigua and the United States have continued in their efforts to achieve a mutually agreeable resolution to this matter.

United States – Laws, regulations and methodology for calculating dumping margins ("zeroing") (DS294):

On June 12, 2003, the EU requested consultations regarding the use of "zeroing" in the calculation of dumping margins. Consultations were held July 17, 2003. The EU requested further consultations on September 8, 2003. Consultations were held October 6, 2003. The EU requested the establishment of a panel on February 5, 2004, and the DSB established a panel on March 19, 2004. On October 27, 2004, the panel was composed as follows: Mr. Crawford Falconer, Chair; and Mr. Hans-Friedrich Beseler and Mr. William Davey, Members. The panel issued its report on October 31, 2005, finding that Commerce's use of "zeroing" in antidumping investigations is inconsistent with U.S. obligations under the WTO, but rejecting the EU's claims that zeroing in other phases of antidumping proceedings is also inconsistent. On January 17, 2006, the EU appealed the panel report. The Appellate Body issued its report on April 18, 2006. In its report, the Appellate Body upheld the panel's finding that the U.S. "methodology" of zeroing in average-to-average comparisons in investigations is subject to challenge "as such," and that such methodology is inconsistent with the Antidumping Agreement. The Appellate Body also reversed the panel and found that the U.S. use of zeroing in certain assessment proceedings was also inconsistent with the Antidumping Agreement. The reasonable period of time for the United States to bring its measures into compliance expired on April 9, 2007.

On July 9, 2007, the EU requested consultations with the United States concerning its compliance with the recommendations and rulings of the DSB. The EU and the United States held consultations on July 30, 2007. On September 13, 2007, the EU requested the establishment of a compliance panel, and on September 25, 2007, the panel was established. The following individuals were named by the Director General to serve as the panelists: Mr. Felipe Jaramillo, Chair; and Ms. Usha Dwarka-Canabady and Mr. Scott Gallacher, Members. Pursuant to a request by the parties, the panel agreed to open its meeting with the parties to public observation.

The panel circulated its report on December 17, 2008. The panel found that the use of zeroing in two administrative reviews involving the orders related to measures in the original dispute amounted to a failure to comply with the DSB rulings and recommendations if the reviews were concluded after the end of the reasonable period of time, even if the reviews involved entries that occurred before the end of the

reasonable period of time. The panel also found that the Section 129 determinations related to four original investigations in the original dispute violated Article 3 of the Antidumping Agreement because the U.S. International Trade Commission did not revisit its original injury determinations to account for the reduced volumes of dumped imports resulting from the exclusion of certain exporters from the orders as a result of the Section 129 determinations. Finally, the panel found that the continued application of the cash deposit rate from one of the administrative reviews in the original dispute to one company that had not requested a new administrative review amounted to a failure to comply with the DSB rulings and recommendations. However, the panel rejected the EU claims that the liquidation of entries at rates determined using zeroing before the end of the reasonable period of time amounts to a failure to comply, even if such liquidation occurs after the end of the reasonable period of time. With respect to an alleged clerical error, the panel also found that the EU was prevented from raising a claim in a compliance proceeding because it could have done so in the original dispute and did not. The panel rejected or declined to make findings with respect to the EU's other claims.

On February 13, 2009, the EU filed a notice of appeal. The United States filed a notice of other appeal on February 25, 2009. The Appellate Body granted a request by the parties to open its hearing to the public, and the public was able to observe the hearing, which was held on March 23-24, 2009, via a simultaneous closed circuit television broadcast.

The Appellate Body issued its report on May 14, 2009. The Appellate Body affirmed the panel's findings with respect to three administrative reviews and found two additional administrative reviews, as well as several sunset reviews that relied on margins calculated in proceedings found WTO inconsistent in the original dispute, to constitute failures to comply. The Appellate Body also indicated that, as a general matter, any use of zeroing in any proceeding completed after the end of the reasonable period of time, or in calculating any cash deposit applied after the end of the reasonable period of time, with respect to any of the antidumping orders for which an "as applied" finding was made in the original dispute, would constitute a failure to comply with the DSB recommendations and rulings. With respect to the alleged clerical error, the Appellate Body reversed, concluding that the relevance of the alleged clerical error to the Section 129 determination was factual rather than jurisdictional, but it did not complete the analysis. The Appellate Body also rejected a number of the EU's claims on appeal.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body report, on June 11, 2009.

In addition to the three orders covered by the original panel and Appellate Body findings that had been revoked by 2007, four additional orders were revoked due to sunset reviews, effective prior to the end of the reasonable period of time.

On January 29, 2010, the EU filed its request for authorization from the DSB to suspend the application of concessions or other obligations under the covered agreements pursuant to Article 22.2 of the DSU. On February 12, 2010, the United States filed its objection to the level of suspension of concessions or other obligations proposed by the European Union. The U.S. objection also claimed that the EU's proposal does not follow the principles and procedures set forth in the DSU. The U.S. objection automatically resulted in the matter being referred to this arbitration. The Arbitrator met with the Parties on May 20-21, 2010. This meeting was open to observation by all Members and the public. The Parties filed their last submission on July 20, 2010.

On September 7, 2010, the United States and European Union jointly requested the suspension of the arbitration. On September 8, 2010, the Arbitrator granted the joint request to suspend its work for a period limited to "12 months less 1 day." Prior to the resumption of the Arbitrator's work, the parties jointly requested on three occasions – September 7, 2011, January 13, 2012, and February 6, 2012 – that

the Arbitrator continue to suspend its work. On the basis of these requests, the Arbitrator decided to continue the suspension of its work until June 28, 2012

Commerce proposed a revision to its methodology for the calculation of weighted-average dumping margins and antidumping duty assessment rates in certain proceedings was published in the *Federal Register* on December 28, 2010. The proposal was made pursuant to Section 123 of the Uruguay Round Agreement Act (URAA), which requires that USTR and Commerce request and receive comments from interested parties and the U.S. Congress before any final action is implemented. In September 2011, USTR submitted a report to the House Ways and Means and Senate Finance Committees describing the proposed modification, the reasons for the modification, and a summary of the advice USTR had sought and obtained from relevant private sector advisory committees.

On February 6, 2012, the European Union and the United States informed the DSB of a Memorandum reached between them addressing the dispute. As a part of that resolution, the U.S. Department of Commerce published in the Federal Register its final modification to its methodology on February 14, 2012. On June 22, 2012, the United States and European Union jointly informed the Arbitrator that the EU had withdrawn its request for DSB authorization to suspend concessions under the covered agreements, and that the United States had withdrawn its objections to that request. On June 28, 2012, the Arbitrator concluded its work without issuing a report.

United States – Subsidies on large civil aircraft (DS317):

On October 6, 2004, the EU requested consultations with respect to "prohibited and actionable subsidies provided to U.S. producers of large civil aircraft." The EU alleged that such subsidies violated several provisions of the SCM Agreement, as well as Article III:4 of the GATT. Consultations were held on November 5, 2004. On January 11, 2005, the United States and the European Union agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three month timeframe for the negotiations and agreed that, during negotiations, they would not request panel proceedings. These discussions did not produce an agreement. On May 31, 2005, the EU requested the establishment of a panel to consider its claims. The EU filed a second request for consultations regarding large civil aircraft subsidies on June 27, 2005. This request covered many of the measures covered in the initial consultations, as well as many additional measures that were not covered.

A panel was established with regard to the October claims on July 20, 2005. On October 17, 2005, the Deputy Director General established the panel as follows: Ms. Marta Lucía Ramírez de Rincón, Chair; and Ms. Gloria Peña and Mr. David Unterhalter, Members. Since that time, Ms. Ramirez and Mr. Unterhalter have resigned from the panel. They have not been replaced.

The EU requested establishment of a panel with regard to its second panel request on January 20, 2006. That panel was established on February 17, 2006. On December 8, 2006, the WTO issued notices changing the designation of this panel to DS353. The summary below of *United States – Subsidies on large civil aircraft (Second Complaint) (DS353)* discusses developments with regard to this panel.

United States – Measures relating to zeroing and sunset reviews (DS322):

On November 24, 2004, Japan requested consultations with respect to: (1) Commerce's alleged practice of "zeroing" in antidumping investigations, administrative reviews, sunset reviews, and in assessing the final antidumping duty liability on entries upon liquidation; (2) in sunset reviews of antidumping duty orders, Commerce's alleged irrefutable presumption of the likelihood of continuation or recurrence of dumping in certain factual situations; and (3) in sunset reviews, the waiver provisions of U.S. law. Japan claims that these alleged measures breach various provisions of the Antidumping Agreement and Article

VI of the GATT 1994. Consultations were held on December 20, 2004. Japan requested the establishment of a panel on February 4, 2005, and a panel was established on February 28, 2005. On April 15, 2005, the Director General composed the panel as follows: Mr. David Unterhalter, Chair; and Mr. Simon Farbenbloom and Mr. Jose Antonio Buencamino, Members.

The panel report was circulated on September 20, 2006. The panel found that there was one measure, "zeroing," that was applicable in all types of comparisons and all proceedings. The panel agreed with prior reports that zeroing in average-to-average comparisons in investigations is inconsistent with the Antidumping Agreement. However, the panel also found that zeroing in transaction-to-transaction comparisons is not inconsistent with the Antidumping Agreement, and expressly rejecting the Appellate Body's reasoning in *US – Zeroing (EC)*, also found that zeroing in assessment proceedings is not inconsistent with the Antidumping Agreement. Japan appealed the panel report. The United States filed a cross appeal.

In a report circulated January 9, 2007, the Appellate Body upheld the panel's findings that the United States maintains a single "zeroing procedures" measure applicable to investigations and administrative reviews. The Appellate Body reversed the panel's findings regarding zeroing in transaction-to-transaction comparisons in investigations, and it also reversed the panel's findings concerning zeroing in assessment proceedings. The DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body, on January 23, 2007. On February 20, 2007, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. On May 4, 2007, the United States and Japan informed the DSB that they had agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on December 24, 2007.

On January 10, 2008, Japan requested DSB authorization to suspend concessions on the grounds that the United States had failed to implement the DSB's recommendations and rulings, and on January 18, 2008, the United States objected to the level of suspension and accordingly requested that the matter be referred to arbitration. On March 10, 2008, the United States and Japan informed the DSB that they had reached a sequencing agreement to suspend arbitration pending the completion of compliance proceedings. Pursuant to a joint request from the United States and Japan, the arbitration under Article 22.6 of the DSU was suspended on June 9, 2008.

On April 7, 2008, Japan requested the establishment of an Article 21.5 panel, which the DSB established at its meeting on April 18, 2008. On May 23, 2008, the parties agreed to the constitution of the compliance panel as follows: Mr. José Antonio Buencamino, Chair; and Mr. Simon Farbenbloom and Mr. Raúl León-Thorne, Members. The compliance panel agreed to open its meeting with the parties, as well as a portion of the meeting with the third parties, to observation by the public via closed circuit television broadcast, and the open meeting was held on November 4-5, 2008.

On April 24, 2009, the panel circulated its final report. The panel found that the United States failed to comply with the WTO's rulings because it liquidated, or would liquidate, after the deadline for compliance, antidumping duties with respect to five specific administrative reviews that used zeroing. The panel also found that the United States acted inconsistently with the Antidumping Agreement and the GATT 1994 by maintaining antidumping duties after the deadline with respect to four additional administrative reviews that were not part of the original WTO proceeding, and that the United States acted in violation of GATT Article II with respect to the collection of duties in excess of bound rates that occurred after the expiration of the reasonable period of time. The panel also found that the United States had failed to comply with the DSB's recommendations and rulings with respect to the use of "zeroing procedures" and the application of zeroing in one sunset review. Lastly, the panel found that Japan was

permitted to challenge the final results of an administrative review which were not in existence at the time of Japan's panel request.

On May 20, 2009, the United States filed a notice of appeal. The Appellate Body granted a request by the parties to open its hearing to the public, and the public was able to observe the hearing, which was held on June 29-30, 2009, via a simultaneous closed circuit television broadcast.

On August 18, 2009, the Appellate Body issued its report. The Appellate Body upheld the compliance panel on all issues that were appealed. Specifically, the Appellate Body affirmed the panel's findings that the United States failed to comply with respect to five administrative reviews. The Appellate Body also upheld the panel's finding of inconsistency with respect to four additional reviews that were not part of the original proceeding. Lastly, the Appellate Body affirmed the panel's finding that Japan could challenge the final results of an administrative review which were not in existence at the time of Japan's panel request, as well as the panel's finding that the United States had acted inconsistently with GATT Article II.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body report, on August 31, 2009.

On April 23, 2010, Japan filed its request to resume the arbitration under Article 22.6 of the DSU. In response to a joint request of the United States and Japan, on December 13, 2010, the Arbitrator issued a communication stating that it had decided to suspend its work. Since then, the parties have jointly requested four further extensions of the suspension of the Arbitrator's work. Pursuant to these requests by the parties, the Arbitrator agreed to continue the suspension of its work until August 21, 2012.

Commerce proposed a revision to its methodology for the calculation of weighted-average dumping margins and antidumping duty assessment rates in certain proceedings was published in the *Federal Register* on December 28, 2010. The proposal was made pursuant to Section 123 of the Uruguay Round Agreement Act (URAA), which requires that USTR and Commerce request and receive comments from interested parties and the U.S. Congress before any final action is implemented. In September 2011, USTR submitted a report to the House Ways and Means and Senate Finance Committees describing the proposed modification, the reasons for the modification, and a summary of the advice USTR had sought and obtained from relevant private sector advisory committees.

On February 6, 2012, the United States and Japan informed the DSB of a Memorandum reached between them addressing the dispute. As a part of that resolution, the U.S. Department of Commerce published in the Federal Register its final modification to its methodology on February 14, 2012. On August 3, 2012, the United States and Japan jointly informed the Arbitrator that Japan had withdrawn its request for DSB authorization to suspend concessions under the covered agreements, and that the United States had withdrawn its objections to that request. On August 14, 2012, the Arbitrator concluded its work without issuing a report.

United States – Final Antidumping Measures on Stainless Steel from Mexico (DS344):

On May 26, 2006, Mexico requested consultations with respect to Commerce's alleged use of "zeroing" in an antidumping investigation and three administrative reviews involving certain stainless steel products from Mexico. Mexico claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994, and the WTO Agreement. Consultations were held on June 15, 2006. On October 12, 2006, Mexico filed a request for the establishment of a panel and a panel was established on October 26, 2006. On December 20, 2006, the Director General composed the panel as follows: Mr. Albert Dumont, Chair; and Mr. Bruce Cullen and Ms. Leora Blumberg, Members.

On December 20, 2007, the panel circulated its report. The panel found that the use by the United States of "model zeroing" in investigations, including in the particular investigation at issue in this dispute, was inconsistent with U.S. obligations under the Antidumping Agreement. The panel also found, however, that the use by the United States of "simple zeroing" in administrative reviews (including in the administrative reviews at issue in this dispute) was not inconsistent with U.S. obligations under the Antidumping Agreement.

On January 31, 2008 Mexico appealed the panel report with respect to the "as such" and "as applied" claims related to zeroing in administrative review. The Appellate Body issued its report on April 30, 2008. The Appellate Body reversed the panel's findings with respect to administrative reviews, finding that zeroing in administrative reviews is "as such" and "as applied" to the subject administrative reviews, inconsistent with Article VI:2 of the GATT 1994 and Article 9.3 of the Antidumping Agreement.

The DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report, on May 20, 2008. At the DSB meeting held on June 2, 2008, the United States notified its intention to comply with its WTO obligations and indicated it would need a reasonable period of time to do so.

On August 11, 2008, Mexico requested that the reasonable period of time be determined through arbitration pursuant to Article 21.3(c) of the DSU. On August 29, 2008, the Director General appointed Mr. Florentino P. Feliciano as the arbitrator. On October 31, 2008, the arbitrator issued his award, in which he decided that the reasonable period of time would be 11 months and 10 days, ending on April 30, 2009.

On May 18, 2009, the United States and Mexico entered into a sequencing agreement regarding any further proceedings in this dispute. On September 2, 2009, the United States held consultations with Mexico with respect to U.S. compliance with the recommendations and rulings of the DSB in this dispute. On September 7, 2010, Mexico requested the establishment of a compliance panel, and a panel was established on September 21, 2010. On May 13, 2011, the panel was composed by agreement of the parties as follows: Mr. Alberto Juan Dumont, Chair; and Mr. Greg Weppner and Ms. Leora Blumberg, Members.

Mexico submitted its first and second written submissions on July 1, 2011 and August 12, 2011, respectively, and the United States submitted its first and second written submission on July 22, 2011 and September 2, 2011, respectively. The Panel met with the Parties on October 4-5, 2011, and with the third parties on October 4, 2011. The proceeding is currently suspended based on a request from Mexico (and supported by the United States).

United States – Continued Existence and Application of Zeroing Methodology (Zeroing II) (DS350):

On October 2, 2006, the EU requested consultations with respect to the U.S. Department of Commerce's (Commerce) alleged use of "zeroing" in 4 antidumping investigations, 35 administrative reviews, and 1 sunset review involving certain products from the EU, as well as Commerce's alleged use of a "zeroing" methodology in determining the dumping margin in reviews. The EU claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994, and the WTO Agreement. Consultations were held on November 14, 2006 and February 28, 2007. On May 10, 2007, the European Communities requested the establishment of a panel. At its meeting on June 4, 2007, the DSB established a panel. On July 6, 2007, the Director General composed the panel as follows: Mr. Faizullah Khilji, Chair; and Ms. Lilia R. Bautista and Mr. Michael Mulgrew, Members. Following the resignation on November 8, 2007 of Ms. Lilia R. Bautista as a Member of the panel, the United States and the European Union agreed, on November 27, 2007, that Ms. Andrea Marie Brown would replace her.

The panel met with the parties on January 29-30, 2008 and on April 22, 2008, and met with the parties and third parties on 30 January 2008. Pursuant to the parties' request, the meetings with the parties, as well as a portion of the third party session, were open for public observation.

The panel circulated its final report on October 1, 2008. The panel agreed with the United States that the European Union had improperly tried to challenge the continued application, or application, of antidumping duties in 18 cases; in addition, the panel agreed that the European Union had improperly tried to challenge four measures that were not final at the time of panel establishment. The panel, however, disagreed with the United States that 14 measures included in the EU's panel request, but not its consultations request, were outside the panel's terms of reference. The panel also found that the EU had not proved the use of zeroing in seven of 37 administrative reviews, and excluded those reviews from its findings. In addition, although the panel said it tended to agree with the United States and prior panel reports finding zeroing permissible in administrative reviews and that it found that the U.S. interpretation was "permissible," the panel nevertheless concluded that the United States acted inconsistently with the Antidumping Agreement and the GATT 1994 by using zeroing in 29 administrative reviews, eight sunset reviews, and 4 original investigations. In doing so, the panel said it felt constrained to follow prior Appellate Body reasoning, even though it expressed doubts about that reasoning.

On November 6, 2008, the EU filed a notice of appeal. The United States filed a notice of other appeal on November 18, 2008. The Appellate Body granted a request by the parties to open its hearing to the public, and the public was able to observe the hearing, which was held on December 11-12, 2008, via a simultaneous closed circuit television broadcast.

The Appellate Body issued its report on February 4, 2009. The Appellate Body affirmed the panel's finding that the use of zeroing in 29 administrative reviews was inconsistent with the Antidumping Agreement and the GATT 1994. The Appellate Body disagreed with the panel that the interpretation of the Antidumping Agreement advanced by the United States was a permissible one. Moreover, the Appellate Body affirmed the panel's finding that the 8 sunset reviews at issue were WTO inconsistent and also upheld the panel's ruling that 14 measures included in the EU's panel request, but not its consultations request, were properly within the panel's terms of reference. The Appellate Body reversed the panel's finding that the EU improperly challenged the application or continued application of antidumping duties in 18 broadly defined cases. However, the Appellate Body was only able to complete the analysis as to the continued application of duties in 4 of the 18 cases. The Appellate Body reversed the panel's finding that the EU had improperly challenged four preliminary determinations which were not final at the time of panel establishment. Nevertheless, the Appellate Body declined the EU's request to complete the analysis on these determinations and made no findings of inconsistency concerning them. Finally, the Appellate Body reversed the panel's finding that the EU had not proved the use of zeroing in seven of 37 administrative reviews. However, the Appellate Body declined to complete the analysis as to two of those seven reviews, and there are no findings concerning them. For five of the reviews, the Appellate Body found that the United States had acted inconsistently with the Antidumping Agreement and GATT 1994.

On February 19, 2009, the DSB adopted the recommendations and rulings in this dispute. At the following DSB meeting, on March 20, 2009, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and the EU agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on December 19, 2009.

Commerce proposed a revision to its methodology for the calculation of weighted-average dumping margins and antidumping duty assessment rates in certain proceedings was published in the *Federal Register* on December 28, 2010. The proposal was made pursuant to Section 123 of the Uruguay Round

Agreement Act (URAA), which requires that USTR and Commerce request and receive comments from interested parties and the U.S. Congress before any final action is implemented. In September 2011, USTR submitted a report to the House Ways and Means and Senate Finance Committees describing the proposed modification, the reasons for the modification, and a summary of the advice USTR had sought and obtained from relevant private sector advisory committees.

On February 6, 2012, the European Union and the United States informed the DSB of a Memorandum reached between them addressing the dispute. As a part of that resolution, the U.S. Department of Commerce published in the Federal Register its final modification to its methodology on February 14, 2012.

United States – Subsidies on large civil aircraft (Second Complaint) (DS353):

On June 27, 2005, the European Union filed a second request for consultations regarding large civil aircraft subsidies allegedly applied by the United States. The section above on *United States – Subsidies on Large Civil Aircraft (DS317)* discusses developments with regard to the dispute arising from the initial request for consultations. The June 2005 request covered many of the measures covered in the initial consultations, as well as many additional measures that were not covered. The EU requested establishment of a panel with regard to its second panel request on January 20, 2006. That panel was established on February 17, 2006. On November 22, 2006, the Deputy Director General composed the panel as follows: Mr. Crawford Falconer, Chair; and Mr. Francisco Orrego Vicuña and Mr. Virachai Plasai, Members.

The panel granted the parties' request to open the substantive meetings with the parties to the public via a screening of a videotape of the public session. The sessions of the panel meeting that involve business confidential information and the panel's meeting with third parties were closed to the public.

On March 31, 2011, the panel circulated its report with the following findings:

Findings against the EU

- Most of the NASA research spending challenged by the EU did not go to Boeing.
- Most of the U.S. Department of Defense research payments to Boeing were not subsidies or did not cause adverse effects to Airbus.
- Treatment of patent rights under U.S. Government contracts is not a subsidy specific to the aircraft industry.
- Treatment of certain overhead expenses in U.S. Government contracts is not a subsidy.
- Washington State infrastructure and plant location incentives were not a subsidy or did not cause adverse effects.
- U.S. Department of Commerce research programs were not a subsidy specific to the aircraft industry.
- The U.S. Department of Labor payments to Edmonds Community College in Snohomish County, Washington, were not specific subsidies.
- Kansas and Illinois tax programs were not subsidies or did not cause adverse effects.
- The Foreign Sales Corporation/Extraterritorial Income tax measures were a WTO inconsistent subsidy, but as the United States removed the subsidy in 2006, there was no need for any further recommendation.

Findings against the United States

- NASA research programs conferred a subsidy to Boeing of $2.6 billion that caused adverse effects to Airbus.

- Tax programs and other incentives offered by the State of Washington and some of its municipalities conferred a subsidy of $16 million that caused adverse effects to Airbus.
- Certain types of research projects funded under the U.S. Department of Defense's Manufacturing Technology and Dual Use Science and Technology programs were a subsidy to Boeing of approximately $112 million that caused adverse effects to Airbus.

On April 1, 2011, the EU filed a notice of appeal on certain findings, and on April 28, 2011, the United States filed a notice of other appeal. The Appellate Body held hearings on August 16-19, 2011, and October 11-14, 2011. On March 12, 2012, the Appellate Body circulated its report with the following findings:

- The panel erred in its analysis of whether NASA and DoD research funding was a subsidy. However, the Appellate Body affirmed the panel's subsidy finding with regard to NASA research funding and DoD research funding through assistance instruments on other grounds. The Appellate Body declared the panel's findings with regard to DoD procurement contracts moot, but made no further findings.
- The panel correctly found that NASA and DoD rules regarding the allocation of patent rights were not, on their face, specific subsidies. The Appellate Body found that panel should have addressed the EU allegations of de facto specificity, but was unable to complete the panel's analysis of this issue.
- The panel correctly found that Washington state tax measures and industrial revenue bonds issued by the city of Wichita were subsidies.
- The panel erred in concluding that the WTO Dispute Settlement Body was not obligated to initiate information-gathering procedures requested by the EU, but this error did not require any modification in the panel's ultimate findings.
- The panel correctly concluded that NASA research funding and DoD funding of research through assistance instruments caused adverse effects to Airbus.
- The panel erred in analyzing the effects of the Wichita industrial revenue bonds separately from other tax measures. The Appellate Body grouped the Wichita measure with the other tax benefits.
- The panel erred in concluding that Washington state tax benefits, in tandem with FSC/ETI tax benefits, caused lost sales, lost market share, and price depression of the Airbus A320 and A340 product lines. The Appellate Body found that the evidence before it justified a finding of lost sales only in two instances, involving 50 A320 airplanes.

On March 23, 2012, the DSB adopted its recommendations and rulings in this dispute. At the following DSB meeting, on April 13, 2012, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. On September 23, 2012, the United States notified the DSB that it has brought the challenged measures into compliance with the recommendations and rulings of the DSB.

On September 25, 2012, the EU requested consultations regarding the U.S. notification. The United States and the EU held consultations on October 10, 2012. On October 11, 2012, the EU requested that the DSB refer the matter to the original panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on October 23, 2012. On October 30, 2012, the compliance panel was composed with the members of the original panel: Mr. Crawford Falconer, Chair; and Mr. Francisco Orrego Vicuña and Mr. Virachai Plasai, Members.

On September 27, 2012, the EU requested authorization from the DSB to impose countermeasures. On October 22, 2012, the United States objected to the level of suspension of concessions requested by the

EU, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On November 27, 2012, the United States and the EU each requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

United States – Definitive Antidumping and Countervailing Duties on Certain Products from China (China) (WT/DS379):

On September 19, 2008, the United States received from China a request for consultations pertaining to definitive antidumping and countervailing duties imposed by the United States pursuant to final antidumping and countervailing duty determinations and orders issued by the Commerce in investigations on circular welded carbon quality steel pipe, certain pneumatic off-the-road tires, light-walled rectangular pipe and tube, and laminated woven sacks. China claimed that these measures were inconsistent with U.S. commitments and obligations under the GATT 1994, the SCM Agreement, the Antidumping Agreement, and China's Protocol of Accession.

The United States and China held consultations on November 14, 2008. On December 9, 2008, China requested that the DSB establish a panel. The DSB did so at its meeting on January 20, 2009. On March 4, 2009, the Director General composed the panel as follows: Mr. David Walker, Chair; and Ms. Andrea Marie Brown and Mr. Thinus Jacobsz, Members. The panel held meetings with the parties on July 7-8 and November 11-12, 2009, and met with the parties and third parties on July 7, 2009.

The panel circulated its report on October 22, 2010. The panel found in favor of the United States in several respects, including that the concurrent application of antidumping duties calculated using a nonmarket economy (NME) methodology and countervailing duties to imports from China resulting from the investigations at issue was not inconsistent with the WTO obligations of the United States. The panel also made several other findings related to claims China advanced against countervailing duty determinations made by Commerce, including that Chinese state owned enterprises (SOEs) and state owned commercial banks (SOCBs) can be "public bodies" capable of providing financial contributions, that the United States did not act inconsistently with its WTO obligations by finding that the SOEs and SOCBs in question were "public bodies" in the investigations under review, and that Commerce correctly determined to use external benchmarks, rather than private prices in China, to measure the benefit of goods, loans, and land use rights provided by the government. On the other hand, it found that: Commerce's calculation of the benefit of government provided rubber and preferential lending was not consistent with U.S. WTO obligations, that, with respect to loans, Commerce's use of an annual average lending rate as a benchmark was impermissible, and on specificity, that the evidence on the record of the investigation did not support Commerce's determination that the government provision of land use rights was specific to companies within a particular industrial zone. Finally, the panel found that Commerce did not properly rely on facts available when making its subsidy determinations in two investigations. Consequently, the panel recommended that the United States bring the measures into conformity with the WTO agreements.

On December 1, 2010, China filed a notice of appeal of certain of the panel's findings. China contended that: (1) the panel erred in its interpretation and application of the term "public body" in Article 1 of the SCM Agreement; (2) the panel erred in its interpretation and application of Article 2 of the SCM Agreement regarding Commerce's specificity determinations; (3) the panel erred in its interpretation and application of Article 14(d) of the SCM Agreement and its finding that Commerce's determination to reject in country private prices as benchmarks for measuring the benefit of government provided hot rolled steel was not inconsistent with that provision was erroneous; (4) the panel erred in its interpretation and application of Article 14(b) of the SCM Agreement and its finding that the benchmark Commerce used to measure the benefit of government provided loans was not inconsistent with that provision was erroneous; and (5) the panel erred in concluding that the concurrent application to imports from China of

countervailing duties and antidumping duties calculated using an NME methodology was not inconsistent with the WTO obligations of the United States. The Appellate Body conducted an oral hearing on these issues on January 13-14, 2011.

The Appellate Body circulated its report on March 11, 2011. The Appellate Body reversed the panel's finding with respect to the concurrent application of antidumping duties calculated using a NME methodology and countervailing duties to imports from China, finding that the United States acted inconsistently with Article 19.3 of the SCM Agreement by failing to examine whether a "double remedy" arose from such concurrent application and by failing to avoid any such "double remedy." The Appellate Body also reversed the panel's finding with respect to the meaning of "public body" in Article 1.1(a)(1) of the SCM Agreement, finding that the term "public body" means an entity that possesses, exercises, or is vested with governmental authority. Using this definition, the Appellate Body completed the analysis and found that Commerce's public body determinations with respect to SOEs were inconsistent with Article 1.1(a)(1), while Commerce's public body determinations with respect to SOCBs were not inconsistent with Article 1.1(a)(1). The Appellate Body also upheld the panel's findings with respect to Commerce's use of external benchmarks and Commerce's specificity determinations.

On March 25, 2011, the DSB adopted its recommendations and rulings in this dispute. At the following DSB meeting, on April 21, 2011, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and China agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on February 25, 2012. On January 17, 2012, the United States and China notified the DSB of their agreement to extend the RPT by 60 days, to expire on April 25, 2012.

On July 31, 2012, Commerce issued to interested parties final determinations pursuant to section 129(b)(2) of the URAA with respect to issues in this dispute. On August 21, 2012, USTR directed Commerce to implement its final determinations. On August 30, 2012, a notice was published in the Federal Register announcing the implementation of Commerce's final determinations, effective August 21, 2012. That notice can be found at 77 FR 52683. On August 31, 2012, the United States reported to the DSB that it has brought the measures at issue in this dispute into full compliance with the DSB recommendations and rulings.

United States – Measures Concerning the Importation, Marketing, and Sale of Tuna and Tuna Products (WT/DS381):

On October 24, 2008, Mexico requested consultations regarding U.S. dolphin-safe labeling provisions for tuna and tuna products. These provisions prohibit labeling tuna and tuna products as dolphin-safe if the tuna was caught by using purse-seine nets intentionally set on dolphins, a technique Mexico uses to catch tuna in the Eastern Tropical Pacific Ocean. Mexico challenged three U.S. measures: (1) the Dolphin Protection Consumer Information Act (19 U.S.C. § 1385); (2) certain dolphin-safe labeling regulations (50 C.F.R. §§ 216.91-92); and (3) the Ninth Circuit decision in Earth Island v. Hogarth, 494 F.3d. 757 (9th Cir. 2007). On April 20, 2009, at Mexico's request, the DSB established a WTO panel to examine these measures. Mexico alleged that these measures accord imports of tuna and tuna products from Mexico less favorable treatment than like products of national origin and like products originating in other countries and fail to immediately and unconditionally accord imports of tuna and tuna products from Mexico any advantage, favor, privilege, or immunity granted to like products in other countries. Mexico further alleged that the U.S. measures create unnecessary obstacles to trade, and are not based on relevant international standards. Mexico alleges that the U.S. measures are inconsistent with Articles I and III of the *General Agreement on Tariffs and Trade 1994* and Article 2 of the *Agreement on Technical Barriers to Trade*.

On December 14, 2009, the Panel was composed by the Director-General. The Panel issued its interim report on May 5, 2011, and its final report to the parties on July 8, 2011. The final report was circulated to Members and the public on September 15, 2011.

The Panel found the U.S. dolphin safe provisions are technical regulations within the meaning of Annex 1.1 of the TBT Agreement; not inconsistent with Article 2.1 of the TBT Agreement because they do not afford less favorable treatment to Mexican tuna products; inconsistent with Article 2.2. of the TBT Agreement because they are more trade restrictive than necessary to achieve their objectives; and not inconsistent with Article 2.4 of the TBT Agreement because the alternative measure put forth by Mexico would not be an effective means of achieving the objective of the U.S. measures. The Panel exercised judicial economy with respect to the GATT 1994 claims in light of its findings under Article 2.1 of the TBT Agreement.

The United States appealed aspects of the report on January 20, 2012, and Mexico appealed aspects of the report on January 25, 2012. The Appellate Body circulated its report on May 16, 2012. In its key findings, the Appellate Body rejected the U.S. appeal and upheld the Panel's finding that the measure at issue is a technical regulation; agreed with Mexico's appeal and overturned the Panel's finding that the U.S. measure is consistent with the national treatment provisions of Article 2.1 of the TBT Agreement; agreed with the U.S. appeal and overturned the Panel's finding that the measure at issue is more trade restrictive than necessary under Article 2.2 of the TBT Agreement; and agreed with the U.S. appeal and overturned the Panel's finding that the AIDCP is a relevant international standard within the meaning of Article 2.4 of the TBT Agreement.

On June 13, 2012, the DSB adopted the Appellate Body report, and the Panel report as modified by the Appellate Body report. On September 17, 2012, the United States and Mexico notified the DSB that they agreed on a reasonable period of time for the United States to implement the recommendations and rulings of the DSB, ending on July 13, 2013.

United States – Antidumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil (WT/DS382):

On November 27, 2008, the United States received from Brazil a request for consultations pertaining to definitive antidumping duties imposed by the United States pursuant to the final results issued by Commerce in the administrative review of the antidumping duty order on imports of certain orange juice from Brazil. Brazil complained that Commerce used "zeroing" in the first administrative review of the antidumping duty order on imports of orange juice. On May 22, 2009, the United States received a request for consultations from Brazil pertaining to the antidumping duty investigation on certain orange juice from Brazil, the second antidumping duty administrative review on certain orange juice from Brazil, and the "continued use of the US zeroing procedures ('model' or 'simple' zeroing) in successive antidumping proceedings."

Brazil claimed that the alleged use of "zeroing" in the investigation and first and second administrative reviews and "continued use of the U.S. 'zeroing procedures' in successive antidumping proceedings, in relation to the anti-dumping duty order issued in respect of imports of certain orange juice from Brazil" are inconsistent with Articles II:1(a), II:1(b), VI:1, and VI:2 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Articles 2.1, 2.4, 2.4.2, and 9.3 of the *Agreement on Implementation of Article VI of the GATT 1994*, and Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization.

August 20, 2009, Brazil requested the establishment of a panel. The DSB established the panel on September 25, 2009. On May 10, 2010, the Deputy Director General composed the panel as follows: Mr.

Miguel Rodriguez Mendoza, Chair; and Mr. Pierre Pettigrew and Mr. Reuben Pessah, Members. The panel met with the parties on July 15-16, 2010, and October 12, 2010, and met with the parties and third parties on July 16, 2010.

The panel circulated its report on March 25, 2011. The panel found that the United States acted inconsistently with the Antidumping Agreement by using "zeroing" in calculating certain margins of dumping in the first and second administrative reviews of the antidumping duty order on imports of certain orange juice from Brazil. The panel also found that the "continued use" of "zeroing" in proceedings under the orange juice antidumping duty order is inconsistent with the Antidumping Agreement.

On June 17, 2011, the DSB adopted its recommendations and rulings in this dispute. At that DSB meeting, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and Brazil agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on March 17, 2012.

On February 14, 2012, the U.S. Department of Commerce published in the Federal Register, 77 FR 8101, a modification to its procedures in order to implement DSB recommendations and rulings regarding the use of "zeroing" in antidumping reviews. This modification addresses the findings in this dispute.

The U.S. Department of Commerce issued a notice on April 20, 2012, revoking the antidumping duty order on the products covered in this dispute, effective as of March 9, 2011.

United States – Certain Country of Origin Labeling (COOL) Requirements (Canada) (WT/DS384):

On December 1, 2008, Canada requested consultations with the United States regarding U.S. mandatory country of origin labeling (COOL) provisions. Canada requested supplemental consultations with the United States regarding this matter on May 7, 2009. Canada challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the U.S. Department of Agriculture Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

Canada alleges that the COOL requirements are inconsistent with the *General Agreement on Tariffs and Trade 1994*, Articles III:4, IX:2, IX:4, and X:3(a), the *Agreement on Technical Barriers to Trade*, Articles 2.1, 2.2, and 2.4, or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Articles 2(b), 2(c), 2(e), and 2(j). Canada asserts that these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada in the sense of GATT 1994, Article XXIII:1(b).

Consultations were held on December 16, 2008, and supplemental consultations were held on June 5, 2009. On October 7, 2009, Canada requested the establishment of a panel, and on November 19, 2009, the DSB established a single panel to examine both this dispute and Mexico's dispute regarding COOL (see WT/DS386). On May 10, 2010, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members.

The panel circulated its final report on November 18, 2011. The final report found that the COOL measure (the COOL statute and USDA's Final Rule together), in respect of muscle cut meat labels, breaches TBT Article 2.1 because it affords Canadian livestock less favorable treatment than it affords U.S. livestock. With respect to Article 2.2 of the TBT Agreement, the panel found that the objective of the COOL measure was to provide consumers with information about the origin of the meat products that they buy at the retail level, and that consumer information on origin is a legitimate objective that WTO Members, including the United States, are permitted to pursue with their measures. However, the panel found that the COOL measure breaches TBT Article 2.2 because it fails to fulfill its legitimate objective of providing consumer information on origin with respect to meat products. The panel also found that the Vilsack Letter breaches GATT Article X:3 because it does not constitute a reasonable administration of the COOL measure. On April 5, 2012, USDA withdrew the Vilsack Letter.

On March 23, 2012, the United States appealed the panel's findings on Article 2.1 and 2.2. On March 28, 2012, Canada appealed certain aspects of the panel's Article 2.2 analysis, the panel's failure to make a finding on its claim under Articles III:4 of the GATT 1994, and made a conditional appeal on its claim under Article XXIII:1(b) of the GATT 1994. The Appellate Body agreed with the United States that the panel's Article 2.2 analysis was insufficient. Moreover, the Appellate Body found that, due to the absence of relevant factual findings by the panel and the lack of sufficient undisputed facts on the record, the Appellate Body was unable to complete the analysis under Article 2.2, and Canada's claim must fail. With regard to Article 2.1, the Appellate Body upheld the panel's finding that the COOL measure was inconsistent with the national treatment obligation, albeit with different reasoning. The Appellate Body first upheld the panel's finding that COOL measure has a disparate impact on Canadian livestock. However, the Appellate Body reasoned that the analysis could not end there but that the panel should have analyzed whether the detrimental impact stemmed exclusively from a legitimate regulatory distinction. The Appellate Body found that the COOL measure did not as it imposes costs that are disproportionate to the information conveyed by the labels. Having upheld the panel's Article 2.1 finding, the Appellate body found it unnecessary to make findings on Canada's appeals under Articles III:4 and XXIII:1(b) of the GATT 1994.

On December 4, 2012, a WTO arbitrator determined that the reasonable period of time (RPT) for the United States to comply with the DSB recommendations and rulings is 10 months, meaning that the RPT ends on May 23, 2013.

United States – Certain Country of Origin Labeling (COOL) Requirements (Mexico) (WT/DS386):

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory country of origin labeling (COOL) provisions. Mexico requested supplemental consultations with the United States regarding this matter on May 7, 2009. Mexico challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture ("USDA") Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.
Mexico alleges that the U.S. measures are inconsistent with the GATT 1994, Articles III:4, IX:2, IX:4, and X:3(a), the *Agreement on Technical Barriers to Trade*, Articles 2.1, 2.2, 2.4, 12.1, and 12.3, or, in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Articles 2(b), 2(c), 2(d), and 2(e). Additionally, Mexico asserts that these violations nullify or impair the benefits accruing to Mexico under those Agreements, and further appear to nullify or impair the benefits accruing to Mexico within the meaning of the GATT 1994, Article XXIII:1(b).

Consultations were held on February 27, 2009, and supplemental consultations were held on June 5, 2009. On October 9, 2009, Mexico requested the establishment of a panel in this dispute, and November 19, 2009, the DSB established a single panel to examine both this dispute and Canada's dispute regarding COOL (see WT/DS384). On May 10, 2010, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members.

The panel circulated its final report on November 18, 2011. The final report found that the COOL measure (the COOL statute and USDA's Final Rule together), in respect of muscle cut meat labels, breaches TBT Article 2.1 because it affords Mexican livestock less favorable treatment than it affords U.S. livestock. Under TBT Article 2.2, the panel found that the objective of the COOL measure was to provide consumers with information about the origin of the meat products that they buy at the retail level, and that consumer information on origin is a legitimate objective that WTO Members, including the United States, are permitted to pursue with their measures. However, the panel found that the COOL measure breaches TBT Article 2.2 because it fails to fulfill its legitimate objective of providing consumer information on origin with respect to meat products.

The panel rejected Mexico's claim under TBT Article 2.4 that the United States was required to base origin under the COOL measure on the principle of substantial transformation, concluding that using this principle would be an ineffective and inappropriate means to fulfill the U.S. legitimate objective of providing consumers with information about the origin of the meat products they buy. The panel also rejected Mexico's claims under TBT Articles 12.1 and 12.3, concluding that the United States did not fail to take account of Mexico's needs as a developing country Member.

Finally, the panel found that the Vilsack Letter breaches GATT Article X:3 because it does not constitute a reasonable administration of the COOL measure. On April 5, 2012, USDA withdrew the Vilsack Letter.

On March 23, 2012, the United States appealed the panel's findings on Article 2.1 and 2.2. On March 28, 2012, Mexico appealed certain aspects of the panel's Article 2.2 analysis, and made a conditional appeal on its claims under Articles III:4 and XXIII:1(b) of the GATT 1994. The Appellate Body agreed with the United States that the panel's Article 2.2 analysis was insufficient. Moreover, the Appellate Body found that, due to the absence of relevant factual findings by the panel and the lack of sufficient undisputed facts on the record, the Appellate Body was unable to complete the analysis under Article 2.2, and Canada's claim must fail. With regard to Article 2.1, the Appellate Body upheld the panel's finding that the COOL measure was inconsistent with the national treatment obligation, albeit with different reasoning. The Appellate Body first upheld the panel's finding that the COOL measure has a disparate impact on Mexican livestock. However, the Appellate Body reasoned that the analysis could not end there but that the panel should have analyzed whether the detrimental impact stemmed exclusively from a legitimate regulatory distinction. The Appellate Body found that the COOL measure did not as it imposes costs that are disproportionate to the information conveyed by the labels. Having upheld the panel's Article 2.1 finding, the Appellate body found it unnecessary to make findings on Mexico's appeals under Articles III:4 and XXIII:1(b) of the GATT 1994.

On December 4, 2012, a WTO arbitrator determined that the reasonable period of time (RPT) for the United States to comply with the DSB recommendations and rulings is 10 months, meaning that the RPT ends on May 23, 2013.

United States – Anti-dumping Measures on Certain Shrimp from Vietnam (DS404):

On February 1, 2010, the United States received from Vietnam a request for consultations pertaining to antidumping duties imposed by the United States pursuant to the final results issued by the U.S.

Department of Commerce (Commerce) in several administrative reviews of the antidumping duty order on imports of certain frozen and canned warm water shrimp from Vietnam. Vietnam claimed that certain actions by Commerce and U.S. Customs and Border Protection with respect to several administrative reviews and with respect to any ongoing or future administrative review or sunset review concerning this antidumping duty order, as well as various U.S. laws, regulations, administrative procedures, practices, and policies, both as such and as applied, are inconsistent with U.S. commitments and obligations under Articles I, II, VI:1 and VI:2 of the GATT 1994, Articles 1, 2.1, 2.4, 2.4.2, 6.8, 6.10, 9.1, 9.3, 9.4, 11.2, 11.3, 18.1, and 18.4 and Annex II of the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement); Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization; and Vietnam's Protocol of Accession. Specifically, Vietnam complained that Commerce used "zeroing" in the administrative reviews of the antidumping duty order on imports of shrimp, Commerce failed to provide most Vietnamese respondents seeking a review an opportunity to demonstrate the absence of dumping by being permitted to participate in a review, and Commerce required companies to demonstrate their independence from government control and applied an adverse facts available rate to companies that failed to do so in all reviews.

The United States and Vietnam held consultations on March 23, 2010. On April 19, 2010, Vietnam requested that the DSB establish a panel. The DSB did so at its meeting on May 18, 2010. On July 26, 2010, the Director General composed the panel as follows: Mr. Mohammad Saeed, Chair; and Ms. Deborah Milstein and Mr. Iain Sanford, Members.

The panel held meetings with the parties on October 20-21 and December 14-15, 2010, and met with the parties and third parties on October 21, 2010.

The panel circulated its report on July 11, 2011. The panel found that the use of "zeroing" in the second and third administrative reviews of the shrimp antidumping order was inconsistent with Article 2.4 of the Antidumping Agreement, and the use of "zeroing" in administrative reviews is inconsistent "as such" with Article 9.3 of the Antidumping Agreement and Article VI:2 of the GATT 1994. The panel also found that the use of antidumping margins determined using "zeroing" to calculate the "all others" rate in the second and third administrative reviews was inconsistent with Article 9.4 of the Antidumping Agreement. The panel found that the application to the Vietnam-wide entity of an antidumping margin different from the "all others" rate was also inconsistent with Article 9.4 of the Antidumping Agreement. The panel rejected Vietnam's claim that Commerce's determination to limit the number of individually examined respondents was inconsistent with various provisions of the Antidumping Agreement, and the panel rejected Vietnam's claims relating to "continued use," finding those claims to be outside the panel's terms of reference.

Neither party appealed the panel's findings. On September 2, 2011, the DSB adopted its recommendations and rulings in this dispute. At the following DSB meeting, on September 27, 2011, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and Vietnam agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on July 2, 2012.

United States – Measures Affecting the Production and Sale of Clove Cigarettes (DS406):

On April 7, 2010, the United States received a request for consultations from Indonesia regarding Section 907 of the 2009 *Federal Food, Drug, and Cosmetic Act*, as amended by the *Family Smoking Prevention and Tobacco Control Act*, which prohibits the production or sale in the United States of cigarettes with a characterizing flavour other than tobacco or menthol. Indonesia contends that the measure is inconsistent with the United States' WTO obligations in that it bans clove cigarettes. Specifically, Indonesia contends

that the measure is inconsistent with Article III:4 of the GATT 1994, as well as Articles 2.1, 2.2, 2.5, 2.8, 2.9, 2.10, 2.12, and 12.3 of the TBT Agreement.

Indonesia and the United States held consultations on May 13, 2010. On June 9, 2010, Indonesia requested the establishment of a panel. The DSB established the panel on July 20, 2010 and the Parties agreed to the composition of the panel on September 9, 2010, as follows: Mr. Ronald Saborío Soto, Chair; and Mr. Ichiro Araki and Mr. Hugo Cayrús, Members.

The panel met with the parties on December 13-14, 2010, met with the parties and third parties on December 14, 2010, and with the parties on February 15-16, 2011.

The panel circulated its report on June 24, 2011. The panel found the measure consistent with Articles 2.2, 2.5, 2.8, 2.9.3, and 12.3 of the TBT Agreement, and inconsistent with Articles 2.1, 2.9.2, and 2.12 of the TBT Agreement. The panel declined to make findings on Indonesia's claim that the measure was inconsistent with Article III:4 of the GATT 1994 and the related U.S. defense that the measure is justified under Article XX(b) of the GATT 1994.

The United States appealed the Panel Report's finding with respect to Article 2.1 of the TBT Agreement in January 2012, and a hearing was held in February. The WTO Appellate Body report affirmed the Panel Report's finding that the U.S. measure is inconsistent with Article 2.1 of the TBT Agreement.

With respect to Indonesia's claims concerning the U.S. process for adopting the ban, the Panel found in favor of the United States on all of these claims, with two exceptions. The Panel found that the United States should have notified the ban to the WTO prior to it becoming U.S. law and should have waited six months until enforcing the ban instead of the three months the law provided for. The United States appealed the latter finding, and the Appellate Body affirmed the Panel's finding.

The DSB adopted the Appellate Body and Panel Reports on April 24, 2012. At the following DSB meeting on May 24, 2012, the United States notified the DSB of its intention to implement the recommendations and rulings of the DSB. The United States and Indonesia agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on July 24, 2013.

United States – Anti-dumping measures on corrosion-resistant carbon steel flat products from Korea (DS420):

On January 31, 2011, the Republic of Korea (Korea) requested consultations regarding various anti-dumping determinations made by the U.S. Department of Commerce (Commerce), including those made in administrative reviews and sunset determinations, regarding corrosion-resistant carbon steel flat products from Korea. Korea's request concerned Commerce's use of its "zeroing" methodology in these determinations. Korea's request for consultations described "zeroing" as the practice "by which transactions with negative dumping margins are treated as having margins equal to zero in determining dumping margins…."

On September 15, 2011, Korea requested the establishment of a panel. At the September 24, 2011 meeting of the Dispute Settlement Body (DSB), Korea withdrew the request for a panel from the agenda. On February 9, 2012, Korea again requested a panel. The request asserted that Commerce's use of "zeroing" in the referenced determinations was inconsistent with the obligations of the United States under Articles 9.3 and 11.3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994. The DSB established a panel on February 22, 2012. On June 12, 2012, prior

to the composition of the panel, Korea requested that panel proceedings be suspended in accordance with Article 12.12 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

United States – Anti-Dumping Measures on Certain Shrimp and Diamond Sawblades from China (DS422):

On February 28, 2011, China requested consultations regarding the antidumping duty investigation, a number of antidumping administrative reviews, and the sunset review conducted by the U.S. Department of Commerce on certain frozen warmwater shrimp from China. China challenges what it describes as the use by Commerce of the "zeroing practice" whereby "negative margins or amounts of dumping . . . were put at zero" in those proceedings. On July 22, 2011, China requested additional consultations regarding the antidumping duty investigation conducted by Commerce on diamond sawblades and parts thereof from China, referring in particular to the use of what it calls "zeroing" in that proceeding. The United States and China held consultations on May 11, 2011 and September 8, 2011.

On October 13, 2011, China requested the establishment of a panel. In its panel request, China alleges that the use of zeroing by Commerce in the final less than fair value determinations and the antidumping duty orders on certain frozen warmwater shrimp from China and diamond sawblades and parts thereof from China are inconsistent with the obligations of the United States under the first sentence of Article 2.4.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (*"Antidumping Agreement"*)*. The DSB established a panel on October 25, 2011 and the Parties agreed to the composition of the panel on December 21, 2011, as follows: Mr. Alberto Juan Dumont, Chair; and Mr. Ernesto Fernández and Ms. Stephanie Sin Far Lee, Members.

The panel circulated its report on June 8, 2012. The panel found the use of zeroing in the two final less than fair value determinations and the antidumping duty orders was inconsistent with Article 2.4.2 of the Antidumping Agreement.

Neither party appealed the panel's findings. On July 23, 2012, the DSB adopted its recommendations and rulings in this dispute. At that DSB meeting, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and China agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on March 23, 2013.

United States — Anti-Dumping Measures on Certain Frozen Warmwater Shrimp from Vietnam (DS429)

On February 21, 2012, the United States received from Vietnam a request for consultations pertaining to antidumping duties imposed by the United States pursuant to the final results issued by the U.S. Department of Commerce (Commerce) in a number of administrative reviews and the sunset review of the antidumping duty order on imports of certain frozen and canned warm water shrimp from Vietnam. Vietnam claimed that certain actions by Commerce with respect to the administrative reviews identified, and with respect to any ongoing or future administrative review, as well as the sunset review concerning this antidumping duty order, as well as various U.S. laws, regulations, administrative procedures, practices, and policies, both as such and as applied, are inconsistent with U.S. commitments and obligations under Articles 1:1, VI: 1, VI:2, and X:3(a) of the GATT 1994; Articles 1, 2.1, 2.4, 2.4.2, 6, 9, 11, 17.6(i), and Annex II of the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement); Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization; Articles 3.7, 19.1, 21.1, 21.3, and 21.5 of the DSU; and Vietnam's Protocol of Accession. Specifically, Vietnam complained that Commerce used "zeroing" in the administrative reviews of the antidumping duty order on imports of shrimp, Commerce failed to provide most Vietnamese respondents seeking a review an opportunity to demonstrate the absence of dumping by being permitted to participate

in a review, the treatment of the Vietnam-wide entity as a "single entity" and the application of adverse facts available to the entity, the use of dumping margins determined using a "zeroing" methodology in the final determination of the sunset review, and the use of WTO-inconsistent antidumping duty assessment rates applied to unliquidated entries that are assessed following a section 129 determination that implements an adverse DSB ruling.

The United States and Vietnam held consultations on March 28, 2012.

United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (DS436)

On April 24, 2012, India requested consultations concerning countervailing measures regarding certain hot-rolled carbon steel flat products from India. India challenges the Tariff Act of 1930, in particular sections 771(7)(G) and 776(b), as well as Title 19 of the Code of Federal Regulations, sections 351.308 and 351.511(a)(2)(i)-(iv). In addition, India challenges certain actions of the United States with respect to U.S. Department of Commerce countervailing duty determinations and the countervailing duty order related to certain hot-rolled carbon steel flat products from India, including determinations related to the original investigation, certain administrative reviews, and the five-year sunset review. India alleges inconsistencies with Articles I and IV of the GATT 1994 and Articles 1, 2, 10, 11, 12, 13, 14, 15, 19, 21, 22 and 32 of the SCM Agreement. The DSB established a panel to examine the matter on August 31, 2012.

United States — Countervailing Duty Measures on Certain Products from China (DS437)

On May 25, 2012, China requested consultations regarding numerous U.S. CVD determinations in which the U.S. Department of Commerce had determined that various Chinese state owned enterprises were "public bodies" under Article 1.1(a)(1) of the SCM Agreement, with a view towards extending the Appellate Body's analysis in DS394 (discussed above) to those determinations. Various other aspects of these investigations are being challenged as well, including but not limited to Commerce's calculation of benchmarks, determination of specificity of the subsidies, and use of facts available. Consultations were held in July 2012, and a panel was established in September 2012. The panel is expected to hear the case in spring 2013.

United States — Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina (DS447)

On August 30, 2012, Argentina requested consultations regarding the U.S. refusal thus far to grant import authorization to fresh bovine meat from Argentina. Currently, U.S. law prohibits the importation of fresh meat from Argentina, because the U.S. Department of Agriculture has not determined Argentina, or any of its components, to be a zone free of foot-and-mouth disease. At issue in this matter is the status of three applications by Argentina to the U.S. Department of Agriculture to revise its prohibition and permit the importation of fresh bovine meat. Consultations were held on October 18 and 19, 2012, in Geneva. Argentina submitted its request for establishment of a dispute settlement panel on December 6, 2012.

United States — Measures Affecting the Importation of Fresh Lemons (DS448)

On September 3, 2012, Argentina requested consultations regarding the U.S. failure thus far to grant import authorization for fresh lemons from Northwest Argentina. Consultations were held on October 17-18, 2012, in Geneva, Switzerland. Argentina submitted its request for establishment of a dispute settlement panel on December 6, 2012.

United States — Countervailing and Anti-dumping Measures on Certain Products from China (DS449)

On September 17, 2012, the United States received a request for consultations from China regarding Public Law 112-99 ("P.L. 112-99") and determinations and actions made by the U.S. Department of Commerce, the U.S. International Trade Commission and the U.S. Customs and Border Protection in connection with 31 joint antidumping (AD) and countervailing duty (CVD) proceedings. China alleges in its consultation request that the retroactive nature of Section 1 of P.L. 112-99 and the difference in effective dates between Sections 1 and 2 of P.L. 112-99 are violations of GATT Article X. China further alleges that the 31 AD and CVD proceedings initiated between November 20, 2006 and March 13, 2012 violate the United States' WTO obligations because the United States had no basis under domestic law to identify and avoid "double remedies" and U.S. authorities failed to "investigate and avoid double remedies."

China and the United States held consultations on November 5, 2012. On November 30, China requested the establishment of a panel.

I. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB) is the subsidiary body of the General Council, created by the Marrakesh Agreement Establishing the WTO, to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines domestic trade policies of each Member on a schedule designed to review the policies of the full WTO Membership on a timetable determined by trade volume. The express purpose of the review process is to strengthen Members' adherence to WTO provisions and to contribute to the smoother functioning of the multilateral trading system. Moreover, the review mechanism serves as a valuable resource for improving the transparency of Members' trade and investment regimes. Members continue to value the review process, because it informs each government's own trade policy formulation and coordination.

The Member under review works closely with the WTO Secretariat to provide pertinent information for the process. The Secretariat produces an independent report on the trade policies and practices of the Member under review. Accompanying the Secretariat's report is the Member's own report. In a TPRB session, the WTO Membership discusses these reports together, and the Member under review addresses issues raised in the reports and answers questions about its trade policies and practices. Reports cover the range of WTO agreements – including those relating to goods, services, and intellectual property – and are available to the public on the WTO's website at http://www.wto.org. Documents are filed on the website's "Documents Online" database under the document symbol "WT/TPR."

TPRs of least developed country (LDC) Members often perform a technical assistance function, helping them improve their understanding of their trade policy structure's relationship with the WTO Agreements. The reviews have also enhanced these countries' understanding of the WTO Agreements, thereby better enabling them to comply and integrate into the multilateral trading system. In some cases, the reviews have spurred better interaction among government agencies. The reports' wide coverage of Members' policies also enables Members to identify any shortcomings in policy and specific areas where further technical assistance may be appropriate.

The TPRM requires Members, in between their reviews, to provide information on significant trade policy changes. The WTO Secretariat uses this and other information to prepare reports by the Director General on a regular basis on the trade and trade-related developments of Members and Observer

Governments. The reports are discussed at informal meetings of the TPRB. The Secretariat consolidates the information it collects and presents it in the Director General's Annual Report on Developments in the International Trading Environment.

Major Issues in 2012

During 2012, the TPRB reviewed the trade regimes of Bangladesh, Burundi, China, Colombia, Côte d'Ivoire, Guinea-Bissau, Iceland, Israel, Kenya, Korea, Kuwait, Nepal, Nicaragua, Norway, Philippines, Rwanda, Saudi Arabia, Singapore, Tanzania, Togo, Trinidad & Tobago, Turkey, United Arab Emirates, Uganda, and Uruguay. The trade policies of four members were reviewed for the first time in 2012, including Guinea-Bissau, Saudi Arabia, Kuwait, and Nepal. Additionally, in December 2012, the latest trade policy review of the United States took place, which occurs every two years.

Since its formation in 1998 to the end of 2012, the TPRB has conducted 364 reviews. The reviews have covered 145 of 157 Members, representing some 94 percent of world trade and 97 percent of the trade of WTO Members. Of the 33 LDC Members of the WTO, the TPRB had reviewed 31 by the end of 2012.

While each review highlights the specific issues and measures concerning the individual Member, certain common themes emerged during the course of the reviews conducted in 2012. These included:

- transparency in policy making and implementation;
- economic environment and trade liberalization;
- implementation of the WTO Agreements;
- regional trade agreements and their relationship with the multilateral trading system;
- tariff issues, including the differences between applied and bound rates;
- customs valuation and customs clearance procedures;
- the use of trade remedy measures such as antidumping and countervailing duties;
- technical regulations, and standards and their equivalence with international norms;
- sanitary and phytosanitary measures;
- intellectual property rights legislation and enforcement;
- government procurement policies and practices;
- trade-related investment policy issues;
- sectoral trade policy issues, particularly liberalization in agriculture and certain services sectors; and
- technical assistance in implementing the WTO Agreements and experience with Aid for Trade, and the Enhanced Integrated Framework.

Prospects for 2013

The TPRM continues to meet its transparency goals. It will continue to be an important tool for monitoring Members' compliance with WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures. For 2013, the proposed program of reviews is Argentina, Brazil, CEMAC (Cameroon, Central African Republic, Chad, Republic of Congo, Gabon), Costa Rica, European Union, Indonesia, Japan, Kyrgyz Republic, Lichtenstein and Switzerland, Macao China, Mexico, the former Yugoslav Republic of Macedonia, Myanmar, Peru, Suriname, and Vietnam.

J. Other General Council Bodies/Activities

1. Committee on Trade and Environment

Status

The Committee on Trade and Environment (CTE) was created by the WTO General Council on January 31, 1995, pursuant to the Marrakesh Ministerial Decision on Trade and Environment. Since then, the CTE has discussed many important issues, with a focus on those identified in the Doha Declaration. These issues include: market access associated with environmental measures (Doha paragraph 32(i)); the TRIPS Agreement and the environment (Doha paragraph 32(ii)); labeling for environmental purposes (Doha paragraph 32(iii)); capacity-building and environmental reviews (Doha paragraph 33); and discussion of the environmental aspects of the Doha negotiations (Doha paragraph 51). These issues identified in the Doha Declaration are separate from the issues that are subject to specific negotiating mandates taken up by the Committee on Trade and Environment Special Session (CTESS). *(For additional information, see Chapter II.B.6.)*

Major Issues in 2012

In 2012, the CTE met once under the Chairmanship of Ambassador Krisda Piampongsant (Thailand) on 13 November 2012.

As noted above, the CTE's work was organized under the mandate established in the Doha Ministerial Declaration, Paragraphs 32, 33 and 51. Under Paragraph 32, the CTE conducted work on environmental requirements and market access issues (Paragraph 32(i)). Korea briefed the CTE on its recently adopted legislation to establish a national carbon emissions trading scheme. Norway shared information concerning its carbon tax on offshore operations on the Norwegian continental shelf. And the European Union presented a paper on "Combatting illegal, unreported and unregulated (IUU) fishing: Establishment of an EU system to prevent, deter and eliminate IUU fishing." No discussion took place under Paragraph 32(ii) (relevant provisions of the TRIPS Agreement); Paragraph 33 (technical assistance, capacity building and environmental reviews); and Paragraph 51 (developmental and environmental aspects of the negotiations). Delegates also discussed the results of the 2012 APEC Leaders meeting, where Leaders agreed on a list of 54 environmental goods, such as wind turbines and solar water heaters, on which they will reduce tariffs to 5 percent or less by 2015, consistent with their 2011 commitment.

In addition, the CTE organized a workshop on Environmental Technology Dissemination on 12 November 2012, and invited presentations from international organizations, such as OECD and UNCTAD, and from private sector representatives in the environmental technology sector. Workshop presentations are available on the WTO's website: http://wto.org/english/tratop_e/envir_e/wksp_envir_nov12_e/wksp_envir_nov12_e.htm.

Prospects for 2013

The United States is committed to using the CTE as the premier global forum for discussing trade and environment issues, and we will explore fresh and innovative approaches to the most challenging issues, including those related to trade and climate change.

2. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT 1947's role in the economic development of less developed GATT Contracting Parties. In the WTO, the CTD is a subsidiary body of the General Council. Since the Doha Development Round was launched, Members have established three additional subgroups of the CTD: a Subcommittee on LDCs; a Dedicated Session on Small Economies; and a Dedicated Session on Regional Trade Agreements (RTAs).

The CTD addresses trade issues of interest to Members with particular emphasis on issues related to the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity, and Fuller Participation of Developing Countries). In this context, the CTD focuses on the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing country Members, and regional integration efforts among developing country Members. In addition, the CTD focuses on issues related to the fuller integration of all developing country Members into the international trading system, technical cooperation and training, trade in commodities, market access in products of interest to developing countries, and the special concerns of LDCs, small, and landlocked economies.

The CTD has been the primary forum for discussion of broad issues related to the nexus between trade and development, rather than the implementation or operation of a specific agreement. Since the initiation of the Doha Development Agenda (DDA), the CTD has intensified its work on issues related to trade and development. The CTD has focused on issues such as transparency in preferential trade agreements, expanding trade in products of interest to developing country Members, trade in commodities, the WTO's technical assistance and capacity building activities, and an overall assessment of the development aspects of the DDA and sustainable development goals. As directed in the 2005 Hong Kong Ministerial Declaration, the CTD also conducts annual reviews of steps taken by WTO Members to implement the decision on providing duty free, quota free (DFQF) market access to the LDC Members.

Work in the Sub-Committee on LDCs and the Dedicated Sessions on Small Economies and RTAs has included review of market access challenges related to exports of LDC Members, LDC accessions to the WTO, trade-related needs of small, vulnerable economies, including island and landlocked states, and review of Member RTAs notified under the Enabling Clause.

Major Issues in 2012

The CTD in Regular Session held three formal sessions in April, July, and November 2012. Activities of the CTD and its subsidiary bodies in 2012 included:

- *Focused Work on Trade and Development:* At MC8, Ministers "reaffirm[ed] that development is a core element of the WTO's work. They also reaffirm[ed] the positive link between trade and development and call[ed] for focused work in the Committee on Trade and Development." Throughout 2012, Members worked to identify areas of focused work in line with this mandate. A few Members, including Ecuador, submitted a proposal (WT/COMTD/W/189) to hold a workshop on development aspects of e-commerce, in particular as it relates to small and medium sized enterprises (SMEs). In addition, Australia and other Members submitted a proposal whereby Members would make "presentations in the CTD on individual Members' participation in the multilateral trading system and its effect on that Member's economic development." Some Members have expressed reservations about this proposal going forward, and it continues to be

discussed in the CTD. Additional proposals by a group of developing countries, including Ecuador, Africa Group, India, covering a range of items, continue to be under discussion.

- *Technical Cooperation and Training:* The Committee took note of the Annual Report on Technical Assistance and Training, January 1 to December 31, 2011 (WT/COMTD/W/186), and of the Technical Cooperation Audit Report for 2011 (WT/COMTD/W/187). The Secretariat also reported regularly on the implementation of the Biennial Technical Assistance and Training Plan for 2012 and 2013 (WT/COMTD/W/180).

- *Notifications Regarding Market Access for Developing and LDCs:* In 2012, notifications under the Enabling Clause concerning Generalized System of Preferences (GSP) schemes were made by Switzerland (WT/COMTD/N/7/ADD.5), and the United States (WT/COMTD/N/1/Add. 8). Notifications were also made to the CTD concerning Korea's Duty Free Tariff Preference Scheme for LDCs (WT/COMTD/N/12/Rev.1/Add.1). Members also considered issues relating to the notification status of the Gulf Cooperation Council (GCC) Customs Union, the India-ASEAN RTA, and the India-Korea RTA.

- *Dedicated Session on Regional Trade Agreements:* There were no formal sessions of the CTD Dedicated Session on RTAs in 2012 due to outstanding requests for Members to provide data to the Secretariat to produce the necessary documentation that would facilitate such meetings.

- *Transparency of Preferential Trading Arrangements (PTAs):* In December 2006, the General Council invited the CTD to review the transparency of GSP programs and other preferential agreements under its mandate, and in 2010, Members agreed upon a Transparency Mechanism for PTAs (WT/L/806). Pursuant to agreed-upon modalities for implementation of the Transparency Mechanism, several Members, including the United States, completed the standard format guide for the notification of PTAs (WT/COMTD/73).

- *Duty Free, Quota Free Market Access for LDCs Members:* The Decision taken at the Hong Kong Ministerial Conference on DFQF market access for LDCs remains a standing item on the CTD's agenda. A number of Members shared information on the steps they are taking to provide DFQF market access to LDCs' products, including in respect of preferential rules of origin. In this regard, China, the EU, India, Switzerland, and the United States provided information. At each of the formal meetings of the CTD, the LDCs called for an expeditious and faithful implementation of the Decision.

- *Dedicated Session on Small Economies:* The Dedicated Session on Small Economies held two meetings in July and November 2012. The July meeting included presentations by UNCTAD and the International Trade Center, on the issues of interest to Small Economies, including the impact of non-tariff measures on Small Economies. At the November meeting, the Small Economies, led by El Salvador, requested that the Secretariat undertake additional analysis in line with the Work Program on Small Economies and in preparation for the Ninth Ministerial in Bali.

- *Aid for Trade:* The CTD held three sessions on Aid for Trade in 2012, in May, July, and November. Work during these sessions focused on the five headings of the 2010-2011 Aid for Trade Work Program, namely resource mobilization, mainstreaming, implementation, monitoring and evaluation, and the private sector. In addition, three workshops were held on the relationship between Aid for Trade and other issues on the trade agenda, including green growth, services, and intellectual property. The Secretariat also worked with the OECD and with

Members on designing an Aid for Trade monitoring program to serve as the basis for discussions at the Fourth Global Review of Aid for Trade, scheduled to take place in July 2013.

- *LDC Subcommittee:* In addition to reaching agreement on new accession guidelines for LDCs, which are discussed in the Accessions section of this chapter, the Subcommittee also held two meetings in 2012, where it mainly focused on the implementation of the WTO Work Program for LDCs adopted by Members in 2002, including LDCs' request to update that Work Program. The subjects discussed included: market access for LDCs; trade-related technical assistance and capacity building initiatives for LDCs; and accession and post-accession issues for LDCs.

Prospects for 2013

The CTD is expected to continue to monitor developments as they relate to issues of concern to developing country Members. Interest in issues related to technical assistance and market access is expected to continue. Efforts to identify "focused work" are also expected to continue, especially in light of the need to show results at the upcoming ministerial in December 2013. In this vein, the CTD will review steps taken by Members to provide DFQF market access to the LDC Members in line with the Hong Kong Declaration, review the participation of developing country Members in the multilateral trading system, and in the LDC Subcommittee review market access for LDCs. The CTD will also continue its work on Aid for Trade in line with the work program for 2012-2013. In addition, the CTD's examination of RTAs between developing country Members will resume as new RTAs are notified to the WTO. Work will also continue on implementing the transparency mechanism for preferential trade agreements.

3. Committee on Balance-of-Payments Restrictions

Status

The Uruguay Round Understanding on Balance-of-Payments substantially strengthened GATT disciplines on balance-of-payments-related trade measures. Under the WTO Agreement, any Member imposing restrictions for balance-of-payments purposes must consult regularly with the Committee on Balance-of-Payments Restrictions to determine whether the use of such restrictions is necessary or desirable to address a Member's balance-of-payments difficulties. The Committee on Balance-of-Payments Restrictions works closely with the International Monetary Fund in conducting consultations. Full consultations involve examining a Member's trade restrictions and balance-of-payments situation, while simplified consultations provide for more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in its balance-of-payments.

Major Issues in 2012

The Committee on Balance-of-Payments Restrictions met on November 2, 2012 to elect its Chairman, and to hold its annual meeting and adopt its annual report which it sent to the General Council. No other meetings of the Committee were held in 2012.

Prospects for 2013

Should a Member resort to new balance-of-payments measures, WTO rules require a thorough program of consultation with the Committee on Balance-of-Payments Restrictions. The United States expects the

Committee to continue to ensure that balance-of-payments provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

4. Committee on Budget, Finance and Administration

Status

The Committee on Budget, Finance and Administration (the Budget Committee) is responsible for establishing and presenting the budget for the WTO Secretariat to the General Council for Members' approval. The Budget Committee meets throughout the year to address the financial requirements of the organization. The budget process in the WTO operates on a biennial basis. As is the practice in the WTO, decisions on budgetary issues are taken by consensus. The United States is an active participant in the Budget Committee.

In the WTO, the assessed contribution of each Member is based on the share of that Member's trade in goods, services, and intellectual property. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. For the 2013 budget, the U.S. assessed contribution is 11.709 percent of the total budget assessment, or Swiss Francs (CHF) 22,891,095 (about $24.6 million). (*Details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget for 2011 are provided in Annex II.)*

Major Issues in 2012

Activities of the Committee in 2012 included:

WTO Budget: The adoption of the Biennium Budget 2012/2013 resulted in zero nominal growth for the 2012 budget and zero real growth for the 2013 budget. The budget adopted for 2013 amounted to CHF 197 million, including CHF 191 million for the WTO Secretariat and CHF 6 million for the Appellate Body and its Secretariat.

Members under Administrative Measures: In 2012, the Committee completed work on a revised set of Administrative Measures for Members in arrears that, *inter alia*, provides incentives for observers to meet their financial commitments. The Committee also reviewed and made proposals to approve the payment plans proposed by three Members (Chad, Djibouti, and Sierra Leone) which are subject to Administrative Measures[16] and which had arrears of contributions for periods of up to 15 years. The payment plans are intended to liquidate arrears on contributions over several years. The Secretariat has been working to reduce the number of Members under Administrative Measures, and as of December 14, 2011, the number of Members subject to Administrative Measures had been reduced to six.

WTO Facilities: The renovation project of the Centre William Rappard is on schedule to be concluded by the end of 2012. The construction of the South Courtyard Conference Centre and the Atrium was completed in the spring of 2012. In addition, the construction of a new administrative building that has 300 offices, as well as an underground garage with 200 spaces, has been completed and will be occupied by the end of 2012. Technical discussions regarding the security perimeter project for the WTO single site also took place in 2012, with work to begin in 2013.

[16] Administrative measures are actions established by the General Council against Members that are seriously in arrears. These actions range from not being able to put up candidates to chair WTO Committees to the loss of WTO technical assistance. Under the revised measures, in the case of observers, if their arrears become serious enough their accession negotiations will be suspended until they rectify the situation.

Members' Transition Operating Fund: The Members' Transition Operating Fund was established in 2008 to finance additional operating costs during the Building Project as well as final installation costs once the construction is completed. The Committee recommended the transfer of the credit balance from the Surplus account, amounting to approximately CHF 10.5 million at the end of 2010, to the Fund. In 2012, the Committee also authorized the funding of six projects for a total amount of CHF 13.7 million.

Human Resource Matters: In accordance with the WTO salary adjustment methodology, the Director General applied a 2.4 percent negative adjustment to the WTO salary scale, to freeze salaries for WTO staff and apply the revised scale to new staff. The main factor behind this negative movement was the drop in the value of the Euro against the Swiss franc in the benchmark comparator. The promotion of staff diversity remained a key issue for the Secretariat and the Committee.

Prospects for 2013

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis and prepare the biennial budget for 2014/2015. It will also be regularly consulted and kept informed of all aspects concerning the finalization and implementation of security enhancements.

5. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all bilateral and regional agreements to which Members are party. All of these agreements are known at the WTO as regional trade agreements (RTAs).

The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established in the Uruguay Round Agreements, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system. Prior to 1996, these reviews were typically conducted by a "working party" formed to review a specific agreement.

GATT Article XXIV is the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim agreements leading to an FTA or CU, concerning goods. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the "Enabling Clause," provides a basis for certain agreements between or among developing country Members, also concerning trade in goods. The Uruguay Round added three more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV of GATT 1994; and Articles V and Vbis of the General Agreement on Trade in Services (GATS), which govern services and labor markets economic integration agreements.

FTAs and CUs are authorized departures from the principle of MFN treatment, if certain requirements are met. With respect to goods, tariffs and other restrictions on trade must be eliminated on substantially all trade between the parties. In addition, duties and commercial measures applied to third countries upon the formation of an FTA or CU must not be higher or more restrictive than was the case before the agreement. If, in forming a CU, a Member exceeds its WTO bound rates, it must so notify the WTO in order to negotiate, with other Members, compensation in the form of market access concessions. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs should exceed ten years only in exceptional cases.

With respect to trade in services, the CU or FTA must have "substantial sectoral coverage" and prohibit or eliminate substantially all discrimination in covered sectors. In addition, the FTA or CU may not exclude *a priori* any mode of supply from the agreement. As with agreements on goods, barriers or restrictions to trade in services applicable to third parties upon formation of the FTA or CU may not be higher than was the case previously. Finally, a compensation requirement analogous to that in goods agreements exists for services agreements.

Major Issues in 2012

As of November 15, 2012, 412 RTAs have been notified to the GATT or WTO, of which 233 are in force (128 covering goods only, 1 covering services only, and 104 covering both goods and services).

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs. The main features of the mechanism, agreed upon in the Negotiating Group on Rules, include: the early announcement of any RTA; guidelines regarding the notification of RTAs; the preparation by the WTO Secretariat, in full consultation with the parties, of a special report called a "factual presentation" to assist Members in their consideration of a notified RTA; timeframes associated with the consideration of RTAs by relevant WTO Committees; provisions regarding subsequent notification and reporting of key events concerning notified RTAs; technical support for developing countries; and the distribution of work between the CRTA – entrusted to implement the mechanism *vis-à-vis* RTAs falling under Article XXIV of GATT 1994 and Articles V and Vbis of the GATS – and the Committee on Trade and Development, entrusted to do the same for RTAs falling under the Enabling Clause.

Since the implementation of the transparency mechanism in 2007, 132 agreements, counting goods and services notifications separately, have been considered (20 in 2012). Of these agreements, 128 have been reviewed in the CRTA and four in the CTD.

Under the transparency mechanism, the WTO Secretariat was tasked to establish and maintain an updated electronic database on individual RTAs. The database was launched in January 2009 and includes extensive information, all of which is available to the public. The RTAs database may be accessed at: http://rtais.wto.org.

In 2012, the CRTA continued to discuss proposals regarding possible work on the systemic implications of RTAs and their effect on the multilateral system.

Prospects for 2013

Four sessions of the Committee on Regional Trade Agreements are foreseen for 2013.

6. Accessions to the World Trade Organization

Status

Significant progress was made on WTO accessions as a number of applicants intensified efforts in 2012 to complete their accession negotiations with WTO Members. The Lao Peoples Democratic Republic (Lao PDR) and the Republic of Tajikistan (Tajikistan) completed their accession negotiations after intensive bilateral and multilateral work, reducing the number of countries still negotiating for WTO

accession to twenty-four.[17] Montenegro, Russia, Samoa, and Vanuatu completed their ratification procedures and became WTO Members during 2012, bringing the total number of WTO Members to 157.

During 2012, twenty-five formal or informal Working Party (WP) meetings were convened for Afghanistan, Azerbaijan, Bosnia and Herzegovina, Ethiopia, Kazakhstan, Laos, Liberia, Serbia, Seychelles, Tajikistan, The Bahamas and Yemen. Additionally, twenty plurilateral meetings to address specific technical issues in the various accession negotiations (*e.g.*, in agricultural supports, SPS, TBT, or TRIMs) were convened for interested WTO Members. Market access negotiations and bilateral consultations on other issues also took place at the time of these meetings and consultations. Members and the WTO Secretariat also held nine Facilitation Meetings between Ukraine, Yemen and Lao PDR, respectively that successfully assisted these applicants to conclude their bilateral market access negotiations on goods.

Kazakhstan and Yemen made considerable progress in market access negotiations or in negotiations on terms to implement WTO provisions. Work on these two accessions, as well as on the accessions of Bosnia and Herzegovina and Serbia, is well advanced. Yemen's completion of its accession negotiations would have occurred in 2012 but for complications in the verification of its goods schedule. Liberia initiated its WP deliberations with a first meeting in July 2012. The Bahamas held its second WP meeting in June 2012 and initiated bilateral market access negotiations with initial offers on market access for goods and services, circulated in March 2012. Azerbaijan, Afghanistan, Ethiopia and Seychelles all advanced their accessions, both with WP meetings and bilateral negotiations on goods and services market access.

Five of the remaining 24 current applicants for WTO accession (Comoros, Equatorial Guinea, Libya, Sao Tome and Principe, and Syria) have not yet submitted a Memorandum on the Foreign Trade Regime (MFTR) describing their respective foreign trade regimes, the action necessary to actually begin accession negotiations. Working Parties and bilateral negotiations with five other applicants –Andorra, Bhutan, Iraq, Lebanon, and Sudan – remained dormant in 2012. While not officially dormant, there was no action with respect to Iran's accession process either. Algeria, Belarus, and Uzbekistan on the other hand, took steps in 2012 towards resuming their accession negotiations and WP meetings.

Palestine has requested permanent observer status in the General Council, but to date, no action has been taken on the application. There were no other requests for accession or observer status in 2012.

Background:

Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members, as provided for in Article XII of the WTO Agreement. The accession process, with its emphasis on the implementation of WTO provisions and the establishment of stable and predictable market access for goods and services, provides a proven framework for the adoption of policies and practices that encourage trade and investment and promote growth and development.

In a typical accession negotiation, an application is submitted to the WTO General Council, which establishes a "Working Party" composed of all interested WTO Members to review the applicant's trade regime and to conduct the negotiations. The next necessary action is for the applicant to provide its MFTR and respond to questions and comments on that document. After that, meetings of the Working

[17] Accession Working Parties have been established for Afghanistan*, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan*, Bosnia and Herzegovina, Comoros*, Equatorial Guinea*, Ethiopia*, Iran, Iraq, Kazakhstan, Lebanon, Liberia*, Libya, Sao Tome and Principe*, Serbia, Seychelles, Sudan*, Uzbekistan, and Yemen* (the 9 countries marked with an asterisk are LDCs).

Party are scheduled when there is sufficient new documentation or progress in WTO implementation to justify further discussion. The number of WP meetings, as well as the length of the negotiations, largely depends on the speed with which the applicant is prepared to address the identified issues and to complete the negotiations. Accession applicants also negotiate trade liberalizing specific commitments on market access for industrial and agricultural goods, as well as for services, based on requests from WP Members. Applicants also are expected to make necessary legislative changes to implement WTO institutional and regulatory requirements and to eliminate existing WTO inconsistent measures. Almost all "developed country" accession applicants, and many "developing country" accession applicants, take all of these actions on WTO rules prior to accession.[18]

At the conclusion of its work, the Working Party adopts the agreed results of the negotiations (the recommended "terms of accession" developed with WP Members in bilateral and multilateral negotiations) and transmits them with its recommendation for approval to the General Council or Ministerial Conference.[19] These terms, *i.e.*, the accession "package," consist of the Report of the Working Party and Protocol of Accession, consolidated schedules of specific commitments on market access for goods and services, and agriculture schedules that include commitments on export subsidies and domestic supports. After General Council or Ministerial Conference approval, accession applicants submit the package to their domestic authorities for acceptance (ratification). Thirty days after the WTO receives the applicant's instrument accepting the terms of accession, the applicant becomes a WTO Member.

The accession process requires attention and active engagement from both applicants and WTO Members. Undertaking accession negotiations is a serious decision for any country. Applicants already committed to economic reform, or that demonstrate a strong interest in using WTO provisions as the basis for their trade regimes, are usually the most successful in moving their accession towards completion (*e.g.*, by submitting usable documentation, market access offers, and legislation for WP review on a timely basis). Thus, the pace of the accession process generally depends on the applicant.

The accession process strengthens the international trading system by ensuring that new Members understand and implement WTO rules from the outset. The process also offers current Members the opportunity to secure market access opportunities from acceding countries, to work with acceding Members towards full implementation of WTO obligations, and to address outstanding trade issues covered by the WTO in a multilateral context.

U.S. Leadership and Technical Assistance: As a matter of longstanding policy, the United States takes a leadership role in all aspects of the accessions, including in the bilateral, plurilateral, and multilateral negotiations. The objective is to ensure that new Members fully implement WTO provisions and to encourage trade liberalization in developing and transforming economies, as well as to use the opportunities provided in these negotiations to expand market access for U.S. exports. The United States also provides a broad range of technical assistance to countries seeking accession to the WTO to help them meet the requirements and challenges presented, both by the negotiations and the process of

[18] As outlined below, negotiations with applicants designated as "least developed" by the United Nations are subject to special procedures and guidelines, and do not, as a rule, fully implement WTO provisions prior to accession. Transitional periods may also be negotiated, if necessary, with developing or other applicants that request them and can justify their necessity.

[19] The Working Party decision to adopt the accession package is by "consensus," *i.e.*, without objection by any WP Member. While there are provisions in the WTO Agreement for the Ministerial Conference or General Council to approve accessions by an affirmative vote of two-thirds of all Members, in practice, the Ministerial Conference or General Council also approve the terms of accession by consensus.

implementing WTO provisions in their trade regimes. This assistance is provided through USAID, the U.S. Department of Agriculture, and the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce.

This assistance can include short term technical expertise focused on specific issues (*e.g.*, customs procedures, intellectual property rights protection, or sanitary/phytosanitary and technical barriers to trade) and/or a WTO expert in residence in the acceding country or customs territory. A number of the WTO Members that have acceded since 1995 received technical assistance in their accession process from the United States, *e.g.*, Albania, Armenia, Bulgaria, Cape Verde, Croatia, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Nepal, Russia, Ukraine, and Vietnam. Most of these countries had U.S.-provided resident experts for some portion of the accession process.

Current accession applicants for which the United States provided a resident expert or other technical assistance for the accession process during 2012 include: Afghanistan, Azerbaijan, Ethiopia, Lao PDR, Liberia, and Tajikistan. Among current accession applicants, Algeria, Belarus, Bosnia and Herzegovina, Iraq, Lebanon, Kazakhstan, Serbia, Uzbekistan and Yemen also received U.S. technical assistance earlier in their accession processes.

Major Issues in 2012

During 2012, the General Council approved the terms of accession of two countries: Lao PDR and Tajikistan, (on October 26 and December 10, respectively). Both plan to complete their respective domestic procedures to accept the terms of accession and become WTO Members before the end of 2013.

In December, the U.S. Congress removed Russia and Moldova from the coverage of title IV of the Trade Act of 1974, allowing the United States to have Permanent Normal Trade Relations (PNTR) with both countries, conforming to the provisions of Article 1 of the GATT 1994 (unconditional most-favored-nation treatment). As a consequence, the United State may now disinvoke nonapplication (Article XIII) of the WTO vis-à-vis both Russia and Moldova.

Kazakhstan:

During 2012, Kazakhstan made definitive progress towards completion of its WTO accession process. Market access negotiations were essentially completed for both goods and services, allowing for the development of consolidated schedules and their circulation for verification. During four meetings, WP Members developed the text of the revised and updated draft Working Party report, identifying outstanding multilateral issues for final discussion and resolution. These included agricultural supports and export subsidies, tax discrimination in favor of domestic agricultural goods, aspects of intellectual property protection, sanitary and phytosanitary measures, import licensing procedures for goods with encryption, and local content requirements in investment contracts and purchases by state owned enterprises. WP Members also initiated discussions for adjustments to the tariffs of the Common External Tariff intended to compensate for tariff commitments negotiated by Kazakhstan that would not be implemented in light of Kazakhstan's membership in the Customs Union with Russia and Belarus. In 2013, Kazakhstan will finalize its Protocol commitments in the draft Working Party report, complete its legislative implementation, and finalize goods and services commitments in its consolidated schedules, with a view to completing the accession process.

Serbia:

Serbia's twelfth WP meeting convened in March 2012, and bilateral negotiations on goods and services with the United States are well advanced. The WP review of Serbia's trade regime is nearing completion, based on comprehensive comments and drafting suggestions submitted by the United States and other WTO Members after the March WP meeting. However, given the advanced state of the negotiations, it is critical for Serbia to address the remaining issues with the enactment of necessary legislation to bring its trade regime into line with WTO rules. This must include modification of Serbia's highly problematic law banning trade in any products containing genetically modified organisms.

Bosnia and Herzegovina:

Bosnia and Herzegovina's tenth WP meeting convened in October 2012. Bilateral market access negotiations with the United States are well advanced, though more work is required on goods, in particular. The review of Bosnia and Herzegovina's trade regime in the Working Party is nearing completion, based on comprehensive comments and drafting suggestions submitted by the United States and other WTO Members after the October 2012 meeting.

Azerbaijan:

Azerbaijan's accession intensified in 2012, with two Working Party meetings and substantially revised goods and services offers. While much work remains, it is clear that 2013 could be a decisive year in efforts to complete the accession. Further progress in 2013 will depend on Azerbaijan's successful bridging of the last gaps in market access and movement towards resolution of the outstanding systemic issues (*e.g.*, in agricultural supports, taxes and fees on imports, local content requirements in state enterprise procurement, and removal of QRs, as well as towards full legislative implementation of WTO provisions.

Seychelles:

Seychelles third Working Party Meeting was held in July 2012. The next Working Party meeting will be held upon circulation of the necessary inputs. Bilateral market access negotiations are underway, on the basis of Seychelles' latest offers on market access for goods and services, circulated in the first half of 2012.

The Bahamas:

The accession of The Bahamas picked up speed during 2012. The second meeting of the Working Party was held in June 2012, and bilateral market access negotiations for goods and services are under way on the basis of initial offers circulated in March 2012. The next Working Party meeting will be held when The Bahamas circulates responses to comments and requests for information and additional documentation to WTO Members resulting from the June meeting.

Other Accessions:

Algeria and Belarus have been working with the WTO Secretariat since 2010 to prepare for the resumption of their WTO accession processes. In 2012, Algeria's WP Chairman held informal consultations with interested delegations, who requested updated documentation, including a revised draft Working Party report and circulation of updated legislation. The Chairman also undertook a visit to Algiers in November 2012 to drive home these points. In December, a delegation of senior Algerian trade officials visited Washington to review the status of its accession negotiations and prepare

for resumption of negotiations in 2013. Algeria also provided updated documentation to the WTO Secretariat. Also in November, the WTO Secretariat prepared an updated Factual Summary for Belarus on the basis of new and revised inputs submitted by Belarus since 2010. Provided both applicants complete their documentation submissions and provide revised offers on goods and services, they will resume Working Party deliberations in 2013. Uzbekistan has also requested resumption of its accession negotiations in 2013 based on updated documentation.

The chart included in Annex II reports the current status of each accession negotiation.

LDC Accessions

WTO Members are committed to facilitating the accession processes of LDCs and in making WTO accession more accessible to these applicants. The accession negotiations for all LDC accession applicants are guided by the simplified and streamlined procedures developed for these countries in response to the WTO General Council Decision on Accessions of Least Developed Countries (WT/L/508) established at the end of 2002.

In July 2012, the General Council adopted additional recommendations, developed in the Sub-Committee on LDCs, to further strengthen, streamline and operationalize the 2002 LDC Accession Guidelines. These recommendations, foreseen in the Decision adopted at the Eighth WTO Ministerial Conference[20], became an *addendum* to the 2002 LDC Accession Guidelines[21]. They include provisions under the following pillars: (i) Benchmarks on Goods; (ii) Benchmarks on Services; (iii) Transparency in Accession Negotiations; (iv) Special and Differential Treatment and Transition Periods; and, (v) Technical Assistance. Points (i) and (ii) establish that market access negotiations for the WTO accession of LDCs would be guided by special principles and benchmarks[22] more appropriate to the development level of LDC applicants. The transparency provisions confirm evolving practice in LDC accessions for the use of the good offices by the Chairperson of the Sub-Committee on LDCs, as well as the Chairpersons of the LDCs' Accession Working Parties to assist the conclusion of the accession process of LDCs. S&D treatment and technical assistance provisions of the additional recommendations also confirm the need for restraint and the broad use of transitional provisions when constructing market access commitments, Action Plans for transitional implementation of WTO provisions, and the need for enhanced technical assistance and capacity building in LDC accessions.

The United States and other developed country WTO Members support both the 2002 and the 2012 Decisions on LDC Accessions, adhering to the guidelines in formulating more flexible negotiating positions on market access and WTO implementation commitments for LDCs. The purpose of the guidelines is to ensure that LDCs are prepared for the responsibilities of WTO Membership by promoting use of technical assistance and structuring transitional periods with action plans, and in general facilitating LDC integration into the multilateral trading system. The 2012 additional provisions will continue to establish the WTO accession process for LDCs as a tool for economic development, incorporating the applicant's own development program and schedule for receiving technical assistance in an action plan for progressive implementation of WTO rules.

Developments in 2012: LDC accession applicants actively negotiating with WTO Members during 2012 included Afghanistan, Ethiopia, Lao PDR, Liberia and Yemen, all having at least one WP meeting during the year. Negotiations with Lao PDR were concluded in October with General Council approval of the terms of accession. Yemen's accession negotiations are substantially completed. Liberia's first Working

[20] WT/L/846
[21] WT/L/508
[22] WT/L/508/Add.1

Party meeting was held in July 2012, and Afghanistan and Ethiopia are continuing their accession efforts, all with significant U.S. technical assistance to develop the legislation and institutions necessary for the implementation of WTO provisions, and will likely continue progress in WP meetings in 2013.

Lao PDR:

Lao PDR engaged in three WP meetings during 2012, in March, July and September. Due to the significant work undertaken by Lao PDR to bring its trade regime in line with WTO rules, the Working Party approved Lao PDR's accession package on an *ad referendum* basis during the September meeting and forwarded the results to the WTO General Council for approval. The WTO General Council approved Lao PDR's terms of accession on October 26, 2012, and Lao PDR is seeking domestic ratification of the accession package. Under the accession package, Lao PDR specifies the amendments it has already enacted for a number of key laws to bring them into conformity with WTO provisions and agreed to eliminate by the date of accession a number of existing barriers to trade that are inconsistent with WTO rules. In some cases, Laos requested and received transition periods. A detailed schedule for full implementation of the WTO Agreement is included in the report of the Working Party. Lao PDR also undertook comprehensive market access commitments in agriculture, industrial goods, and in services. The overall results achieved are significant for a country at Lao PDR's low level of economic development, limited resources, land-locked status and low trade capacity.

Yemen:

The tenth Meeting of the Working Party was held in July 2012. Yemen continued to engage bilaterally with interested Members throughout 2012 to bring its trade regime in line with WTO rules and update its Draft Working Party Report. Yemen substantially concluded bilateral market access negotiations on goods and services during 2012, with the exception of tariff negotiations with Ukraine. At the July 2012 WTO General Council meeting, the Working Party Chair Mr. Hartmut Röben (Germany) and co-facilitators on this accession Ambassador Steffen Smidt (Denmark), and Ambassador Yi (China) reported that the outstanding bilateral market access negotiations on goods between Ukraine and Yemen had been concluded, but that the results were subject to a technical verification exercise. The verification exercise began in August 2012, but differences persist between Ukraine and Yemen. During the December 2012 WTO General Council meeting, Members urged Ukraine to take into account Yemen's status as an LDC, and demonstrate flexibility that will result in Yemen's accession early in 2013.

Ethiopia:

The second Meeting of the Working Party was held in April 2012. The next Working Party meeting will be held upon circulation of the necessary inputs. Bilateral market access negotiations are underway, on the basis of Ethiopia's initial offer on market access for goods, circulated in the first half of 2012. Ethiopia has not yet circulated an offer on market access for services.

Afghanistan:

Substantial progress was achieved, as Afghanistan provided legislation and analysis of its trade regime to WTO Members in two Working Party meetings during June and December 2012. Initial Market Access Offers on Goods and Services were circulated and negotiated in bilateral meetings with delegations on the margins of both WP meetings. An initial draft of Elements of a Working Party Report was circulated in November. The WTO Secretariat believes that definitive progress can be achieved in 2013, and has placed Afghanistan on its priority list for possible completion. Afghanistan has declared that it will be a WTO Member by the end of 2014, a goal supported by the United States.

Liberia:

Liberia's first WP meeting was held in July 2012, and Members reviewed its trade regime and provided questions and comments for written response. The next Meeting of the Working Party will be convened once Liberia submits its replies to Members questions and comments, as well as the Initial Offers on Goods and Services and other inputs. The Secretariat will prepare the first version of the Factual Summary of Points Raised, as soon as the relevant inputs are received.

Prospects for 2013

Prospects for further completed accessions in 2013 are good, *e.g.*, for Kazakhstan, Serbia, Bosnia and Herzegovina, Yemen and Afghanistan, a fact recognized by the WTO Secretariat in its annual report on accessions.[23] Azerbaijan and Ethiopia could make significant progress as well. Other active accessions, but at an early stage of progress, include The Bahamas, Seychelles, and Liberia. These applicants will continue negotiations bilaterally and in their Working Parties during 2013, depending on the timing and the quality of market access offers and on tangible progress on legislation. Based on their efforts during 2012, Belarus, Algeria, and perhaps Uzbekistan also could resume Working Party meetings in 2013. However, the divide between these applicants and the remaining eleven[24] has only deepened, as these other applicants are not, at this time, in a viable accession process, and have not been for over three years. This includes the five remaining LDC applicants, undermining efforts by the WTO to use the accession process to support development in these countries.

K. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) entered into force on January 1, 1980, and is one of two WTO plurilateral agreements (along with the Agreement on Government Procurement) that are in force only for those WTO Members that have accepted it.[25]

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the Signatories have agreed provisionally to provide duty free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

There are currently 32 Signatories to the Aircraft Agreement: Albania, Canada, the EU[26] (the following 20 EU Member States are also Signatories to the Aircraft Agreement in their own right: Austria,

[23] WT/L/19
[24] Andorra, Iran, Iraq, Lebanon, Libya and Syria; Comoros, Equatorial Guinea, Sao Tome and Principe, Bhutan, and Sudan (LDCs)
[25] Additional information on this agreement can be found on the WTO's website at: http://www.wto.org/english/tratop_e/civair_e/civair_e.htm.

Belgium, Bulgaria, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Spain, Sweden, and the United Kingdom), Egypt, Georgia, Japan, Macao China, Montenegro, Norway, Switzerland, Chinese Taipei, and the United States. WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, Gabon, Ghana, India, Indonesia, Israel, South Korea, Mauritius, Nigeria, Oman, the Russian Federation, Saudi Arabia, Singapore, Sri Lanka, Trinidad and Tobago, Tunisia, Turkey, and Ukraine. In addition, the IMF and UNCTAD are also observers.

The Committee on Trade in Civil Aircraft (Aircraft Committee), permanently established under the Aircraft Agreement, provides the Signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

Major Issues in 2012

The Aircraft Committee held one regular meeting on November 8, 2012. At this meeting, the Committee continued to discuss its work on the revision of the Product Coverage Annex to the Trade in Civil Aircraft Agreement in order to bring it into conformity with the 2007 Harmonized Commodity and Description System.

Prospects for 2013

The Aircraft Committee agreed to hold its next regular meeting on November 7, 2013. The United States will continue to encourage recently acceded WTO Members to become Signatories pursuant to their respective protocols of accession, and will continue to encourage current Committee observers and other WTO Members to become Signatories to the Aircraft Agreement.

2. Committee on Government Procurement

Status

The WTO Agreement on Government Procurement (GPA) is a "plurilateral" agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to it. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement.

Forty-two WTO Members are parties to the GPA: Armenia; Canada; the EU and its 27 Member States (Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom); Hong Kong, China; Iceland; Israel; Japan; South Korea; Liechtenstein; the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; Taiwan (Chinese Taipei); and the United States (collectively the GPA Parties).

As of the end of 2012, ten Members were in the process of acceding to the GPA: Albania; China; Georgia; Jordan; Kyrgyz Republic; Moldova; New Zealand; Oman; Panama; and Ukraine. Six additional

[26] Currently comprising 27 Member States: Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

Members have provisions in their respective Protocols of Accession to the WTO regarding accession to the GPA: Croatia; the Former Yugoslav Republic of Macedonia; Mongolia; Montenegro; the Russian Federation; and Saudi Arabia.

When China joined the WTO in 2001, it committed to commence negotiations to join the GPA "as soon as possible." In April 2006, China agreed in the Joint Committee on Commerce and Trade (JCCT) to submit its initial offer of coverage by the end of 2007. Based on these commitments, China submitted its application for accession to the GPA and its Initial Appendix I Offer on December 28, 2007. The United States submitted its Initial Request for improvements in China's Initial Offer in May 2008. In accordance with a commitment that China made at the United States-China Strategic and Economic Dialogue in July 2009, China submitted a report to the Committee on its plans for submission of a revised offer and the difficulties it has encountered in revising its offer. At the JCCT meeting in October 2009, China committed to table a revised offer in 2010. China submitted its first Revised Offer in July 2010. The United States submitted its Second Request for improvements in China's Revised Offer in September 2010. China also submitted its responses to the Checklist of Issues for Provision of Information Relating to Accession in September 2008. In April 2010, the United States submitted questions to China on its responses to the Checklist of Issues. China replied to U.S. questions in October 2010. At the JCCT meeting in December 2010, China committed to table a second revised offer in 2011. During President Hu's January 2011 visit to Washington, China expressly committed that its second revised offer would include subcentral entities. On November 30, 2011, China submitted its second revised offer, which included several subcentral entities. On July 3, 2012, the United States submitted its Third Request for improvements in China's offer. On November 29, 2012, China submitted its Third Revised Offer.

Jordan submitted its initial offer of coverage in 2002. It has submitted several revised offers, in response to requests by the United States and other GPA Parties for improvements. Negotiations on Jordan's accession did not make any progress in 2012.

The Kyrgyz Republic's accession to the GPA, which had been inactive since 2003, moved forward in 2009 when it submitted updated responses to the Checklist of Issues, but it did not make further progress in 2012.

Moldova applied for accession to the GPA in 2002, and submitted its initial offer in 2008. In September 2012, Moldova submitted a revised coverage offer.

In October 2012, New Zealand commenced its accession to the GPA with the submission of its application for accession, initial market access offer, and its replies to the Checklist of Issues.

Ukraine commenced its accession to the GPA in 2011 with the submission of its application for accession, and in August 2011, submitted its replies to the Checklist of Issues. In 2012, Ukraine updated the committee on its progress in bringing its domestic legislation into compliance with the GPA's requirements and its preparations of an initial offer.

With the addition of Indonesia, Malaysia, and Montenegro in 2012, 26 WTO Members, including those in the process of acceding to the GPA, have observer status in the GPA Committee: Albania; Argentina; Australia; Bahrain; Cameroon; Chile; China; Colombia; Croatia; Georgia; India; Indonesia; Jordan; Kyrgyz Republic; Malaysia; Moldova; Mongolia; Montenegro; New Zealand; Oman; Panama; Saudi Arabia; Sri Lanka; Turkey; Ukraine; and Vietnam. Four intergovernmental organizations (IMF, International Trade Centre, OECD, and UNCTAD) also have observer status.

On December 15, 2011, the GPA Parties reached agreement on the conclusion of negotiations, which had been conducted over more than a decade, to revise the GPA. The outcome included a revision of the text

of the GPA to streamline and clarify its obligations, to incorporate flexibilities that reflect modern procurement practices, and to facilitate its implementation. The revision also significantly expanded the procurement covered under the GPA. As part of the GPA package, the GPA Parties adopted a set of Future Work Programs to be undertaken by the GPA Committee following the entry into force of the revised Agreement. These include programs related to: (i) the treatment of small and medium sized enterprises; (ii) sustainable procurement; (iii) the collection and dissemination of statistical data; (iv) exclusions and restrictions in GPA Parties' Annexes; and (v) safety standards in international procurement. The GPA Committee has also approved a decision relating to the use of electronic means to fulfill notification requirements under Articles XIX and XXII of the revised Agreement.

In March 2012, the GPA Parties formally adopted the results of the revision of the GPA. The GPA Parties also agreed to undertake the necessary domestic approval procedures so that the revised Agreement could enter into force as soon as possible.

Major Issues in 2012

The GPA Committee adopted the results of the revision of the GPA. The revision will expand procurement opportunities for U.S. goods, services, and suppliers. The revised GPA will also facilitate understanding and implementation of the GPA text.

New Zealand commenced its GPA accession in October 2012, China submitted its third revised offer, and Moldova submitted a new revised offer, which re-invigorated its accession, which had been stalled for several years.

During 2012, the GPA Committee held four formal meetings (in March, July, October, and December) and four informal meetings, focused primarily on adoption of the revised GPA and entering it into force.

The GPA Committee held discussions at informal meetings on the accessions of China, Moldova, New Zealand, and Ukraine to the GPA.

Prospects for 2013

The GPA Committee will continue work to advance GPA accessions, in particular, of China, Jordan, Moldova, and New Zealand. The GPA Committee will also focus on completion of decisions on arbitration procedures and indicative criteria that are intended to facilitate the modification of GPA Parties' Annexes. The GPA Committee anticipates that the revised GPA will enter into force in 2013, as soon as two-thirds of the 15 GPA Parties have accepted it. When the revised GPA enters into force, the GPA Committee will commence work on the five Work Programs that were adopted as part of the overall package.

3. Committee of Participants on the Expansion of Trade in Information Technology Products

Status

The Committee of Participants on the Expansion of Trade in Information Technology Products ("the ITA Committee") was established to carry out the provisions of the Information Technology Agreement

(ITA)[27], among which are to review the current product coverage with a view to incorporate additional products, and to consider any divergence among ITA Participants in classifying ITA products. The Committee thus serves as the forum for meetings required under its procedures and collective consultations among the participants.

The ITA covers a wide range of information and communications technology (ICT) products including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments. In March 2012, Colombia joined the ITA as a result of a commitment under the United States-Colombia Trade Promotion Agreement. In May 2012, Montenegro joined the ITA as part of its WTO accession commitments, bringing the number of participants to 75.[28] Among these 75 ITA Participants, however, Morocco has not yet submitted the formal documentation to implement its ITA Commitments, and El Salvador has indicated that implementation would begin after the completion of domestic legal procedural requirements.

The Russian Federation committed to join the ITA upon its accession to the WTO. Russia submitted a draft schedule to the ITA Committee for verification in July. On August 8, the United States, together with the European Union, Japan, and Chinese Taipei submitted joint comments to the Russian Federation on the steps necessary for the Russian Federation to finalize its ITA schedule. On August 22, the Russian Federation formally acceded to the WTO, but has yet to take the final steps necessary to join the ITA. The United States continues to urge the Russian Federation to submit a revised schedule that addresses the concerns we raised with other Members. Once this happens, and the ITA Committee approves the file, the Russian Federation will be an ITA Member.

In September 2012, the Republic of Tajikistan informed the WTO Secretariat of its commitment to join the ITA upon its accession to the WTO and submitted its draft ITA schedule. The ITA Committee approved Tajikistan's ITA schedule in October, and the WTO General Council approved Tajikistan's WTO accession package in December 2012. Tajikistan will become a full member of the ITA when it becomes a WTO member, *i.e.*, 30 days after it ratifies its accession protocol.

Major Issues in 2012

The ITA Committee held two formal meetings in 2012, on May 15 and November 1.[29] To commemorate the occasion of the 15th anniversary of the ITA, the WTO Secretariat hosted a two day symposium event on May 14-15 open to all WTO members and observers, the private sector, IT industry representatives, academic experts, international inter-governmental organizations, NGOs and journalists.

Former USTR Ambassador Charlene Barshefsky delivered an opening keynote address calling on ITA Participants to begin negotiations to expand ITA product coverage. Several representatives from leading

[27] More formally known as the "WTO Ministerial Declaration on Trade in Information Technology Products" (WT/MIN(96)/16)

[28] Current ITA Participants are: Albania; Australia; Bahrain; Canada; China; Colombia; Costa Rica; Croatia; Dominican Republic, Egypt; El Salvador; European Communities (on behalf of 27 Member States); Georgia; Guatemala, Hong Kong, China; Honduras, Iceland; India; Indonesia; Israel; Japan; Jordan; Korea; Krygyz Republic; Kuwait; Macao, China; Malaysia; Mauritius; Moldova; Montenegro; Morocco; New Zealand; Nicaragua, Norway; Oman; Panama; Peru; Philippines; Saudi Arabia; Singapore; Switzerland (on the behalf of the customs union of Switzerland and Liechtenstein); Chinese Taipei; Thailand; Turkey; United Arab Emirates; Ukraine; Vietnam; and the United States.

[29] The minutes of these Committee meetings are contained in WTO documents G/IT/M/55 and G/IT/M/56 (not yet released).

information technology companies made similar calls for expanding product coverage of the ITA to reflect technological development in the ICT sector. They further highlighted the transformative effect that the ITA has had on development, trade, global production chains, and the global economy in the 15 years since it entered into force.

At the formal ITA meeting of May 15, 2012 following the ITA symposium, there was a broad endorsement by ITA Participants to pursue expansion of ITA product coverage based on a concept paper tabled in early May by the United States, Canada, Costa Rica Korea, Japan, Malaysia, Singapore, and Chinese Taipei (Taiwan). As a result, a review of ITA product coverage was included as a regular agenda item of the Committee.

Following the May ITA Committee meeting, a group of 17 ITA Participants[30] – including the United States – convened informal technical discussions to develop a list of ICT products to propose for addition to ITA product coverage. In July, a draft "consolidated list" of products proposals was circulated to the WTO (JOB/IT/7/Rev.1). A second revision of this product list was circulated in December, reflecting the results of technical discussions convened by the 17 Members throughout the fall. This consolidated list is intended to serve as a basis for negotiations and to facilitate domestic consultations – it is not an agreed list, but rather a compilation of proposals tabled by at least one ITA Participant.

In addition to discussion of ITA product expansion, the ITA Committee continued to discuss classification divergences on certain ITA products aimed at eliminating differences in the way participants classify ITA products in their national tariff schedules. The ITA Committee considered a draft decision to endorse the classification of 18 ITA Attachment B items in the Harmonized System (HS) 1996 nomenclature. However, Members were unable to agree on the draft decision, or the other outstanding classification divergences, so work will continue in 2013.

The Committee also continued its deliberations on the Non-Tariff Measures (NTMs) Work Programme in 2013. With regard to its work on the EMC/EMI Pilot Project, the Committee took note that 28 ITA Members (including the EU as one Member) have provided survey responses to the Committee and encouraged those that had not provided the information to do so without any further delay. In considering ways to advance and expand its work on NTMs other than EMC/EMI, the Committee also heard reports and updates by participants on their contributions to work on NTMs, including in other bodies of the WTO and informally.

Prospects for 2013

Since the ITA was signed in 1996, the global ICT sector has experienced an innovation revolution, with countless new ICT and electronics products entering the market. Expanding the product scope of the ITA could help mitigate, or even eliminate, many of the classification divergences that exist among ITA Participants based on the current ITA coverage, specified in HS1996 tariff nomenclature. Based on progress to date, ITA Participants will intensify negotiations on a list of ICT goods to add to the ITA product coverage, both informally and within the ITA Committee.

The next meeting of the ITA Committee will be held in the first quarter of 2013.

[30] The ITA Participants actively involved in the technical discussions on ITA expansion as of December 2012 are: Australia, Canada, China, Costa Rica, the European Union, Hong Kong, Japan, Korea, Malaysia, New Zealand, Norway, the Philippines, Singapore, Switzerland, Chinese Taipei, Thailand, and the United States.

III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

A. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. U.S. two-way goods and private services trade (exports plus imports) with Australia was an estimated $65 billion in 2012, up 101 percent since 2004, the year before the FTA entered into force. U.S. goods exports were $32 billion in 2012, up 127 percent from 2004, and U.S. goods imports were $9.6 billion, up 28 percent from 2004. The United States had a $22 billion goods trade surplus, and a $9.6 billion services trade surplus with Australia in 2012.

Agricultural trade between the United States and Australia continued to grow in 2012, with U.S. agriculture exports to Australia reaching nearly $1.3 billion. In 2012, the United States and Australia continued to closely monitor FTA implementation and discuss a range of FTA issues, including agriculture, sanitary and phytosanitary measures, and government procurement. The two sides worked to further deepen the trade and investment relationship in the Trans-Pacific Partnership as well as through WTO and APEC initiatives.

2. Bahrain

The United States-Bahrain Free Trade Agreement (FTA), which entered into force on August 1, 2006, generates export opportunities for the United States. On the first day that the agreement took effect, 100 percent of the two-way trade in industrial and consumer products began to flow without tariffs. In addition, Bahrain opened its services market wider than any previous FTA partner, creating important new opportunities for U.S. financial service providers and U.S. companies that offer telecommunications, audiovisual, express delivery, distribution, healthcare, architecture, and engineering services. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

To manage implementation of the FTA, the agreement establishes a central oversight body, the United States-Bahrain Joint Committee (JC), chaired jointly by USTR and Bahrain's Ministry of Industry and Commerce. The second meeting of the JC was held in October 2009. Dates for the third meeting of the JC have not yet been set, but when scheduled, officials of the two Governments expect to discuss a broad range of trade issues, including efforts to increase bilateral trade and investment levels, possible cooperation in the broader Middle East and North Africa (MENA) region, and additional cooperative efforts related to labor rights and environmental protection.

In April 2011, the American Federation of Labor and Congress of Industrial Organizations filed a submission with the U.S. Department of Labor alleging that the government of Bahrain took certain actions related to the protests in February and March of that year, which, if substantiated, would be inconsistent with Bahrain's commitments under the FTA Labor Chapter. In June 2011, the U.S. Department of Labor accepted the submission for review. In December 2012, the U.S. Department of Labor issued a public report on its findings, concluding that, although Bahrain made significant progress to address several of the problems described in the submission, problems regarding freedom of association and employment discrimination remain. The report recommended that the United States

request formal consultations under the FTA Labor Chapter to discuss these matters with Bahrain, and that the United States and Bahrain develop an action plan to address outstanding concerns. The United States has begun to engage with the government of Bahrain on the recommendations in the report, and will decide in 2013 whether to invoke formal consultations under the trade agreement.

3. Central America and the Dominican Republic

a. Overview

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. This agreement is creating new economic opportunities by eliminating tariffs, opening markets, reducing barriers to services, and promoting transparency. The Agreement is facilitating trade and investment among the seven countries and furthering regional integration.

Central America and the Dominican Republic represent the third largest U.S. goods export market in Latin America, behind Mexico and Brazil. U.S. goods exports to the CAFTA-DR countries were valued at $30.0 billion in 2012. Combined total two-way trade in 2012 between the United States and Central American CAFTA-DR Parties and the Dominican Republic was $61 billion.

The Agreement entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009. Following the addition of Costa Rica, the CAFTA-DR is in force for all seven countries that signed the Agreement.

b. Elements of the CAFTA-DR

i. Operation of the Agreement:

The central oversight body for the CAFTA-DR is the Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the trade ministers of the other CAFTA-DR Parties or their designees. On January 23, 2012, the FTC held its second meeting. The FTC reviewed implementation of the CAFTA-DR and took additional actions and decisions to further strengthen the operation of the Agreement, as noted below.

Under the Agreement, 100 percent of U.S. consumer and industrial goods will enter duty free in all the other CAFTA-DR countries' markets by 2015. Nearly all U.S. textile and apparel goods that meet the Agreement's rules of origin now enter the other CAFTA-DR countries' markets duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies. Under the CAFTA-DR, more than half of U.S. agricultural exports now enter the other CAFTA-DR countries' markets duty free. The majority of remaining tariffs on nearly all U.S. agricultural products will be eliminated by 2020, with a few most sensitive products having slightly longer phase-out periods. For certain products, tariff-rate quotas (TRQs) permit some duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period.

Trade officials also hosted the joint government-private sector CAFTA-DR Trade Facilitation Dialogue on January 23-24, 2012, in order to allow CAFTA-DR member countries' top trade officials and leading private sector representatives to exchange views on identifying priorities and possible actions to facilitate

trade. CAFTA-DR countries supported additional private sector national Focus Group meetings to further explore areas for action, including a U.S Focus Group meeting for U.S. stakeholders hosted by the U.S. Chamber of Commerce and the Inter-American Development Bank (IDB) in Washington, D.C., on November 15, 2012.

ii. Labor:

Ongoing labor capacity building activities are supporting efforts to improve the enforcement of labor laws in the CAFTA-DR countries. In particular, in 2012, U.S. Government assistance focused on strengthening and modernizing the labor ministries in the CAFTA-DR countries and promoting a culture of compliance with labor laws in each CAFTA-DR country.

In 2012, the United States continued its efforts to address the government of Guatemala's apparent failure to effectively enforce its labor laws in contravention of its CAFTA-DR obligations. An arbitral panel was constituted in late 2012. The United States continues to engage Guatemala in an attempt to find a mutually agreeable resolution that would significantly improve labor law enforcement in Guatemala.

In December 2011, a submission was filed with the U.S. Department of Labor (DOL) alleging that the government of the Dominican Republic failed to ensure the effective enforcement of labor laws in the Dominican sugar sector, which, if substantiated, would be inconsistent with the Dominican Republic's commitments under the CAFTA-DR labor chapter. The DOL accepted the submission for review and in August 2012 extended the timeframe for review. The DOL will issue a public report on its findings at the end of the review, which is expected in early 2013.

In March 2012, the AFL-CIO and 26 Honduran worker and civil society groups filed a submission with the DOL alleging that the government of Honduras had failed to enforce its labor laws in the manufacturing, agriculture, and port operations sectors, which, if substantiated, could be inconsistent with Honduras' commitments under the CAFTA-DR labor chapter. The DOL accepted the submission for review in May 2012. In November 2012, DOL extended the timeframe for review, and the DOL will issue a public report on its findings upon completion of the review.

iii. Environment:

Monitoring and implementation of environment commitments of the CAFTA-DR, including enhanced cooperation and capacity building, continued in 2012 and included an increased effort among the CAFTA-DR countries to improve levels of environmental protection. U.S. Government assistance for environment capacity building programs and activities in Central America and the Dominican Republic continued in 2012 and were funded through the Pathways to Prosperity in the Americas initiative. Capacity building focused on compliance with specific CAFTA-DR environment chapter obligations, strengthened environmental laws and enforcement, biodiversity conservation, including through market-based approaches, and improved private sector environmental performance. Public outreach and participation efforts also continued in 2012. The Secretariat for Environmental Matters (Secretariat), established in 2006 in accordance with the CAFTA-DR, received several new submissions from the public in 2012 on a range of environmental concerns, and published a second final Factual Record under this process (http://www.saa-(sem.org/expedientes/factual_record_caala_10_001_english.pdf). The Secretariat made progress on improving the timeliness and quality of its review of public submissions. The EAC contact points met twice in 2012 to discuss priorities for environmental capacity building programming and to prepare for the April 2012 EAC meeting. During the April 2012 EAC meeting, Council Members highlighted their governments' successes with respect to implementation of obligations under the environment chapter, as well as accomplishments under the parallel Environmental Cooperation Agreement. A joint communiqué on their work was released and an open session was held to engage

members of the public in the implementation process of the CAFTA-DR environment chapter and the complementary cooperative capacity building activities.

iv. Trade Capacity Building:

Trade Capacity Building (TCB) programs and planning continued throughout 2012 with the Office of the U.S. Trade Representative, along with the U.S. Agency for International Development (USAID) and other donors, including U.S. agencies such as the U.S. Departments of Agriculture, State and Commerce, carrying out bilateral and regional projects with the CAFTA-DR partner countries. Discussions focused on the prioritization of CAFTA-DR partners' trade capacity building objectives, including successful implementation and full utilization of the opportunities created by the CAFTA-DR, with a special emphasis on sanitary and phytosanitary (SPS) measures, customs and border management as it relates to trade facilitation activities, and consideration of TCB activities for a later phase of CAFTA-DR implementation.

In 2012, USAID began implementing regional programs addressing customs, trade facilitation, and SPS activities. The U.S. Department of Commerce carried out a series of customs and border modernization workshops in the region in 2012 supported by the U.S. Department of State's Pathways to Prosperity in the America's initiative. Commerce-organized workshops were held in Honduras, Costa Rica, and El Salvador in 2012. In support of the CAFTA-DR FTC's Trade Facilitation Initiative and the recommendations of the CAFTA-DR Committee on Technical Barriers to Trade and the Committee on Trade in Goods, USTR organized a standards workshop for CAFTA-DR countries in December 2011 and is planning a customs workshop focusing on improved implementation of the Agreement for 2013.

The U.S. Department of State's Pathways to Prosperity activities also included a broad trade facilitation element, working with other international donors in the region on various customs and border process related issues to foster trade among CAFTA-DR partners. Under Pathways, CAFTA-DR countries are working with the support of the IDB and participation by the Association of American Chambers of Commerce of Latin America (AACCLA) to create a single window customs network among CAFTA-DR partners and others in Latin America (Mexico, Chile, Ecuador, Panama, and Colombia).

USAID, the U.S. Department of State and others, working in cooperation with Secretaría de Integración Económica Centroamericana (Secretariat for Central American Integration; SIECA), continued to expand implementation of the Small Business Development Center (SBDC) model to all of the CAFTA-DR countries, building on a program that began in El Salvador. USTR, the U.S. Department of State, the Small Business Administration, and other agencies are working with various partner organizations, including multilateral institutions and universities, to connect U.S. and regional SBDCs in order to help SMEs take better advantage of trade opportunities through the Small Business Network of the Americas.

v. Other Implementation Matters:

At its January 23, 2012 meeting, the FTC adopted various decisions to strengthen implementation. The FTC took a decision on the remuneration of panelists, assistants, and experts, as well as payment of their expenses for CAFTA-DR dispute settlement proceedings, recognizing the importance of an effective dispute settlement procedure to implement and enforce the Agreement.

On August 10, 2012, the United States enacted certain changes to a number of the Agreement's rules of origin for textile and apparel goods to enhance the competitiveness of the region's textiles sector through regional sourcing and integration. These changes to rules of origin, together with the CAFTA-DR Textile Sourcing Database that was endorsed by the FTC in February 2011, will facilitate regional sourcing and encourage a vibrant textile and apparel supply chain in the region. After the other CAFTA-DR countries

had completed their respective domestic procedures, and the U.S. Congress approved the legislation with respect to the changes, the new rules took effect on October 13, 2012.

In addition to the Technical Barriers to Trade Committee, which met in Washington, D.C. in December 2011, the Committees on Sanitary and Phytosanitary Matters and Agricultural Trade met on March 14 - 15, 2012, in San Jose, Costa Rica.

Work with CAFTA-DR partners to update the CAFTA-DR's product-specific rules of origin to reflect changes to the International Convention on the Harmonized Commodity Description and Coding System continued in 2012. This effort, expected to conclude in 2013, will further facilitate traders' appropriate claims and customs administrations' application of the Agreement's rules of origin.

The United States also continued to work closely with its CAFTA-DR partners on bilateral matters related to the Agreement, with a particular focus on ensuring that its partners properly implement the Agreement. For example, the U.S. Government continued to work with several CAFTA-DR partners on implementation of agricultural trade matters such as the administration of tariff-rate quotas and SPS issues. The U.S. Government also worked with several CAFTA-DR countries to promote effective protection of intellectual property rights, including the careful balance between trademark and geographical indication (GI) protection, as reflected in the CAFTA-DR. The U.S. Government also worked with the government of Costa Rica to review and support the opening of its market for wireless mobile and satellite Internet services and access for U.S. suppliers.

4. Chile

a. Overview

The United States-Chile Free Trade Agreement entered into force on January 1, 2004.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for trade in services, provides protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anticompetitive business conduct, and requires effective labor and environmental enforcement. In 2012, U.S. goods exports to Chile increased by an estimated 17 percent to $18.7 billion, while U.S. goods imports from Chile increased by 2 percent to $9.2 billion.

b. Elements of the United States-Chile FTA

i. Operation of the Agreement

The central oversight body for the FTA is the United States-Chile Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Chilean Director General of International Economic Affairs or their designees. The FTC held its eighth meeting on July 3, 2012, during which the two Governments evaluated progress on the implementation and operation of the FTA during 2011 and the first half of 2012, and reached an agreement on amendments to the product-specific rules of origin in the FTA to reflect the 2012 amendments to the Harmonized System. The Parties also discussed several bilateral issues, including Chile's concerns regarding the U.S. Department of Homeland Security (DHS) CFATS (Chemical Facility Anti-Terrorism Standards) regulations that affect Chilean nitrates exported to the United States, U.S. interest in exploring a mutual recognition agreement with Chile for telecommunications equipment, and U.S. concerns about a draft law in Chile that sought to ban advertising on pay television platforms.

The Commission also heard reports on the work carried out since the last Commission meeting by the Committee on Technical Barriers to Trade (TBT), which held its eighth meeting and the Committee on Trade in Goods (CTG), which held its fifth meeting. The TBT Committee discussed Chilean concerns regarding DHS's CFATS rules governing the import of Chilean nitrates into the United States and ongoing work in APEC and in the Trans-Pacific Partnership (TPP) negotiations. The CTG also discussed work related to the amendments to the product-specific rules of origin in the FTA to reflect the 2012 amendments to the Harmonized System and the Common Guidelines, among other issues.

ii. Labor

The FTA establishes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. The U.S. Department of Labor and the Chilean Ministry of Labor continue to exchange information on occupational safety and health and social protections related to employment.

iii. Intellectual Property Rights

Chile remained on the Priority Watch List in 2012. The United States continues to urge Chile to implement an effective system for addressing patent issues expeditiously in connection with applications to market pharmaceutical products. The United States also continues to urge Chile to implement protections against the circumvention of technological protection measures and protections for encrypted program-carrying satellite signals (including ensuring a prohibition on devices to do the same), and to ensure that effective administrative and judicial procedures, as well as deterrent remedies are made available to rights holders. The United States also urges Chile to provide adequate protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to amend its Internet service provider liability regime to permit effective action against piracy over the Internet. The United States will continue to work with Chile to resolve these and other issues, including through the TPP negotiations.

iv. Environment

At the January 9, 2013 Environment Affairs Council (EAC), senior U.S. and Chilean officials reviewed implementation of the Environment Chapter of the FTA. Chilean officials highlighted progress in establishing new environmental institutions such as environmental tribunals, measures taken to strengthen public participation, and advances in corporate social responsibility. The EAC meeting included a public session, demonstrating the EAC's commitment to a transparent and participatory process.

The U.S.-Chile Joint Commission for Environmental Cooperation, established pursuant to the Environmental Cooperation Agreement, develops work programs that establish priorities for cooperative environmental activities. The current 2012-2014 Work Program establishes priorities for cooperation, including strengthening enforcement of environmental laws, encouraging adoption of sound environmental practices and technologies, promoting sustainable management of environmental resources, and supporting public participation in environmental decision-making.

5. Colombia

a. Implementation of the Agreement

On April 15, 2012, in Cartagena, Colombia, Presidents Obama and Santos announced that the United States-Colombia Trade Promotion Agreement (CTPA) would enter into force on May 15, 2012. The announcement followed months of intensive review by both Governments of each other's laws and regulations regarding the implementation of the Agreement. The Colombian Congress approved a bill that amended three laws in order to implement the Agreement, and the Santos Administration issued a number of decrees in order to implement those CTPA provisions for which legislation was not required. Through an exchange of letters signed on April 15, prior to the announcement, the United States and Colombia confirmed that they had completed their applicable legal requirements and procedures for the Agreement's entry into force.

The two Governments signed four additional exchanges of letters on April 15, 2012. In the first, the Colombian government outlined its need for more time to fulfill its CTPA obligations to join three treaties on intellectual property. This would allow its Constitutional Court to complete its review of the treaties' compatibility with Colombia's Constitution. The two Governments agreed that the United States may remove CTPA benefits if Colombia fails to join the treaties by specified dates. The second and third letter exchanges confirmed Colombia's recognition of the USDA's control measures for salmonella and avian influenza, respectively, as they pertain to U.S. exports of poultry and poultry products to Colombia. The fourth established the phytosanitary measures required for the shipment of paddy rice to Colombia.

The announcement of an entry into force date also followed confirmation by U.S. and Colombian authorities of numerous important steps Colombia had taken to fulfill key elements of the Action Plan Related to Labor Rights. During 2012, the Obama Administration maintained intensive engagement with the Colombian government to support its efforts to improve the protection of worker rights, prevent violence against trade unionists, and ensure the prosecution of the perpetrators of such violence. Ambassadors Kirk and Sapiro, as well as U.S. Secretary of Labor Hilda Solis, met with Colombian Minister of Labor Rafael Pardo to advance labor rights., both in Colombia and Washington D.C. Additionally, USTR and U.S. Department of Labor (DOL) officials traveled to Bogota on multiple occasions to engage with the Colombian Labor Vice Minister, the Colombian Vice Prosecutor General, and the head of the protection program for members of at-risk groups. A DOL official was assigned to the U.S. Embassy in Bogota to work closely with the Colombian government to implement the Labor Action Plan and provide direct technical assistance to the labor inspectorate. In 2012, Colombia made significant progress on labor rights. The Colombian government hired nearly 100 additional labor inspectors, fined over ten companies up to $1 million each for practices that violated labor rights, improved its responsiveness to threats of violence against labor leaders and activists, and enhanced cooperation between the Prosecutor General's Office and representatives of the labor movement. Nevertheless, there are ongoing concerns regarding labor rights in Colombia, and the U.S. Government continues to work closely with the government of Colombia to ensure full implementation of the Colombian Action Plan Related to Labor Rights.

The CTPA builds on a strong commercial relationship with a dynamic regional trading partner. Two-way goods trade totaled $41.4 billion in 2012, and trade in both directions has increased since the CTPA entered into force on May 15, 2012, compared with the same period in 2011. Upon the Agreement's entry into force, Colombia eliminated duties on over 80 percent of U.S. exports of consumer and industrial products, with remaining tariffs phased out over 10 years. Average Colombian tariffs on U.S. industrial exports had averaged over 9 percent prior to entry into force of the CTPA. More than half of U.S. agricultural exports to Colombia became duty free immediately, with virtually all remaining tariffs

to be eliminated within 15 years. With limited exceptions, U.S. services suppliers gained access to Colombia's estimated $200 billion annual services market in 2012. Colombia also agreed to important new disciplines in investment, government procurement, intellectual property rights, labor, and environmental protection, and joined the WTO Information Technology Agreement as per its commitment under the CTPA.

During 2012, the United States and Colombia continued to negotiate the complementary U.S.-Colombia Environmental Cooperation Agreement (ECA). Once signed, the ECA will strengthen bilateral and/or regional environmental cooperation aimed at enhancing environmental protection and the conservation and sustainable use of natural resources. The ECA will establish the Environmental Cooperation Commission, which will oversee the implementation of a work program for environmental cooperation. The work program will build on ongoing initiatives and highlight the importance of building capacity to protect the environment in concert with strengthening trade and investment relations.

b. Operation of the Agreement

On November 19, 2012, Deputy U.S. Trade Representative Miriam Sapiro hosted the inaugural meeting of the United States-Colombia Free Trade Commission (FTC), the body responsible for supervising the implementation of the CTPA and resolving any further issues. The Colombian delegation was led by Vice Minister of Trade Gabriel Duque Mildenberg. At the meeting, the two sides concluded that the Agreement was functioning smoothly and was already benefiting both countries. In addition, the Governments decided to launch consideration of accelerating tariff elimination and agreed upon timeframes for both establishing certain dispute settlement mechanisms and updating the rules of origin. The officials also discussed the status of those commitments with post-entry-into-force deadlines and reviewed the work of the three committees that had already met under the Agreement: Technical Barriers to Trade; Agriculture; and Sanitary and Phytosanitary Matters. Finally, they discussed the ongoing effort between both Governments to ensure full implementation of the Colombian Action Plan Related to Labor Rights.

c. Capacity Building

During 2012, the U.S. Government provided the Colombian government technical assistance in the form of trade capacity building programs in a range of areas, including: strengthening Colombia's sanitary and phytosanitary regulatory systems; developing regulations concerning rules of origin and customs procedures; improving processing times for patent and trademark applications; and training the judicial sector on intellectual property rights.

6. Israel

The United States-Israel Free Trade Agreement is the United States' first FTA. It entered into force in 1985 and continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency. In 2012, U.S. goods exports to Israel rose by an estimated 1.9 percent, to $14.2 billion.

The United States-Israel Joint Committee (JC) is the central oversight body for the FTA. In February 2012, the JC met to explore ways to engage in collaborative efforts to increase bilateral trade and investment. During the meeting, the United States and Israel noted progress made in addressing a number of specific standards-related impediments to trade and opened a dialogue to address additional standards-related issues. The United States and Israel are also working to facilitate claims of duty-free status for individual products.

The parties also made progress during the JC meeting on negotiating a new agreement on trade in agricultural products, and resolving several outstanding sanitary and phytosanitary (SPS) issues. In 1996, the United States and Israel concluded an Agreement Concerning Certain Aspects of Trade in Agricultural Products (ATAP), which provided for duty-free or other preferential tariff treatment of a number of agricultural products. The 1996 agreement was extended through 2003, and a new agreement was concluded in 2004. While this Agreement originally was scheduled to expire at the end of 2008, it has been extended annually since then to allow negotiations on a new ATAP agreement to continue.

In November 2012, the United States proposed revised modalities for a new ATAP agreement, seeking to capitalize on progress to date and to streamline the negotiations while liberalizing trade to the maximum degree possible. Each side is reviewing proposals put forward by the other in preparation for the next round of negotiations, tentatively planned for early 2013. In November 2012, the two sides agreed to extend the ATAP agreement through December 31, 2013, while the aforementioned negotiations continue.

In October 2012, the United States and Israel signed a mutual recognition agreement for assessing conformity of telecommunications equipment. This agreement streamlines conformity assessment processes, and thus, facilitates trade, by permitting recognized U.S. laboratories to test telecommunications for conformity with Israeli technical regulations, and *vice versa*. The agreement also provides that in the future, the United States and Israel can agree to the mutual acceptance of equipment certifications issued by recognized conformity assessment bodies in the United States and Israel.

The United States and Israel have also made progress in the area of intellectual property rights. In connection with the 2009 Special 301 out-of-cycle review, the United States and Israel reached an understanding on February 18, 2010, regarding several longstanding issues related to Israel's IPR regime for pharmaceutical products. As part of that understanding, Israel committed to strengthen its laws on pharmaceutical test data and patent term extension, and to publish patent applications promptly after the expiration of eighteen months from the time an application is filed. In the course of 2011 and 2012, Israel enacted legislation regarding data protection and patent publication and the newly elected Knesset is expected to act on the patent term extension legislation early in its term. In response, the United States in 2012 removed Israel from the Special 301 Priority Watch List.

7. Jordan

In 2012, the United States and Jordan continued to benefit from their economic partnership. A key element of this relationship is the United States-Jordan Free Trade Agreement (FTA), which entered into force on December 17, 2001, and was implemented fully on January 1, 2010. In addition, the Qualifying Industrial Zones (QIZs) program, established by the U.S. Congress in 1996, allows products to enter the United States duty free if manufactured in Jordan, Egypt, or the West Bank and Gaza, with a specified amount of Israeli content. The program has succeeded in stimulating significant business cooperation between Jordan and Israel.

Together these measures have played a significant role in boosting overall U.S.-Jordanian economic ties. U.S. goods exports to Jordan were an estimated $1.7 billion in 2012, up 17 percent from 2011. QIZ products account for about 25 percent of Jordanian exports to the United States, but the QIZ share of these exports is declining relative to the share of exports shipped to the United States under provisions of the FTA. This shift toward exporting products manufactured outside of the QIZs demonstrates the important role the FTA plays in helping Jordan diversify its economy.

The United States-Jordan FTA has expanded the trade relationship between the two countries by reducing barriers for services, providing cutting edge protection for intellectual property, ensuring regulatory transparency, and requiring effective labor and environmental enforcement. In October 2012, the Joint Committee (JC) established under the FTA met to explore ways to boost bilateral trade and investment. Notably, the JC addressed a number of issues, including protection of intellectual property rights, qualifying industrial zones, agricultural trade, Jordan's accession to the WTO Government Procurement Agreement, labor rights, and standards-related measures. The United States and Jordan crafted an action plan outlining concrete steps to boost trade and investment between themselves, and between Jordan and other countries in the Middle East region. Among its first steps under the action plan, Jordan agreed to support Joint Principles on International Investment and Joint Principles for Information and Communication Technology (ICT) Services. Additionally, the United States worked with Jordan throughout the year on an Implementation Plan Related to Working and Living Conditions of Workers, which was concluded in January 2013.

8. Republic of Korea

a. Overview

The United States-Korea Free Trade Agreement (KORUS) entered into force on March 15, 2012. Prior to entry into force, USTR worked with the government of Korea to review the measures both sides had taken to implement the agreement, which included the review of 24 Korean laws and over 100 regulations to ensure they were consistent with the obligations of the agreement that were set to enter into force on day one of the agreement. The United States and the Republic of Korea signed the KORUS on June 30, 2007. On December 3, 2010, the United States and Korea concluded additional agreements, reflected in letters signed on February 10, 2011, that provided additional market access and leveled the playing field for U.S. automobile manufacturers and workers. The U.S. Congress approved the agreement on October 12, 2011, and Korea's National Assembly approved it on November 22, 2011.

The agreement is the United States' most commercially significant free trade agreement in almost two decades. Under the agreement, almost 80 percent of U.S. exports to Korea of consumer and industrial products became duty free on March 15, 2012, and nearly 95 percent of bilateral trade in consumer and industrial products will become duty free within five years of that date. Most remaining tariffs will be eliminated within 10 years.

For agricultural products, the agreement has immediately eliminated or begun phasing out tariffs and quotas on a broad range of items, with almost two-thirds (by value) of Korea's agriculture imports from the United States enjoying duty-free status since March 15, 2012.

For services, the agreement provides meaningful market access commitments that extend across virtually all major service sectors, including greater and more secure access for international delivery services and the opening up of the Korean market for foreign legal consulting services. In the area of financial services, the agreement increases access to the Korean market and ensures greater transparency and fair treatment for U.S. suppliers of financial services. The agreement addresses nontariff barriers in a wide range of sectors and includes strong provisions on intellectual property rights, competition policy, labor and environment, and transparency and regulatory due process. The agreement also provides U.S. suppliers with greater access to the Korean government procurement market.

As the first U.S. FTA with a North Asian partner, the high-standard agreement underscores the U.S. commitment to, and engagement in, the Asia-Pacific region.

b. Operation of the Agreement

The agreement's central oversight body is the Joint Committee, chaired by the U.S. Trade Representative and the Korean Trade Minister. The first Joint Committee meeting was convened on May 16, 2012, and established the necessary procedural groundwork for the implementation of the agreement (such as agreeing on the committee's rules of procedure and agreeing on model rules for dispute settlement panels), as well as establishing a Senior Officials Meeting (SOM) to help coordinate the activities of the committees.

In addition to the Joint Committee and the SOM, 19 committees and working groups have been established under the KORUS. USTR will use these committees and working groups as the primary venues for carefully monitoring Korea's implementation of its FTA commitments. The committees and working groups will also be used to discuss implementation of obligations that will be phased in under the agreement, as well as to resolve issues as they arise. USTR will continue to consult closely with stakeholders regarding the work of the FTA committees, including with respect to potential agenda items.

On June 7 and 8, 2012, the Committee on Trade in Goods, the Committee on Services and Investment, the Small and Medium-sized Enterprises (SME) Working Group, and the Committee on Trade Remedies met to discuss implementation issues related to the four areas and to further bilateral cooperation in these areas. Based on the work of the Committee on Trade in Goods, interpretation questions related to blanket certificates of origin were resolved, and additional progress on customs cooperation was noted. On July 5, 2012, the Medicines and Medical Devices Committee met in Seoul, and a second meeting was held in Washington on November 28, 2012. USTR is using this committee to work with Korea on full implementation of its commitments under the Pharmaceutical Products and Medical Devices chapter, including obligations related to transparency and appropriately valuing innovation. On November 7 and 8, 2012, the Committee on Agricultural Trade, the Working Group on Government Procurement, and the Committee on Textile and Apparel were convened. The SME Working Group met a second time on November 20, 2012, and outlined ideas for joint education and outreach efforts to inform SMEs in both countries about the opportunities created by the agreement. The remaining committees under the agreement are expected to hold their initial meetings during the first quarter of 2013. The U.S. Government also addresses compliance and other trade issues on a continual basis through regular inter-sessional consultations and engagement with the Korean government, ensuring that issues can be resolved in a timely manner.

9. Morocco

The United States-Morocco Free Trade Agreement (FTA) entered into force on January 1, 2006. The FTA is a comprehensive agreement that supports the significant economic and political reforms that are underway in Morocco and provides improved commercial opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the entry into force of the FTA, two-way U.S.-Morocco trade has risen to $3.3 billion in 2012, up from $927 million in 2005 (the year prior to entry into force). U.S. goods exports to Morocco in 2012 were $2.4 billion, down 15 percent from the previous year. Corresponding U.S. imports from Morocco in 2012 were $902 million, down 9 percent from 2011.

The Joint Committee (JC) established by the FTA met in December 2012. At the JC meeting, the United States and Morocco concluded negotiation of a Trade Facilitation Agreement; and building, on the FTA's investment chapter, endorsed Joint Principles on International Investment. The United States and Morocco also endorsed Joint Principles for Information and Communication Technology (ICT) Services.

In September, 2012, the Agricultural and Sanitary-Phytosanitary subcommittees created under the FTA met and discussed, among other issues, Morocco's tariff-rate quotas on wheat established under the FTA. The United States continues to have concerns about Moroccan administration of these tariff-rate quotas.

In 2010, the United States and Morocco convened the first meeting of the Subcommittee on Labor Affairs created under the FTA. The Subcommittee agreed to a series of cooperative labor activities to improve enforcement of Morocco's labor laws, including training for labor inspectors on mediation of workplace disputes. In 2012, the U.S. Department of Labor provided mediation training for inspectors, worker representatives, and employer representatives. The U.S. State Department also provided a grant in 2012 to the International Labor Organization to improve the capacity of the Moroccan Ministry of Labor to enforce labor laws and to promote social dialogue. The U.S. State Department also provided a grant to the Solidarity Center to build the capacity of workers and their unions to promote worker rights. At the December 2012 JC meeting, the two sides reviewed progress on implementing cooperative activities under the FTA Labor Chapter.

In 2012, Morocco and the United States continued their strong environmental cooperation. The U.S. Department of the Interior provided technical assistance to train Moroccan customs officials and management authorities on enforcement of the Convention on International Trade in Endangered Species (CITES). The U.S. Forest Service provided rangeland management training to Moroccan officials and supported the establishment of a Rangeland Management School to help protect Morocco's primary water source. Tourism is a key sector of the Moroccan economy, and the U.S. Department of the Interior collaborated with three Moroccan national park managers to develop sustainable use plans and began implementation of the new use plan in Toubkal National Park. The World Environment Center (WEC), in collaboration with the Moroccan Cleaner Production Center, is finishing work with more than 20 small and medium sized enterprises (SMEs) to increase energy efficiency and establish cleaner production methods in the food canning sector. WEC also launched a new project with SMEs that includes training university students in clean production consulting services and is hosting U.S.-Moroccan green business roundtables. The National Oceanic and Atmospheric Administration (NOAA) is working with Morocco's Ministry of Agriculture and Ocean Fisheries on an experiment to test fishing gear alternatives to environmentally destructive driftnets that have been phased out by Morocco. In 2013, the two sides will strengthen their trade-related environmental cooperation by signing a Plan of Action for continued cooperation in the 2013-2015 timeframe, focused on fostering a green economy and green job growth.

10. North American Free Trade Agreement

a. Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada, and Mexico (NAFTA) entered into force. All remaining duties and quantitative restrictions were eliminated, as scheduled, on January 1, 2008. The NAFTA created the world's largest free trade area, which now links 463 million people producing roughly $18.1 trillion worth of goods and services.

Trade between the United States and its NAFTA partners has soared since the agreement entered into force. U.S. two-way goods trade with Canada and Mexico exceeds U.S. goods trade with the European Union and Japan combined. U.S. goods exports to the NAFTA partners have increased by 260 percent between 1993 and 2012, from $142 billion to an estimated $512 billion. By dismantling barriers, the NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness.

The NAFTA was also the first U.S. FTA to link free trade with obligations to protect labor rights and the environment. In connection with the NAFTA, the United States and Mexico also agreed to fund a development bank to address environmental infrastructure needs along the U.S.-Mexico border.

b. Elements of NAFTA

i. Operation of the Agreement:

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), comprised of the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy or their designees. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement.

The FTC held its most recent annual meeting in Washington on April 3, 2012. At the meeting, the FTC agreed to continue to contribute to ongoing bilateral and trilateral regulatory cooperation initiatives, with a view to facilitating trade and reducing unnecessary administrative costs. The FTC asked the NAFTA Committee for Standards-Related Measures (CSRM) to continue its work to enhance cooperation on the development, application and enforcement of standards-related measures, and to provide a forum for the Parties to consult on issues relating to standards-related measures. The FTC agreed to pursue closer sectoral cooperation to enhance trade in chemicals, beginning with exploring work on rules of origin, customs procedures and classification. In order to address the challenges that small and medium sized businesses face regarding access to information, the FTC released "The NAFTA Certificate of Origin: Frequently Asked Questions," a publication designed to answer basic questions about completing that form.

ii. NAFTA and Labor:

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC established a trinational Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat. In addition, each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and the Secretariat, to provide publicly available information to the Secretariat and the other NAOs, and to provide for the submission and review of public communications on labor law matters. The NAOs, together with the Secretariat, can also carry out cooperative activities promoted by the Council.

In 2012, the three Parties' NAOs met to discuss ways to strengthen the NAALC. In addition, the National Advisory Committee for Labor Provisions in U.S. Free Trade Agreements (NAC) provided recommendations to the NAOs on how to improve the functioning of the NAALC. In January 2012, the U.S. Department of Labor (DOL) accepted for review a public submission from the Mexican Union of Electrical Workers (Sindicato Mexicano de Electricistas) and over 90 other organizations concerning Mexico's obligations under the NAALC regarding worker rights. In July 2012, the DOL extended its period of review and will issue a public report upon completion. Separately, in 2012 the Mexican NAO issued reports in response to four public submissions alleging U.S. violations of the NAALC.

iii. NAFTA and the Environment:

In 2012, the Parties continued their efforts to ensure that trade liberalization and efforts to protect the environment are mutually supportive. In 2009, the FTC established an *ad hoc* working group composed of senior trade officials to explore areas of potential collaboration between the FTC and the North

American Commission for Environmental Cooperation (CEC). At its April 2012 meeting, the FTC approved that group's work plan: to ensure ongoing cooperation and communication between the FTC and the CEC; to involve the participation of trade officials in CEC project planning and implementation; to foster the environmental goals of the NAFTA Work Plan and its committees; and to undertake initiatives that address linkages between trade and the environment, such as exchanging information on the trade flows and cross-border supply chains in used electronics within North America.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects in furtherance of the goals of the NAFTA and the North American Agreement on Environmental Cooperation. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of December 31, 2012, NADB had contracted a total of $1.91 billion in loans and/or grant resources to partially finance 171 infrastructure projects certified by the BECC with an estimated cost of $5.1 billion.

11. Oman

The United States-Oman Free Trade Agreement (FTA), which entered into force on January 1, 2009, complements other U.S. FTAs in the Middle East and North Africa (MENA) to promote economic reform and openness throughout the MENA region. Implementation of the obligations contained in the FTA will generate export opportunities for U.S. goods and services providers, solidify Oman's trade and investment liberalization efforts, and strengthen intellectual property rights protection and enforcement.

The central oversight body for the FTA is the United States-Oman Joint Committee (JC), chaired jointly by USTR and Oman's Ministry of Commerce and Industry. The second meeting of the JC was held on September 9, 2012. During this meeting, officials discussed a broad range of trade issues, including efforts to increase bilateral trade and investment levels, efforts to ensure effective implementation of the FTA's customs, investment and services chapters, possible cooperation in the broader MENA region, and additional cooperative efforts related to labor rights and environmental protection. During the first meeting of the Subcommittee on Labor Affairs in April 2012, officials discussed the complaint mechanism of the labor chapter and potential areas of future labor cooperation.

12. Panama

a. Overview

The United States-Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. From 2009 through 2011, Panama undertook a series of major legislative and administrative actions to further strengthen its labor laws and labor enforcement as well as enhanced its tax transparency. On October 21, 2011, the United States–Panama Trade Promotion Agreement Implementation Act was enacted in the United States. From October 2011 to October 2012, the United States and Panama engaged in an intensive implementation process during which Panama's laws and regulations were reviewed to confirm that they were consistent with the obligations of the TPA.

As part of the implementation process, the government of Panama enacted three laws making amendments to existing legislation. Two laws concerned intellectual property obligations, including in the areas of copyright and patent protection. The third law made a number of changes to Panama's laws in a variety of areas, including government procurement, investment, cross-border trade in services, telecommunications, and the domestic sale and marketing of Bourbon Whiskey and Tennessee Whiskey

as distinctive products. The government of Panama also issued a number of decrees and resolutions to implement a variety of obligations under the TPA, including on market access, customs and rules of origin, safeguard mechanisms, agricultural tariff-rate-quota administration, data protection for agrochemicals and pharmaceuticals, and transparency mechanisms in financial services, among other things. On the basis of these actions, on October 22, 2012, Ambassador Kirk and Panamanian Minister of Trade and Industry Quijano signed an exchange of letters setting the entry-into-force for the TPA as October 31, 2012.

The United States' two-way goods trade with Panama was $10.3 billion in 2012, with U.S. goods exports to Panama totaling $9.8 billion. On October 31, 2012, the TPA immediately eliminated tariffs on 86 percent of U.S. consumer and industrial goods exports to Panama (based on 2011 trade flows), with any remaining tariffs phased out within 10 years. Additionally, nearly half of U.S. agricultural exports became duty free, with most remaining tariffs to be phased out within 15 years. Tariffs on a few most sensitive agricultural products will be phased out in 18 years to 20 years. The second annual tariff reduction will be effective on January 1, 2013. The TPA also provides significant new access to Panama's estimated $25 billion services market and contains disciplines related to customs administration and trade facilitation, technical barriers to trade, government procurement, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

b. Elements of the TPA

i. Operation of the Agreement

The TPA's central oversight body is the United States-Panama Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Panamanian Minister of Trade and Industry or their designees. The FTC is responsible for overseeing implementation and operation of the TPA. While the United States and Panama met intensively on the TPA in 2012 during the early implementation process, no formal meetings of the FTC could be held until the TPA entered into force. The United States and Panama plan to engage through the FTC and other mechanisms in 2013.

ii. Labor

The TPA includes obligations for both countries to protect fundamental labor rights as well as to effectively enforce existing labor laws, which will enable workers and businesses to compete on a level playing field.

Panama also undertook a series of major legislative and administrative actions beginning in 2009 to further strengthen its labor laws and labor enforcement. Panama reformed its laws to protect the right to strike, eliminate restrictions on collective bargaining, and protect the rights of temporary workers. Panama also took administrative actions to address concerns in the areas of subcontracting, temporary workers, employer interference with unions, bargaining with non-union workers, strikes in essential services, and labor rights in the maritime sector. More recently, Panama conducted a series of targeted inspections to monitor compliance with laws on subcontracting and temporary workers, and publically issued findings citing specific companies for violations.

The labor obligations under the TPA are subject to the same dispute settlement provisions as the other obligations in the TPA, and therefore subject to the same remedies. The TPA also establishes a Labor Affairs Council, comprised of cabinet-level officials to oversee implementation and progress under the labor chapter. USTR will continue to engage with the government of Panama to review progress on the implementation of the TPA now that it is in force.

iii. Environment

The environment obligations under the TPA are subject to the same dispute settlement provisions as the other obligations in the TPA, and therefore subject to the same remedies.

The TPA environmental commitments require both countries to maintain existing levels of environmental protection and to strive for higher environmental standards. During the implementation process, Panama also undertook administrative actions to fulfill obligations under the environment chapter. This included the establishment of a new advisory committee to provide views on matters related to implementation of the environment chapter of the TPA. Both the United States and Panama are commited not to weaken existing environmental laws or to reduce environmental protections in any way that will give domestic producers an advantage over the other country's exporters – and both Governments commit to effective enforcement of environmental laws.

In May 2012, the United States and Panama signed the U.S.-Panama Environmental Cooperation Agreement (ECA) which was negotiated in parallel to the environment chapter of the TPA. Development of the ECA work program, which will outline the priorities and cooperative activities anticipated to fulfill ECA commitments, began in 2012 and builds on trade and environment successes in the region and the importance of building capacity to protect the environment in concert with strengthening trade and investment relations.

iv. Trade Capacity Building

The TPA provides for a Committee on Trade Capacity Building, which is charged with seeking the prioritization and coordination of assistance to support effective implementation of the TPA and to adjust to more liberalized trade. It will begin meeting in 2013.

13. Peru

a. Overview

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009.

The United States' two-way goods trade with Peru was an estimated $15.7 billion in 2012, with U.S. goods exports to Peru totaling $9.3 billion.

The PTPA eliminates tariffs, removes barriers to U.S. services, provides a secure and predictable legal framework for investors, and strengthens protection for intellectual property, workers, and the environment.

b. Elements of the PTPA

i. Operation of the Agreement

The PTPA's central oversight body is the United States-Peru Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Peruvian Minister of Foreign Trade and Tourism or their designees. The FTC is responsible for overseeing implementation and elaboration of the PTPA. In addition to the FTC, several committees are established under the agreement to address implementation and ongoing bilateral issues. In June 2012, the first meetings of the Committee on Agriculture and the Standing Committee on Sanitary and Phytosanitary Measures established under the PTPA were held in

Washington, D.C. The Committee on Textiles and Apparel Trade Matters also met. These committees will report their findings at the next FTC meeting, to be held in early 2013.

ii. Labor

USTR continues to engage with the government of Peru to review progress on the implementation of the PTPA's labor provisions. With trade capacity building funds, USAID is implementing programs to improve the enforcement capacity of the Peruvian Ministry of Labor and to strengthen worker organizations and educate workers on their labor rights. The U.S. Department of Labor (DOL) is supporting the Solidarity Center to build the capacity of worker organizations in Peru.

On December 29, 2010, the U.S. Department of Labor (DOL) received a public submission from the Peruvian National Union of Tax Administration Workers under the PTPA Labor Chapter. The submission alleged that the government of Peru had failed to live up to its commitments under Article 17.2.1 of the PTPA by not effectively recognizing the right to collective bargaining at the National Superintendency of Tax Administration. DOL issued a report in August 2012 that concluded that the government of Peru made important progress to address the underlying issues in the submission and that formal consultations under the PTPA were not necessary to continue positive engagement and progress with Peru on these matters.

iii. Environment

The Parties have continued their work to ensure the proper implementation of environmental obligations under the PTPA Environment Chapter and the Annex on Forest Sector Governance. Peru achieved a major advancement in implementation of its environmental obligations in July 2011 with enactment of a new Forestry and Wildlife Law. Peru continues to work on the implementing regulations for the new Law and anticipates completing this process in 2013. In addition, Peru continues to make progress on a number of other actions to further implementation of its Annex obligations. For example, Peru has increased criminal penalties for violations of Peruvian forestry and wildlife laws; established an independent forestry oversight body that has conducted nearly 2000 supervisions of forestry concessions and other rights holders since 2009; prohibited the transport, including export, of timber products that lack documentation of legal origin; and required visual inspections prior to approving annual operating plans to verify the presence of cedar and mahogany species protected under the Convention on International Trade in Endangered Species of Wild Flora and Fauna.

On May 31, 2012, the United States and Peru convened the second meeting of the Environmental Affairs Council (EAC). At the EAC meeting, officials discussed implementation of the PTPA's Environment Chapter and Annex on Forest Sector Governance, and how to ensure proper monitoring of, implementation of, and compliance with, the Chapter and Annex obligations. Both Governments acknowledged the progress and collaborative work that has taken place since the PTPA entered into force. A public session of the EAC was held where representatives of the U.S. Trade and Environment Policy Advisory Committee as well as other stakeholders exchanged views with USTR and other Federal agency officials about implementation of the Environment Chapter.

On May 30, 2012, the two Governments convened the fourth meeting of the United States-Peru Forest Sector Subcommittee. The Subcommittee serves as a forum for the Parties to exchange views and share information on any matter arising under the PTPA's Annex on Forest Sector Governance. The Parties agreed to continue working together to ensure that Peru completes the necessary steps to fully implement its obligations under the Annex. The Subcommittee included a public session for civil society and other

stakeholders. The sessions provided stakeholders with an opportunity to raise concerns, suggest items to be addressed in future meetings, and provide advice on issues related to implementation of the Annex.

In April 2012, a non-governmental organization petitioned USTR to request the government of Peru to audit or verify certain shipments, producers, and exporters of bigleaf mahogany and Spanish cedar, as provided for under the PTPA Annex on Forest Sector Governance. The Interagency Committee on Trade in Timber Products from Peru carried out a thorough review of the petition and its underlying documentation and engaged in extensive consultations with the government of Peru. In December 2012, the Committee decided to take the following actions to address the concerns its review had highlighted, in order to contribute to the ongoing reform and enforcement efforts Peru is undertaking: (1) seek agreement from the government of Peru on specific actions it will undertake to address the challenges that Peru faces with respect to the management of bigleaf mahogany and Spanish cedar; (2) target U.S. capacity-building resources to assist Peru to carry out these actions; and (3) regularly monitor Peru's progress. The Committee will continue to monitor the situation in Peru, particularly with respect to the forestry concessions identified in the petition, and consider any additional actions that may be warranted.

iv. Trade Capacity Building

Since 2009, the USDA/Foreign Agricultural Service (FAS) with financial support from USAID/Lima have provided targeted capacity building in the areas of sanitary and phytosanitary (SPS) regulatory and surveillance systems, agricultural research, and agricultural education to support the implementation of the PTPA.

14. Singapore

The United States-Singapore Free Trade Agreement (FTA) has been in force since January 1, 2004. Two-way goods trade with Singapore totaled $50.7 billion in 2012, up 60 percent from 2003 (the year before the FTA's entry into force). U.S. goods exports were $30.6 billion, up 84 percent from 2003, and U.S. goods imports were $20.2 billion, up 30 percent from 2003. In 2012, the United States had an estimated $10.4 billion trade surplus in goods, and an estimated $7.6 billion trade surplus in private services with Singapore.

The United States and Singapore held regular consultations throughout 2012 to discuss implementation of the FTA. In 2012, the two sides discussed a range of issues covered by the FTA, including trade in textiles and apparel, restrictions on imports of U.S. beef, protection of intellectual property rights, new requirements for pay television companies to cross-carry content from competing providers, and continued environmental and labor cooperation efforts. The United States also met with Singapore to expand cooperation in the Trans-Pacific Partnership as well as through WTO and APEC initiatives.

B. Other Bilateral and Regional Initiatives

1. The Americas

a. Free Trade Agreements

During 2012, the United States' free trade agreements with Colombia and Panama entered into force. In addition, the United States continued to implement, enforce, and benefit from its four other FTAs covering the following countries in the Americas: Canada and Mexico under NAFTA; Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua under CAFTA-DR; Chile; and Peru. The United States began its domestic consultative process with respect to Mexico and Canada

joining the Trans-Pacific Partnership (TPP) negotiations in November 2011, and this process concluded in October 2012, with Mexico and Canada joining the negotiations. Expanding the negotiations to include additional countries throughout the Asia-Pacific region has been a longstanding U.S. objective. The participation of Mexico and Canada advances this goal and further increases the economic significance of a TPP Agreement.

A description of USTR's FTA focused activity in this region during 2012 can be found in Chapter III.A.

b. Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms

USTR chairs bilateral meetings with non-FTA partners in the Americas to discuss market opening opportunities, including improving access for small and medium sized businesses and resolving trade issues with those governments. During 2012, the United States met with the Caribbean Community under the Agreement Between the Government of the United States of America and the Caribbean Community ("CARICOM") Concerning a United States-CARICOM Council on Trade and Investment ("TIC"). The meeting took place in Georgetown, Guyana on March 31, 2012. It addressed a number of specific trade concerns; explored new areas of cooperation, such as with respect to small and medium enterprises; and discussed a proposal to consider the extension of benefits available under the Caribbean Basin Initiative to eligible CARICOM Member States not yet receiving certain benefits.

c. Other Priority Work

The United States continued its engagement with other countries in the region, aimed at fostering bilateral trade relations and resolving trade problems during 2012. Highlights of USTR's other priority activities in the region include:

Brazil:

- In March 2012, the United States hosted the first meeting of the United States-Brazil Commission on Economic and Trade Relations, which was established under the United States-Brazil Agreement on Trade and Economic Cooperation (ATEC). The ATEC was signed during President Obama's March 2011 trip to Brazil to deepen our engagement with Brazil and expand our trade and investment relationship on a broad range of issues including trade facilitation, intellectual property rights and innovation, and technical barriers to trade. During the March 2012 Commission meeting, the United States and Brazil agreed to establish a Bilateral Investment Dialogue, which held its first meeting on September 28, 2012, and a Working Group on Intellectual Property Rights and Innovation.

Canada:

- Building on the February 2011 announcement by President Barack Obama and Canadian Prime Minister Stephen Harper establishing the United States-Canada Regulatory Cooperation Council (RCC), draft work plans for each of the 29 initiatives set out in the associated Joint Action Plan were shared with interested stakeholders from both sides of the border at an RCC stakeholder engagement event held in January 2012 in Washington, DC. Following stakeholder input and negotiations between Canada and the United States, all 29 work plans were completed and posted on the RCC's Canadian and U.S. websites between February and July 2012.

- The United States welcomed the June 2012 passage of Canada's Copyright Modernization Act. Copyright reform in Canada has been a longstanding bilateral issue and this legislation will bring Canada into compliance with its WIPO Internet Treaties obligations. The United States continues

to encourage Canada to provide for deterrent level sentences to be imposed for IPR violations, as well as meet its Anti-Counterfeit Trade Agreement (ACTA) obligations by providing its customs officials with *ex officio* authority to stop the transit of counterfeit and pirated products through its territory. U.S. stakeholders have also expressed strong concerns about the adequacy of the protection of patents in Canada, including the Canadian Courts' new patent utility test that has been adopted with respect to pharmaceuticals, and Canada's administrative process for reviewing the regulatory approval of pharmaceutical products.

- The United States and Canada signed a two-year extension of the 2006 United States-Canada Softwood Lumber Agreement (SLA), so that the Agreement will be in effect through October 12, 2015. The United States continues to enforce the SLA. In 2008, the United States requested arbitration over several provincial assistance programs that appeared to provide subsidies to Canadian producers in circumvention of the SLA. As a result of an SLA arbitration award issued in 2011 in favor of the United States, Canada continues to impose additional export charges on shipments of softwood lumber products to the United States from Quebec and Ontario.

- As a result of the 1998 United States-Canada Record of Understanding on Agricultural Matters, the United States-Canada Consultative Committee on Agriculture (CCA) and the Province/State Advisory Group were formed in 1999 to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. The CCA met in June 2012 and November 2012 to reinforce the close working relationship between the two Governments and their respective agricultural sectors.

- The United States has had longstanding concerns about the monopolistic marketing practices of the Canadian Wheat Board. As of August 1, 2012, the Canadian Wheat Board's exclusive marketing authority over Western Canadian wheat and barley was eliminated, and end-use certificates are no longer required. On August 31, 2012, the United States also terminated its requirement for Canadian exporters to use end-use certificates.

Mexico:

- USTR has worked with Mexico to strengthen intellectual property protection. In June 2012, Mexico's health regulatory agency issued guidelines to implement its obligation under NAFTA to provide regulatory data protection for new chemical entities for a period of not less than five years. In July 2012, Mexico signed the Anti-Counterfeiting Trade Agreement (ACTA), a landmark agreement on intellectual property rights. Mexico was one of the original launch countries and an important partner.

- In May 2010, President Obama and then Mexican President Calderón created a High Level Regulatory Cooperation Council (HLRCC), which would work to "increase regulatory transparency, provide early warning of regulations with potential bilateral effects, strengthen the analytic basis of regulations, and help make regulations more compatible." The HLRCC finalized its Terms of Reference in March 2011 and released its workplan in February 2012. The workplan covers seven areas: Food, Transportation, Commercial Motor Vehicle Safety Standards and Procedures, Nanotechnology, E-Health, Offshore Oil and Gas Development Standards, and Accreditation of Conformity Assessment Bodies.

- Mexico remains one of the most important markets for U.S. agricultural products. In 2012, the United States worked with Mexico to remove Mexican barriers to exports of U.S. beef products. In addition, the United States continues to monitor Mexico's use of sanitary and phytosanitary

measures to ensure that they are not applied in a way that would improperly impede U.S. exports.

2. Europe and the Middle East

USTR's Office of Europe and the Middle East is responsible for bilateral trade relations with the European Union (EU) and its 27 Member States, non-EU European countries, Russia and certain of its neighbors, the Middle East, and North Africa. Priority activities in 2012 included: building initiatives in the MENA region to support ongoing political and economic reforms and trade and investment integration, including through the implementation of FTAs, BITs, and TIFAs; strengthening United States-EU trade relations to promote shared interests while addressing chronic and emerging EU barriers to U.S. exports, including exploring whether to launch negotiations on a comprehensive transatlantic trade and investment agreement; integrating Russia and other countries into the global trade community by completing negotiations for membership in the WTO and pressing for permanent normal trade relations with Russia and Moldova; and working with countries wherever possible, through TIFAs and other arrangements, to resolve trade concerns, expand trade and investment opportunities, and foster commercial and trade policies grounded in the rule of law.

a. New Approaches to Engagement with the Middle East and North Africa

The revolutions and other changes that have been sweeping through the MENA region since 2011 have prompted a comprehensive reevaluation of U.S. trade and investment policies toward this critical part of the world. The dramatic developments in certain countries, most notably Egypt, Tunisia, and Libya, have provided new opportunities for engagement, as well as new challenges, with respect to trade and investment issues. In response to these events, and pursuant to the President's call in his May 2011 speech to establish a new trade and investment partnership initiative with the MENA region, USTR coordinated with other Federal agencies, outside experts, and stakeholders in both the United States and MENA partner countries to identify prospective areas for cooperation which could yield the quickest result in terms of increased trade and investment. The Administration's initial focus has centered on developing initiatives with respect to trade facilitation, investment, and the Information and Communications Technology (ICT) sector, in addition to developing longer-term trade and investment objectives with trading partners in the region. In the context of the G-8's Deauville Partnership with Arab Countries in Transition, the United States has been working wherever possible to collaborate in its efforts with the EU, Turkey, and other trading partners and international organizations who share common interests in the stability and prosperity of the region. In addition, the United States continued to monitor, implement, and enforce U.S. FTAs in the region, re-launched TIFA consultations with Tunisia, and pursued discussions on ways to cooperate more closely with Egypt.

Also in 2012, the United States increased its engagement with the Gulf Cooperation Council (GCC) countries by signing the Framework Agreement for Trade, Economic, Investment and Technical Cooperation with the GCC and its six member states (Saudi Arabia, United Arab Emirates, Bahrain, Oman, Qatar, and Kuwait). The GCC continues to develop as a regional organization, aiming to harmonize standards, import regulations, and conformity assessment systems affecting U.S. trade. Enhanced U.S. dialogue with the organization should help ensure that U.S. interests are fully represented as the GCC sets future policies.

b. Deepening U.S.-EU Trade Relations

The U.S. trade and investment relationship with the EU is the largest and most complex economic relationship in the world. Transatlantic trade flows (goods and services trade plus earnings and payments

on investment) averaged over $4 billion each day of 2012. The total stock of transatlantic investment was $3.7 trillion in 2011. These enormous trade and investment flows constitute a key pillar of prosperity for the United States and Europe, and countries around the world benefit from access to the markets, capital, and innovations of the transatlantic economy.

On February 13, 2013, following a year-long joint U.S.-EU exploration of options for expanding U.S.-EU trade, President Obama and EU leaders announced (**http://go.usa.gov/4sSC**) that the United States and the EU would each initiate the internal procedures necessary to launch negotiations on a Transatlantic Trade and Investment Partnership, a comprehensive trade and investment agreement. The leaders' decision was based on the recommendations in the February 11, 2013 Final Report of the U.S.-EU High Level Working Group on Jobs and Growth (**http://go.usa.gov/4sSd**), a joint body, established during the November 2011 U.S.-EU Summit Meeting, which spent 2012 examining a range of options for expanding transatlantic trade. In June 2012, the Working Group had submitted an Interim Report, which concluded that "a comprehensive transatlantic trade and investment agreement, if achievable, was the most promising option for expanding transatlantic trade and promoting jobs, growth, and competitiveness in both economies."

In its Final Report, the High Level Working Group concluded that "a comprehensive agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules, would provide the most significant mutual benefit of the various options" it had considered. The Working Group characterized a comprehensive trade and investment agreement as one that "would include ambitious reciprocal market opening in goods, services, and investment, and would address the challenges and opportunities of modernizing trade rules and enhancing the compatibility of regulatory regimes." The Working Group further noted that an agreement of this kind "could generate new business and employment by significantly expanding trade and investment opportunities in both economies; pioneer rules and disciplines that address challenges to global trade and investment that have grown in importance in recent years; and further strengthen the extraordinarily close strategic partnership between the United States and Europe." Negotiations on the Transatlantic Trade and Investment Partnership will commence after each side has completed relevant internal procedures.

During 2012, in parallel with its work on the High Level Working Group on Jobs and Growth, USTR and other agencies interacted extensively with counterparts in the major EU governing institutions (the European Commission, the European Parliament, and the European Council) and with EU Member State governments on a number of trade policy priorities:

- *Intellectual Property:* USTR engaged the EU on several important IPR issues during 2012, including identifying shared goals and strategies for promoting strong IPR protection and enforcement in key third country markets and international organizations. For example, the Transatlantic IPR Working Group (TIPRWG) focused in 2012 on U.S.-EU priority issues, such as trade secret protection, and will continue this work in 2013, as well as addressing other topics, such as how best to promote an economic environment conducive to innovation. While the United States and the EU worked closely together to bring negotiations on the Anti-Counterfeiting Trade Agreement (ACTA) to conclusion, the European Parliament rejected the Agreement in 2012. Regarding geographical indications (GIs), the United States continued to promote and protect access to foreign markets for U.S. producers whose products use trademarks and generic terms, and to combat expansive GI rules that disadvantage U.S. exporters in the EU and in other markets where the European Commission has persuaded governments to adopt GI protections. USTR also led engagement aimed at promoting strong IPR protection and enforcement in individual European countries, including combating piracy of content over the Internet in Italy, Spain, and Switzerland.

- *Science-Based Regulation:* USTR has worked closely with USDA to expand markets for U.S. agricultural producers by encouraging EU regulators to ensure that their decisions are science-based. By year's end, the EU was moving closer to allowing the import and sale of beef that had been treated with lactic acid, a natural substance with which U.S. producers control potentially harmful bacteria on beef production lines. This further opening of the EU beef market will strengthen the successful 2009 United States-EU beef Memorandum of Understanding, which has led to a significant increase in U.S. exports of high-quality beef to the EU. U.S. and EU veterinary authorities also reached agreement on conditions for exporting U.S. breeding swine to the EU. USTR continued to lead U.S. engagement with the EU, both in Brussels and in meetings of the WTO Dispute Settlement Body, concerning regulations restricting imports of several other major U.S. food and agricultural products, including agricultural biotechnology products. (See Chapter V.A. for additional information)

- *Enlargement Compensation Negotiations:* The United States and the EU in 2012 signed an agreement concluding long-running negotiations under WTO rules regarding tariff compensation owed by the EU to the United States in connection with the 2007 EU enlargement to include Bulgaria and Romania. The agreement establishes or increases EU tariff rate quotas allocated to the United States for several agricultural products. The agreement will enter into force once the parties complete final internal approval processes, envisioned for the first quarter of 2013.

- *Joint Efforts on Shared Concerns in Third Country Markets:* The United States and the EU collaborated during 2012 on developing and implementing joint strategies to address market access and other trade-related problems of common concern in major emerging markets and other countries, including China, Russia, Japan, and Ukraine.

- *Joint U.S.-EU Promotion of Trade- and Investment-Related Reforms/Best Practices:* In 2012, the United States and the EU explored new avenues for cooperation in promoting trade- and investment-related reforms in the Middle East and North Africa. Initial areas of focus included support for small and medium sized enterprises (SMEs), regional integration, and trade facilitation. The United States and the EU also worked together to promote their April 2011 Trade Principles for Information Communication Technologies (ICT) Services Trade in the WTO Committee on Trade in Services and in bilateral discussions with third countries; Mauritius and Japan signed on to the principles in 2012. A United States-EU Investment Working Group developed joint investment principles, issued in April 2012, which the United States is promoting in the Middle East and North Africa under the Deauville Partnership. As noted above, Morocco has agreed to endorse the investment principles and the ICT principles, and we are nearing conclusion with Jordan on both sets of principles.

- *Transatlantic Economic Council (TEC):* Under the TEC umbrella, USTR and other agencies collaborated with the EU during 2012 on several initiatives, including making progress on harmonizing standards for electric cars; implementing a 2011 work plan on industrial raw materials that includes strong cooperation on reducing barriers to trade and promoting exchanges of information on material flows; and conducting two U.S.-EU workshops for SMEs to exchange best practices aimed at facilitating SME participation in international trade. As a result of the SME engagement, the U.S. Department of Commerce and the EU Commission Directorate General for Enterprise signed a Memorandum of Understanding on December 3, 2012 to promote international trade and business cooperation between U.S. and European SMEs, including joint trade promotion in transatlantic and third country markets.

c. A New Stage in United States – Russia Trade Relations with Russia in the WTO.

On August 22, 2012, Russia became the 156th Member of the WTO. On December 14, President Obama signed legislation authorizing the termination of the application of the Jackson-Vanik amendment and the extension of permanent normal trade relations to Russia. On December 21, the United States and Russia each filed a letter with the Director General of the WTO notifying the WTO that they withdrew their earlier notices of non-application and thus consented to the application, following nearly 20 years of negotiations, of the WTO Agreement between them. Russian membership in the rules-based WTO system will benefit U.S. businesses and workers by increasing the predictability, transparency and accountability of Russia's economic regime, thus improving the environment for trading with, and investing in, Russia *(See Chapter II.J.6 for more information)*. Russia's WTO membership will also make tools available to the United States to enforce Russia's WTO obligations.

In the months preceding Russia's entry into the WTO, USTR closely monitored the Russian government's implementation of the measures necessary to ensure that Russia, on day one as a WTO Member, could abide by its WTO commitments. This work covered such areas as Russia's commitments on import licensing, Intellectual Property Rights (IPR), services, and tariffs. USTR will continue to monitor how Russia implements these commitments.

During Russia's WTO accession process, the United States continued its efforts to open Russia's market to exports of U.S. goods and services, including in such sectors as automobiles, consumer electronics, agriculture equipment, steel scrap, and distilled spirits. USTR, in conjunction with USDA, continued to express opposition to Russia's imposition of sanitary and phytosanitary measures that appear to be inconsistent with international standards and not based on science.

Although Russia made important strides in protecting IPR in acceding to the WTO, the United States continued to urge greater protection of IPR in Russia, particularly with regard to piracy on the Internet. To that end, on December 20, 2012 under the aegis of the Bilateral Intellectual Property Rights Working Group, the United States and Russia agreed on a Bilateral IPR Action Plan, identifying specific ways in which the United States and Russia can work together on IPR protection and enforcement. USTR, working with colleagues at the U.S. State Department, also continued technical discussions with the Russian government to explore the feasibility of negotiating a bilateral investment treaty.

The United States has also continued to monitor the implementation of the Russia-Kazakhstan-Belarus Customs Union, and its planned evolution into the Common Economic Space. In addition, USTR officials participated in meetings of various working groups established under the United States-Russia Bilateral Presidential Commission.

d. Other Priority Trade Activities

In addition to the countries referenced above, the United States also engages with other key countries in the Europe, Eurasia and Middle East/North Africa regions to promote enhanced trade and investment ties, increased U.S. exports, the development of intraregional economic ties, and, where relevant, accessions to the WTO. (*See Chapter II.J.6. for more information on WTO accessions.)*

Notable activities in 2012 included:

- *Turkey:* U.S. bilateral economic ties with Turkey have grown steadily over the last 15 years. However, there is additional room for growth in trade and investment given Turkey's continuing development as a market, as well as its emerging role as a business hub straddling the Europe, Central Asia, and MENA regions. Recognizing Turkey's importance as a trading

partner, USTR and the U.S. Department of Commerce co-chair U.S participation in a ministerial-level forum for bilateral engagement on economic and trade issues, the Framework for Strategic Economic and Commercial Cooperation (FSECC). Building on existing senior official level bilateral consultations in the economic area (for example, under the United States-Turkey TIFA), the FSECC aims to reduce and eliminate barriers to bilateral trade and investment; create opportunities for U.S. workers, farmers, and firms; and otherwise enhance bilateral economic cooperation. The first formal ministerial-level meeting of the FSECC co-chairs occurred in Washington in October 2010 and the latest was held in Ankara in June 2012. During the FSECC meetings, the United States and Turkey have focused on issues such as energy, trade in goods and services, cooperation in third country markets, and fuller engagement with and between the private sectors of both countries. The next FSECC meeting currently is envisioned for mid- to late-2013.

- *Ukraine:* The United States has condemned Ukraine's attempt in 2012 to revise its WTO tariff bindings on over 350 key agricultural and non-agricultural products, and is working with other concerned WTO Members to get Ukraine to rescind its request. The United States also continued to work with the government of Ukraine to improve the protection and enforcement of intellectual property rights, and to address concerns with Ukraine's administration of its customs and tax regimes.

- *Southeastern Europe:* In 2012, the United States continued to engage the countries of this region on a variety of trade issues, including the WTO accessions of Bosnia and Herzegovina and of Serbia, participation in U.S. preference programs, and IPR protection.

3. Japan, Korea, and the Asia-Pacific Economic Cooperation Forum

a. Japan

United States-Japan Trade Relations

In 2012, the United States continued to engage Japan on a broad array of trade and trade-related issues, with the goal of expanding access to Japan's market. Outcomes from the U.S.-Japan Economic Harmonization Initiative (EHI), our forum for bilateral engagement on trade and economic issues, were released in January 2012. These outcomes reflected a range of improvements by Japan in its business environment and expanded access to the Japanese market for a broad range of U.S. goods and services, including in areas such as intellectual property protection, information and communication technology services and products, automotive imports, medical devices, pharmaceuticals, agricultural products, and distribution services. For example, Japan improved transparency and predictability for the import of automobiles that incorporate new, advanced technologies and features not covered by existing regulation. Also, Japan introduced new legal protections that enhance the ability of intellectual property rights holders to defend their products and services from unauthorized use through technological measures, such as copy and access controls.

The United States and Japan also jointly pursued new areas of cooperation in the EHI across a wide range of topics of mutual interest. Among these, the United States and Japan agreed on a set of non-binding trade principles for information and communication technology (ICT) services and will promote wide adoption of these principles by other countries to support the global development of ICT services. These include Internet and other network-based applications that are critical to innovative e-commerce, Internet search and advertising, cloud computing, and other services. The principles cover a range of topics including regulatory transparency, open access to networks and applications, free flow of information

across borders, as well as non-discriminatory treatment of digital products, foreign investment in ICT services, and efficiency in spectrum allocation.

The United States welcomed Prime Minister Noda's November 2011 expression of Japan's intention to begin consultations with Trans-Pacific Partnership (TPP) countries towards joining the TPP negotiations. In 2012, USTR continued the process of bilateral consultations to assess Japan's readiness to meet the TPP's high standards for liberalizing trade and to address specific issues of concern to the United States regarding barriers to agriculture, services, and manufacturing trade, including non-tariff measures. These consultations with Japan were carried out in parallel with close consultations with the U.S. Congress and domestic stakeholders.

The United States also continued to urge full resolution of longstanding bilateral irritants, including restricted access for U.S. beef, additional concerns related to limited access for U.S. motor vehicles, and the lack of a level playing field between Japan Post and private companies in the banking, insurance, and express delivery sectors

In late 2012, the United States and Japan began consultations with Japan toward addressing long-standing concerns related to Japan's import restrictions on U.S. beef related to bovine spongiform encephalopathy (BSE).

In addition, the United States worked closely with Japan to address shared trade concerns, including those in third-country markets, bilaterally and multilaterally. This included closely coordinating on World Trade Organization (WTO) dispute settlement matters, working together to ensure that the Anti-Counterfeiting Trade Agreement (ACTA) can come into force as soon as possible, and jointly promoting common objectives in the Asia-Pacific Economic Cooperation (APEC) forum.

b. Republic of Korea

See Section III.A for discussion of the United States-Korea Free Trade Agreement

In addition to USTR's interactions with counterparts in the Korean government under the U.S.-Korea Free Trade Agreement (FTA), bilateral trade consultation meetings continue to be held to address bilateral trade issues in a timely fashion with relevant FTA committees and working groups, as well as to discuss emerging issues that may fall outside the FTA. These meetings, which USTR leads, and in which other U.S. international economic agencies participate, are augmented by a broad range of senior level policy discussions. In 2012, the United States and Korea consulted on a number of bilateral trade issues in this fashion, including ensuring that government agencies do not use unlicensed or copyright infringing software, organic food regulations, and information technology services, among others.

Since Korea reopened its market to imports of U.S. beef in June 2008, it has provided important market access for U.S. beef and beef products from animals less than 30 months of age. From January through November 2012, U.S. exports of beef and beef products to Korea topped $509 million, making Korea the fourth largest U.S. beef export market.

The United States and Korea also cooperated extensively in a wide range of multilateral fora to advance opening markets. In APEC, the two economies worked together closely to achieve significant and concrete outcomes on a variety of initiatives to strengthen regional economic integration in the Asia-Pacific, in particular to reach agreement on the ground-breaking APEC List of Environmental Goods.

c. APEC

Overview

Since it was founded in 1989, the Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in promoting regional and global trade and investment. In 2011, the United States hosted APEC for the first time since 1993, which provided a unique opportunity to reduce barriers to U.S. exports and to more closely link our economy with the dynamic Asia-Pacific region. In 2012, with Russia as APEC host, the United States was able to build on the momentum created in its host year.

At the September 2012 meeting in Vladivostok, APEC Leaders committed to a series of significant and meaningful outcomes that will advance trade and investment in the region. The most significant outcome was reaching agreement on a commercially and environmentally credible APEC List of Environmental Goods on which APEC economies will cut tariffs to 5 percent or less, as was agreed by Leaders in 2011. This marks the first time that trade negotiations have produced such a list of environmental goods for tariff cuts. This historic outcome will make a significant contribution to the Obama Administration's goals to increase exports and jobs, as well as its strong commitment to promoting green growth and sustainable development.

Leaders also agreed to address next generation trade and investment issues, including by advancing APEC's work to promote non-discriminatory and market-driven innovation policy; advance a comprehensive effort to improve supply chain performance in the region; launch work to address local content requirements that distort trade and investment; swiftly conclude negotiations to expand the product scope of the WTO Information Technology Agreement; and refrain from imposing export restrictions on food, which will help reduce price volatility.

In 2011, the 21 APEC member economies collectively accounted for 44 percent of world trade and 55 percent of global GDP. In 2012, United States-APEC total trade in goods was an estimated $2.4 trillion. Total trade in services was $346 billion in 2011 (latest data available). The significant volume of U.S. trade in the Asia-Pacific region underscores the importance of the region as a market for U.S. exports.

2012 Activities

*Agreement on an APEC List of Environmental Goods:*In 2011 in Honolulu, under the leadership of President Obama, APEC Leaders committed, as part of their efforts to promote green growth, to reduce tariffs on environmental goods to 5 percent or less by 2015 based on a list that would be developed in 2012. In 2012, in Vladivostok, APEC Leaders delivered on that commitment and reached consensus on a list of 54 credible environmental goods, including such core products as renewable and clean energy technologies, wastewater treatment technologies, air pollution control technologies, solid and hazardous waste treatment technologies, and environmental monitoring and assessment equipment. Currently, tariffs on these products can run as high as 35 percent in the region. The United States exported $27 billion of these environmental goods to the region in 2011, of which $1.2 billion faced tariffs above 5 percent. APEC regional trade in the products on the APEC List of Environmental Goods in 2010 totaled $185 billion, and APEC makes up 60 percent of world exports of these products. Reducing tariffs on these environmental goods will help APEC businesses and citizens access important environmental technologies at lower cost, which in turn will produce environmental benefits and improve the quality of life and living standards of people across the Asia-Pacific region due to a cleaner environment. It will also contribute significantly to APEC's core mission to promote free and open trade and investment.

*Addressing Next Generation Trade and Investment Issues:*In 2012, APEC Leaders declared their ongoing commitment to address next generation trade and investment issues as an important aspect of APEC's

work to further integration of APEC economies and expansion of trade throughout the region. This work also helps to bring APEC economies' trade policies in line with the realities of the regional environment that U.S. businesses face. To that end, under U.S. leadership, APEC Leaders agreed to continue work to implement policies that will promote effective, non-discriminatory, and market-driven innovation policies by producing a set of guidelines in 2013 that will assist economies in integrating their 2011 commitments in this area into their domestic policy frameworks.

As a new issue for 2012, APEC Leaders endorsed a model FTA chapter on transparency. Increasing transparency as rules and regulations are developed is an important step to prevent the emergence of non-tariff barriers that make it difficult for U.S. companies to do business in the Asia-Pacific region. The model chapter includes examples of provisions on which economies can draw when drafting and negotiating transparency chapters in their FTAs. Elements include: (1) publication of measures, (2) rules governing how public consultations will be conducted, (3) establishment of contact points and other procedures to facilitate communication between Parties to an agreement, (4) conditions required for prompt review and correction of final administrative actions, and (5) standards for review and appeal.

*Establishing Reliable Supply Chains:*In order to advance progress towards the 2010 Leaders' commitment to achieve an APEC-wide 10 percent improvement by 2015 in supply chain performance, in terms of reducing the time, cost, and uncertainty of moving goods and services through the Asia-Pacific region, Leaders directed APEC officials to adopt a more systematic approach to addressing supply chain chokepoints. Through this approach APEC will identify areas where government policy can be improved and develop targeted and focused capacity building to assist economies in making those improvements. This work will make it significantly cheaper, easier, and faster for businesses to trade in the region. Examples of the types of chokepoints include burdensome customs procedures and documentation requirements, inefficient clearance of goods at the border, and inadequate transportation infrastructure, among other issues important to the logistics sector.

*Launching Work on Local Content Requirements:*Conditions placed on businesses to source parts and components from domestic suppliers limit export opportunities and disrupt global supply chains. Recognizing this, APEC Ministers' committed to begin work in 2013 to address local content requirements in the region, including by discussing ways economies can promote job creation and competitiveness that enhance, rather than distort, trade. Local content requirements are even more challenging for small and medium-sized businesses that do not have the capital and other resources to comply with such requirements by producing abroad. APEC initiating this work will be an important step to stem the growing proliferation of these measures around the world and address their potentially negative effect on the global trade regime.

WTO Information Technology Agreement: APEC Leaders and Ministers instructed officials to work in earnest to swiftly achieve a good outcome in the negotiations to expand coverage and membership in the WTO Information Technology Agreement, and called on all APEC economies to join the agreement.

*Reducing Food Price Volatility:*At the urging of the United States, APEC Leaders reiterated their pledge against protectionism by recognizing that bans or restrictions of food exports exacerbate food price volatility and threaten the most vulnerable populations. Reducing food price volatility will help calm markets and ease fears of social and economic instability that past price volatility due to export restrictions has caused in the developing world. APEC Leaders also: confirmed their determination to ensure fair and open markets and their commitment to ensure greater agricultural productivity through the development of food market infrastructure and reductions in post-harvest losses; recognized the benefits of harmonizing food safety standards; encouraged the utilization of innovative agricultural technologies; and recognized the need to combat illegal, unregulated, and unreported fishing. The newly created Policy Partnership on Food Security, which is the primary consultative forum for food security policies within

APEC and consists of public and private sector members, developed its action plan and set out its long term vision for a food system that aims to ensure food security within APEC by 2020.

*Advancing Regulatory Cooperation:*In an effort to prevent barriers to trade in chemicals, APEC agreed to a Regulatory Cooperation Action Plan for chemicals aimed at providing tools, information, and risk management techniques to promote the sound management of chemicals in the APEC region. In addition, APEC continued its work to assist in the implementation of the Globally Harmonized System (GHS) of Classification and Labeling, and considered challenges to the chemical industry presented by different approaches to regulating chemicals in articles. APEC also initiated concrete steps to implement the 2011 strategic framework for a multi-year program of activities for achieving regulatory convergence for medical products by 2020. A key output was the 2012 agreement on a roadmap and associated multi-year training project to promote global medical product quality and supply chain integrity. APEC economies also reported on the steps they had taken to implement the 2011 agreement to streamline regulatory procedures for the temporary importation of advanced technology, alternative-fuelled demonstration vehicles.

*Support for the Multilateral Trading System:*APEC Leaders and Ministers welcomed and encouraged WTO Members to engage in discussions on new, pragmatic approaches to achieve a successful multilateral conclusion of the Doha Round, consistent with its mandate. There was also a reaffirmation of the APEC Leaders' commitment to refrain from protectionist measures, including raising new barriers to investment or to trade in goods and services, imposing new export restrictions, or implementing WTO-consistent measures to the end of the year 2015.

4. China, Hong Kong, and Taiwan

a. China

See 2012 USTR Report to Congress on China's WTO Compliance:
http://www.ustr.gov/webfm_send/3620.

b. U.S.-Hong Kong Trade Relations

The United States continued its efforts to expand trade with Hong Kong, a Special Administrative Region of the People's Republic of China. Although Hong Kong's market is currently open to deboned beef from animals less than 30 months of age, the United States is pressing Hong Kong to expand access to its market for imports of all U.S. beef and beef products, which have been restricted since December 2003. Hong Kong authorities conducted a verification visit to beef processing facilities in the United States in October 2009 and prepared a report based on their findings in August 2010. The United States is actively engaged with Hong Kong to establish science-based access for U.S. beef and beef products in 2013.

c. U.S.-Taiwan Trade Relations

During 2012, the United States worked to expand opportunities for U.S. exports to Taiwan. Working level officials engaged Taiwan throughout the year under the Bilateral Trade and Investment Framework Agreement (TIFA) process, conducted under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO), on the range of issues affecting bilateral trade and investment ties, including during a visit by a USTR-led interagency staff-level delegation to Taipei in October 2012. Concerns regarding Taiwan's shortcomings in meeting its bilateral obligations and additional concerns about whether certain of Taiwan's sanitary and phytosanitary

measures are based on science have made it impossible to hold a high-level meeting of the TIFA Council on Trade and Investment. The establishment of a maximum residue level (MRL) for ractopamine use in beef in September 2012 by Taiwan authorities was an important step forward in rebuilding confidence in Taiwan as a reliable trading partner. Fully implementing this MRL, and continuing to make progress in establishing a food safety regime reliably based on science will be critical to reenergizing the bilateral trade relationship. The United States will engage Taiwan closely in 2013 to seek resolution of these and other high-priority policy concerns.

The United States continues to press Taiwan to address a number of U.S. concerns regarding Taiwan's sanitary and phytosanitary measures. As noted above, in September 2012, Taiwan ended one aspect of its long-standing ban on ractopamine by establishing an MRL for its use in beef muscle cuts. Ractopamine is a feed additive that improves feed efficiency, increases meat yield, and reduces waste. Ractopamine is approved for use in the United States and many other countries. The Taiwan authorities did not follow the approach taken by the Codex Alimentarius Commission (CODEX), on ractopamine, however, and did not establish MRLs for ractopamine in pork or in other beef products. As a result, the restrictions continue to disrupt primarily U.S. exports of pork to Taiwan.

In 2007, after conducting a risk assessment, Taiwan itself found no health risk and notified the WTO of its intention to establish a maximum residue level (MRL) for ractopamine in beef and pork. With regard to ractopamine, and more generally, the United States has continued to urge Taiwan to move forward with implementing science-based measures. For example, Taiwan's failure to adopt internationally established pesticide and other agrochemical MRLs, or develop its own science-based MRLs in a timely manner, has resulted in rejections of various U.S. agricultural products, including fresh fruits and vegetables, grains, and oilseeds. Over the past several years Taiwan has made progress in reducing the backlog of MRL applications. However, imports of U.S. agricultural products still remain at risk of rejection for pesticides and other agrochemicals that are approved and widely used internationally and in the United States but have not yet been reviewed and approved in Taiwan. The United States will continue to work closely with Taiwan in 2013 to resolve these systemic concerns.

The United States continued its efforts with Taiwan to provide market access for the full range of U.S. beef and beef products in a manner consistent with World Organization for Animal Health (OIE) guidelines for Bovine Spongiform Encephalopathy (BSE). The United States also encourages Taiwan to comply fully with the science-based and OIE-consistent 2009 bilateral (AIT-TECRO) protocol that would have provided full market access for U.S. beef and beef products. Taiwan's own risk assessment, undertaken prior to Taiwan's 2007 notification to the WTO of its intention to establish an MRL for ractopamine in beef and pork, found U.S. beef to be safe.

On January 5, 2010, Taiwan's Legislative Yuan (LY) approved an amendment to Taiwan's Food Sanitation Act that had the effect of banning the import of ground beef and certain offals from the United States. This ban is inconsistent with Taiwan's obligations under the protocol. Taiwan authorities have also implemented a range of administrative measures that have disrupted trade and created uncertainty in the market. In particular, disruptions have occurred because of Taiwan authorities' failure to adhere to predictable inspection and testing practices that are appropriately focused on legitimate food safety concerns. The United States has made some progress in working with Taiwan to eliminate certain of these problematic administrative measures, but serious concerns remain. The United States will continue to press Taiwan to act in a manner consistent with science, as well as its obligations under the bilateral protocol, and to refrain from taking measures that overly burden trade in beef and beef products.

The United States also continued to engage Taiwan on issues related to fulfilling Taiwan's WTO Country Specific Quota (CSQ) for the importation of U.S. rice, expressing concerns that Taiwan's ceiling price mechanism was non-transparent and causing unnecessary trade disruptions. In 2007 and 2008, public

sector rice tenders for U.S. rice repeatedly failed due to Taiwan's ceiling price mechanism. Throughout 2009 and 2010, the United States worked with Taiwan to seek improvements to the rice import system, and to address the shortfalls in Taiwan's procurement of U.S. rice in 2007 and 2008. As a result of these efforts, it appears that Taiwan successfully filled the U.S. country specific tenders in subsequent years, including in 2012. However, Taiwan has still not taken steps to address the shortfall in 2007 and 2008, and the United States continues to have concerns about Taiwan's rise procurement system.

Intellectual property rights protection and enforcement also continue to be important issues in the United States-Taiwan trade relationship. The United States recognizes Taiwan's continuing efforts to improve enforcement of IPR and has continued to deepen bilateral cooperation activities with Taiwan on these issues. In April 2009, the LY amended the Taiwan Copyright Law to require Internet service providers (ISPs) to undertake specific and effective notice and takedown actions against online infringers, in order to avoid certain forms of liability for the infringing activities of users on their networks. The United States is increasingly concerned about the implementation of the ISP liability legislation, as ISPs and rights holders have not been able to finalize an effective Code of Conduct to implement the notice and takedown provisions. Some music rights holders have expressed concerns about amendments passed in January 2010 to the Copyright Act and the Copyright Collective Management Organization Act. These amendments grant the Taiwan Intellectual Property Office the power to set royalty rates if a commercial arrangement cannot be reached. They also ban rights holders or collective management organizations from using commissioned agents to collect licensing fees, although this is a common and well-accepted industry practice.

Over the past several years there have been a number of high-profile serious thefts and unauthorized transfers of proprietary technology by company employees to mainland Chinese competitors. These cases have raised concerns about the effectiveness of Taiwan's industrial espionage laws. In an effort to address these concerns, on January 11, 2013, Taiwan's Legislative Yuan passed a bill amending the Trade Secrets Act to increase criminal and civil penalties for trade secret theft. The United States will review the provisions and implementation of the law as amended.

Taiwan acceded to the WTO Agreement on Government Procurement (GPA) in July 2009. While foreign companies have already begun to benefit from increased access to Taiwan's government procurement market, and Taiwan has made many important reforms, some U.S. companies have raised concerns relating to the transparency of Taiwan's procurement process, contract terms and conditions, as well as licensing and liability issues. The United States will continue to work closely with Taiwan on implementing international best practices in government procurement as Taiwan implements its obligations under the GPA.

The United States has also continued to engage Taiwan on concerns raised by the pharmaceutical and medical device industries regarding the failure of Taiwan's procedures for medical product pricing and reimbursement to adequately recognize the value of innovative medical products for patients in Taiwan. The United States encourages Taiwan to continue to engage in collaborative consultations with relevant stakeholders to consider improving such policies in order to better facilitate the development of innovative products and improve patients' access to such products. Taiwan enacted a number of reforms to its public health insurance system on January 7, 2011. The United States has been engaging with Taiwan authorities on the implementation of these reforms, and is assessing their potential impact on U.S. pharmaceutical and medical device manufacturers.

5. Southeast Asia and the Pacific

a. Free Trade Agreements

The United States continued to implement, monitor, and enforce its FTAs with Singapore and Australia, which have led to significant increases in U.S. exports to these countries. *(See Chapter III.A. for additional information.)*

b. Trans-Pacific Partnership (TPP)

In December 2009, the United States announced its intention to enter into negotiations of the TPP, a high-standard, Asia-Pacific trade agreement. The TPP is intended to create a platform for economic integration across the Asia-Pacific region, advance U.S. economic interests with the fastest growing economies in the world, and expand U.S. exports, which are critical to U.S. economic growth and the creation and retention of high-paying, high-quality jobs in the United States.

Five formal rounds of TPP negotiations were held in 2012. The United States and its TPP negotiating partners continued their work to reach an agreement that will address new and emerging trade issues and 21st-century challenges, including issues related to market access, non-tariff barriers, intellectual property protection, cross-border services, investment, competition policy, environment, and labor. In addition, the TPP will cover cross-cutting issues not included in previous trade agreements, such as facilitating the ability of U.S. companies to participate in the dynamic production and distribution networks in the Asia-Pacific region, making the regulatory systems of TPP countries more compatible so that U.S. companies can operate more seamlessly in TPP markets, and helping small- and medium-sized enterprises, which are a key source of innovation and job creation, participate more actively in international trade.

In 2012, the nine participating countries – the United States, Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam – made solid progress toward concluding an agreement, and in September, the Leaders of the TPP countries issued a joint statement reaffirming their commitment to finalizing a comprehensive, next-generation agreement that will enhance the competitiveness of all the TPP countries and serve as a model for future free trade agreements. To that end, the TPP Leaders instructed their negotiators to dedicate the necessary resources to complete the agreement promptly. In October, Mexico and Canada formally joined the TPP and participated in the 15th round of negotiations in Auckland in December 2012, validating the importance of TPP as the most promising pathway for free trade in the Asia-Pacific region.

The United States and its negotiating partners share a vision for the TPP based on the long-term objective of expanding the group to additional countries across the Asia-Pacific. In addition to Canada and Mexico, in late 2011 Japan formally announced its interest in joining the TPP negotiations. The United States and other TPP countries welcomed its interest, while emphasizing that potential new entrants must be able to meet the high standards agreed to by all TPP negotiating partners, as well as address a range of U.S. priorities. The Administration will continue to engage Japan and other countries that express interest in joining the TPP, in close consultation with the U.S. Congress and domestic stakeholders.

The Administration continued to consult closely with the U.S. Congress on all elements of the TPP negotiations in order to develop negotiating objectives consistent with both Administration and congressional priorities and objectives. We will continue to work collaboratively with the U.S. Congress as the negotiations progress to ensure that our negotiating objectives best advance U.S. economic priorities, including enhancing economic growth and creating and retaining U.S. jobs.

c. Managing U.S.-Southeast Asia and Pacific Trade Relations

Throughout 2012, the United States engaged bilaterally, regionally, and multilaterally to expand our trade and investment relations with countries in Southeast Asia and the Pacific. In addition to meeting bilaterally under our Trade and Investment Framework Agreements (TIFAs) and other trade dialogues, the United States worked with the countries of the Association of Southeast Asian Nations (ASEAN) to advance our discussions under the United States-ASEAN TIFA and to coordinate positions and approaches at APEC, the WTO, and other trade and investment forums.

During 2012, the United States held numerous high-level meetings, TIFA dialogues, and other bilateral exchanges with Southeast Asia and Pacific countries, including Brunei Darussalam, Cambodia, Indonesia, Malaysia, Papua New Guinea, the Philippines, Thailand, and Vietnam. The United States sought in these meetings to resolve bilateral trade issues in such areas as customs, intellectual property protection and enforcement, market access for industrial and agricultural products, regulatory and other non-tariff barriers facing U.S. manufacturers and services suppliers, and other trade-related issues, including worker rights and protections. For instance, in February 2012, Ambassador Marantis visited the Philippines for high level discussions to resolve impediments to U.S. meat exports including pork and poultry products. The United States also used these consultations to work with our trading partners in the region to monitor implementation of their WTO commitments and to coordinate economic assistance projects to support their implementation and reform efforts. In addition, the United States used these meetings to discuss the emerging interest of several countries, including the Philippines and Thailand, in potentially joining the TPP, as well as to coordinate on ASEAN, APEC and other regional and multilateral issues.

In August, the United States and Cambodia agreed to begin exploratory discussions on a potential bilateral investment treaty.

The United States continued to work closely with the government of Laos to monitor progress and support the implementation of the United States-Laos Bilateral Trade Agreement, and worked with Laos to support the successful conclusion in October 2012 of its WTO accession negotiations.

d. Expanded Economic Engagement/U.S.-ASEAN Trade and Investment Framework Arrangement

With robust economies and a total population of more than 610 million people, the 10 member countries of ASEAN have a combined GDP of an estimated $2.3 trillion. U.S. trade with the region remained strong in 2012, with two-way trade of $198 billion. The ASEAN countries collectively represent the fourth largest U.S. goods export market and fifth largest two-way goods trading partner.

At the 2012 ASEAN-U.S. Leaders Meeting, President Obama and ASEAN leaders launched the U.S.-ASEAN Expanded Economic Engagement (E3), an initiative focused on laying the groundwork for preparing all ASEAN countries to pursue high-standard trade agreements such as the TPP. The E3 initiative builds on a program of activities already underway under the ASEAN-United States Trade and Investment Framework Arrangement (TIFA) and includes activities in the areas of trade facilitation, the joint development of investment principles, the joint development of principles on information and communications technology, the development of a code of conduct for small and medium sized enterprises, and the expansion of cooperative work on standards development and practices, including on technical barriers to trade and good regulatory practices. Another key event in our TIFA engagement with ASEAN during 2012 was sponsorship of the first U.S.-ASEAN Business Summit, attended by more than 200 senior executives from the United States and ASEAN countries. Building on the success of the meeting, the United States and ASEAN have agreed to hold business summits annually and to sponsor regular trade missions to the region.

6. Sub-Saharan Africa

a. Trade and Investment Relations

For the last 12 years, the African Growth and Opportunity Act (AGOA), enacted in 2000, has been the cornerstone of the United States' engagement with sub-Saharan Africa on trade and investment. By providing duty-free entry into the United States for almost all products of beneficiary countries, AGOA has helped to expand and diversify two-way trade between the United States and sub-Saharan Africa, and helped to foster an improved business environment in many sub-Saharan African countries. As a result of the 2012 annual review of country eligibility, President Obama designated 39 sub-Saharan African countries to be eligible for AGOA benefits in 2013, including South Sudan, which became eligible for the first time. Mali and Guinea Bissau were designated to be ineligible for AGOA benefits in 2013 because of the coups that occurred in these countries in 2012.

b. EAC Trade and Investment Partnership

During the June 2012 AGOA Forum U.S. Trade Representative Ron Kirk, the Secretary General of the East African Community (EAC) and Trade Ministers from each of the five EAC Partner States jointly announced their intention to move forward on a new U.S.-EAC Trade and Investment Partnership which will include a regional investment treaty, a trade facilitation agreement, continued trade capacity building assistance, and a commercial dialogue. These and other activities will help to promote EAC regional integration and economic growth, and expand and diversify U.S.-EAC trade and investment. They could also serve as building blocks towards a more comprehensive trade agreement over the long term. Deputy U.S. Trade Representative Demetrios Marantis led a U.S. delegation to a second ministerial meeting with the EAC in October 2012 to advance each element of the Partnership. Acting U.S. Department of Commerce Secretary Rebecca Blank also visited the region to sign the letter of intent to formally launch the commercial dialogue component of the U.S.-EAC Trade and Investment Partnership.

The EAC Partner States include Burundi, Kenya, Rwanda, Tanzania, and Uganda. Total two-way goods trade between the United States and the EAC was an estimated $1.6 billion in 2012, with $994 million in U.S. goods exports and U.S. goods imports totaling $579 million. Kenya was by far the United States' top trading partner within the EAC with two-way goods trade totaling $1 billion, followed by Tanzania with $360 million, Uganda with $136 million, Rwanda with $59 million, and Burundi with $25 million. Top U.S. exports to EAC countries were aircraft, machinery, and electrical machinery. Top imports included apparel, coffee, nuts, and semi-precious stones.

c. Trade and Investment Framework Agreements

The United States has Trade and Investment Framework Agreements with the following 11 countries or regional economic communities in sub-Saharan Africa: Angola, Ghana, Liberia, Mauritius, Mozambique, Nigeria, Rwanda, South Africa, the Common Market for Eastern and Southern Africa (COMESA),[31] the EAC,[32] and the West African Economic and Monetary Union (also known by its French acronym, UEMOA).[33] In addition, the United States has a Trade, Investment and Development Cooperative

[31] COMESA members are Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

[32] EAC members are Burundi, Kenya, Rwanda, Tanzania, and Uganda.

[33] UEMOA members are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

Agreement (TIDCA) with the Southern African Customs Union (SACU). The Office of the United States Trade Representative leads interagency discussions with TIFA partners on a wide range of trade and investment related issues. In addition to high-level Council on Trade and Investment Framework Agreement (TIFA Council) meetings, which are held every one to two years, there is an ongoing dialogue with all TIFA partners that may include periodic working level meetings and digital video conferences on the implementation of TIFA work plans. In 2012, the United States participated in four Council meetings with Mauritius, Mozambique, South Africa, and Nigeria; as well as a TIDCA meeting with the Southern African Customs Union (SACU).

d. Mauritius

In January 2012, Deputy U.S. Trade Representative Demetrios Marantis led a high-level delegation for talks with the Mauritian government under the U.S.-Mauritius Trade and Investment Framework Agreement (TIFA). The TIFA establishes a high level forum for advancing a cooperative partnership on trade and investment issues. Ambassador Marantis and Mauritian Minister of Foreign Affairs, Regional Integration, and International Trade Arvin Boolell co-chaired the TIFA meeting which included a wide range of government and private sector participants. During the meeting, senior government officials discussed a broad range of issues of importance to the bilateral U.S.-Mauritian trade and investment relationship, including AGOA, the WTO Doha negotiations, trade facilitation, U.S.-Mauritius Bilateral Investment Treaty (BIT) negotiations, intellectual property rights, services trade, information communication and technology (ICT) principles, and trade capacity building assistance.

Ambassador Marantis met with Mauritius Prime Minister Navin Ramgoolam to discuss a range of issues, including the extension of AGOA's third country fabric provision, the BIT negotiations, regional integration, and the future of the U.S.-Africa trade and investment relationship. Ambassador Marantis also met with Minister Boolell and Mauritius Minister of Information and Communication Technology Chedumbrum to discuss U.S.-Mauritius cooperation in the ICT sector and working more closely in WTO trade facilitation negotiations, among other issues. In addition, Ambassador Marantis met with private sector representatives to discuss their interests and concerns regarding the U.S.-Mauritius trade and investment relationship.

In June 2012, the United States and Mauritius reached an agreement on a set of non-binding trade-related principles for ICT services. The United States and Mauritius will jointly promote the adoption of these principles by other countries.

e. Mozambique

The United States and Mozambique strengthened trade and investment relations in 2012. In January 2012, Deputy U.S. Trade Representative Demetrios Marantis co-chaired with Mozambique Industry and Commerce Minister Armando Inroga a meeting under the U.S.-Mozambique Trade and Investment Framework Agreement (TIFA). At the meeting, senior government officials discussed a wide range of trade issues, including trade impediments, business climate, intellectual property rights, sanitary and phytosanitary (SPS) issues, and ongoing cooperation toward a strategic plan for Mozambique to develop non-traditional exports under AGOA. Ambassador Marantis also met with U.S. and Mozambican private sector executives to discuss issues relating to expanding U.S-Mozambique bilateral trade and investment. On the margins of the AGOA Forum in June 2012, Ambassador Marantis met with Minister Inroga to follow-up on issues raised at the January TIFA meeting.

f. Nigeria

The seventh meeting of the U.S.-Nigeria Trade and Investment Framework Agreement (TIFA) Council was held in December 2012. Assistant U.S. Trade Representative for Africa Florizelle Liser co-chaired

the TIFA Council meeting with the Nigerian Minister of Trade and Investment Olusegun Olutoyin Aganga. During the meeting, interagency delegations for the United States and Nigeria reviewed progress made under the TIFA and discussed several common objectives, including market access, cooperation in the World Trade Organization (WTO), issues affecting the commercial environment, implementation of the African Growth and Opportunity Act (AGOA), intellectual property rights, and improving the bilateral investment climate between the United States and Nigeria.

Nigeria is one of the most important economies in sub-Saharan Africa, and one of significant strategic importance to the United States. As the largest market in West Africa, Nigeria plays a central role in the economy of the entire region, and policies implemented in Nigeria have an effect throughout the region.

Under the TIFA, the United States and Nigeria have worked cooperatively over the years to make significant strides to improve the environment for business and trade. The TIFA is part of a comprehensive U.S. effort to support the Nigerian government's efforts to advance trade and economic development. The U.S.-Nigeria TIFA facilitates the development of specific initiatives to expand economic opportunities for workers, farmers, businesses, and consumers in both countries.

g. South Africa

In June 2012, United States Trade Representative Ron Kirk and South African Trade and Industry Minister Rob Davies signed a Trade and Investment Framework Agreement (TIFA). The Agreement amends the TIFA signed in 1999 in order to deepen the U.S.-South Africa trade and investment relationship. The TIFA provides a forum to address trade issues and will help enhance trade and investment relations between the two countries.

Following the TIFA signing, Deputy United States Trade Representative Demetrios Marantis and Minister Davies co-chaired the first TIFA Council meeting under the new agreement. The TIFA Council reviewed the United States' and South Africa's joint work and progress on a number of trade and investment-related issues, including tariffs, the business and regulatory environment, implementation of AGOA, export diversification, energy, trade facilitation, and enhancing the participation of small and medium sized enterprises in trade and investment.

The United States-South Africa Council on Trade and Investment will meet annually under the TIFA which will help increase commercial and investment opportunities by identifying and working toward removal of impediments to trade flows.

h. Southern Africa Customs Union (SACU)

In June 2012, the first senior-level meeting on the implementation of the U.S.-SACU Trade, Investment and Development Cooperative Agreement (TIDCA) was held. Assistant United States Trade Representative for Africa Florizelle Liser co-chaired the meeting with South Africa Department of Trade and Industry Deputy Director General Xavier Carim.

At the meeting, senior government officials reviewed progress in four key areas: Customs and Trade Facilitation, Technical Barriers to Trade (TBT), Sanitary and Phytosanitary (SPS) measures, and Trade and Investment Promotion. A Memorandum of Understanding (MoU) on Deeper Cooperation between SACU and USAID that will support the TIDCA was also discussed, and in November a study on the capacity constraints that affect SACU export access into the U.S. market under the TIDCA was completed. Both sides agreed on a joint workplan to advance the work under the TIDCA to increase trade and investment ties between the United States and SACU member states.

7. South and Central Asia

a. Advancing the United States-India Trade and Investment Relationship

The United States and India continued to work in 2012 towards strengthening the bilateral economic relationship by focusing efforts on policy actions that inhibit trade and investment flows between the two countries. The United States-India Trade Policy Forum (TPF), created in 2005, remains the principal bilateral forum for discussing trade and investment issues, although engagement on those issues continued in other important bilateral fora such as the U.S.-India Energy Dialogue and the Information and Communications Technology (ICT) Working Group. Ambassador Kirk and Minister Sharma also met multiple times in 2012 to discuss steps to overcome challenges facing U.S. and Indian exporters of goods and services. In December 2012, Ambassador Marantis traveled to India to meet his new Indian counterpart, Commerce Secretary S.R. Rao, as well as a number of other senior Indian government officials and private sector leaders, to address U.S. concerns over elements of India's manufacturing policies and to highlight the critical role played by innovation policies in the bilateral economic relationship. The United States and India resumed negotiations on a bilateral investment treaty (BIT) following the April 2012 release of the U.S. Model BIT, and are working towards concluding a high standard agreement. India also announced its decision to open the civil aviation and multi-brand retail sectors to foreign direct investment and adopted measures to ease foreign investment in other areas, including single-brand retail. Finally, following efforts since 2007 to resolve U.S. concerns, the United States initiated a WTO dispute in March 2012 on India's prohibition on imports of U.S. poultry and other agricultural products. A WTO panel decision in that dispute is expected in late 2013.

b. Contributing to Regional Stability

In support of top U.S. national security objectives in Central Asia, Afghanistan, Pakistan, and Iraq, in 2012 USTR strengthened engagement with these countries as part of a broader effort to boost trade, employment, and sustainable development. USTR led the United States-Pakistan Trade and Investment Framework Agreement (TIFA) meeting on April 24, 2012, where Pakistan and the United States agreed to set up a TIFA Committee on Promoting Trade and Investment Initiatives that will include opportunities for private sector input. In August, USTR, with the support of the U.S. Department of Commerce's Commercial Law Development Program and the U.S. Consulate in Karachi, conducted a two-day outreach session to the private sector on the trade and investment relationship between the United States and Pakistan, focusing on promoting better understanding of the U.S. Generalized System of Preferences (GSP) program. Working with other U.S. agencies, USTR participated in trilateral and other high-level meetings with officials from Central Asian countries, Afghanistan, Iraq, and Pakistan. Key highlights from 2012 include:

- USTR led discussions on how Afghanistan, Pakistan, and Iraq could increase use of existing trade benefits under the U.S. GSP program.

- USTR supported the implementation of the Afghanistan and Pakistan Transit Trade Agreement and encouraged both sides to promptly resolve issues causing problems for bilateral trade and for products headed for markets in the region.

- USTR organized a business opportunities conference in London to promote and strengthen business relationships between American and Pakistani companies.

- Pakistan and the United States agreed to intensify engagement on trade and investment issues by focusing on addressing intellectual property protection issues as identified in the Special 301 Report.

- Pakistan and the United States agreed to work together in 2012-2013 to conduct outreach to the private sector in Pakistan to promote better understanding of the U.S. GSP program.

- The United States intensified its efforts to provide technical and advisory support to Afghanistan in support of its accession to the WTO. Afghanistan and the United States are committed to Afghanistan's accession by the end of 2014.

c. Promoting National Reconciliation and Lasting Peace in Sri Lanka

The United States and the government of Sri Lanka held the 10th TIFA Council Meeting in Colombo, Sri Lanka, on March 27, 2012. It was the fourth meeting of the TIFA Council since Sri Lanka's civil war ended in May 2009. The United States and Sri Lanka discussed market access and investment climate concerns, established a TIFA committee on Labor Affairs, commenced capacity building initiatives on intellectual property rights, and reviewed ways to improve Sri Lanka's utilization of the U.S. GSP program. As an outgrowth of the successful TIFA meeting and following specific actions by the Sri Lankan government to address worker rights issues, the Administration announced in June 2012 that it was closing its review of a GSP country practices petition on worker rights in Sri Lanka without any change to Sri Lanka's benefits under the U.S. GSP program. The United States and Sri Lanka continued to discuss and cooperate on labor issues through the newly-formed TIFA committee on Labor Affairs, which met in July and December.

d. Advancing U.S. Engagement with Central Asia

USTR supported the Administration's strategy towards Central Asia by assisting Kazakhstan in hosting the United States-Central Asia TIFA Council meeting in Almaty, Kazakhstan on October 18, 2012. This was the first TIFA Council Meeting in the region in over two years, and each Central Asian Party was represented by a high level delegation. Afghanistan is an observer to the Central Asia TIFA and participated in the discussions during the TIFA Council Meeting. The United States launched Bilateral Working Group meetings in 2012 and established four TIFA Working Groups: Women's Economic Empowerment, Customs, Standards (SPS and TBT), and Improving Transparency and Public Participation in Trade and Investment Policy Decision-making. The next TIFA Council Meeting will take place in 2013 either in Washington, DC, or in one of the Central Asian Republics.

The United States worked closely with the government of Tajikistan in to assist in Tajikistan's efforts to accede to the WTO. The WTO General Council met on December 10, 2012, and ratified the Working Party Report, thus paving the way for Tajikistan to become a full Member of the WTO upon completion of implementing legislation -- likely sometime in the early summer of 2013.

The United States also convened a bilateral meeting with Kazakhstani authorities to discuss Kazakhstan's customs union with Russia and Belarus and prospects for Kazakhstan's accession to the WTO. USTR discussed U.S. concerns about higher duties adopted by Kazakhstan under the common external tariff of the customs union, which entered into force on January 1, 2010, and Kazakhstan's future WTO market access commitments. In early June 2012, Deputy USTR Marantis and a team from USTR visited Kazakhstan (Astana and Almaty) to meet with a number of Ministers and the Deputy Prime Minister to discuss bilateral trade and investment issues and to assist in moving Kazakhstan's WTO accession negotiations forward. These meetings helped to clarify a number of outstanding issues and strengthened the overall trade and investment relationship with Kazakhstan. An important development from this trip was that Kazakhstan offered to host the 2012 TIFA Council Meeting in Almaty, Kazakhstan and the United States agreed to support Kazakhstan in hosting the meeting. Kazakhstan went on to host the meeting in October 2012 and it was a very successful meeting with the participation from Ministers from all the TIFA Parties and Afghanistan.

e. Improving Trade and Investment Relations with Nepal

The United States and Nepal are working together to improve their bilateral trade and investment relationship. Since signing a Trade and Investment Framework Agreement (TIFA) in 2011, both sides have worked to identify areas of common interest and develop a plan to improve trade and investment ties.

f. Beginning a Trade and Investment Dialogue with Bhutan

The United States and representatives of Bhutan met in New Delhi, India, to discuss ways to improve their trade and investment dialogue. Both sides discussed areas of interest and options for moving forward.

IV. OTHER TRADE ACTIVITIES

A. Trade and the Environment

During the course of 2012, the Administration achieved significant results on trade and environment matters across multiple fronts, including through regional and bilateral trade initiatives. On the regional front, the United States worked with other APEC member economies to reach a groundbreaking agreement on a list of 54 environmental goods on which tariffs will be cut to 5 percent or less by 2015 – marking the first time that trade negotiations have produced a list of environmental goods for tariff cuts. Additionally, in the TPP negotiations, the United States continued to press for commitments to address conservation challenges, such as illegal trade in wildlife and marine fisheries issues, as well as commitments to liberalize trade in environmental goods and services. The Administration continued to prioritize implementation of the free trade agreements currently in force, and finalized implementation of the environment provisions of the agreements with Korea, Colombia, and Panama. In keeping with the increased integration of environmental considerations across multiple multilateral, regional, and bilateral fronts, this report includes an assessment of recent developments on trade and environment in specific sections devoted to these various fora.

1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States has continued to explore fresh and innovative approaches to all aspects of the WTO's trade and environment work. The Administration also has sought to orient activities in the OECD Joint Working Party on Trade and Environment to focus on value-added contributions to ongoing WTO work, as well as strong analytical research on the interface between trade and clean energy policies.

USTR continues to participate in formulating and carrying out U.S. policy regarding various multilateral environmental agreements (MEAs) to enhance compatibility between activities under those agreements and U.S. trade policy. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the International Convention for the Conservation of Atlantic Tunas, International Maritime Organization conventions, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. In 2012, USTR participated actively in the Rio+20 process, where countries agreed on the importance of international trade in promoting sustainable development, and agreed to enhance transparency and reporting on harmful fisheries subsidies. USTR also took part in the United Nations Environment Program negotiations to develop a legally binding agreement on mercury. The mercury convention negotiations concluded in January 2013, and the new convention will be opened for signature in October 2013. USTR also continued to play an active role in the ongoing United Nations Framework Convention on Climate Change (UNFCCC) negotiations.

USTR also participated actively in the work of two international commodity agreements, to identify and pursue opportunities to facilitate increased international trade and sustainable development. In the International Tropical Timber Organization, USTR assisted Administration efforts to promote increased market transparency and to provide support for capacity building projects to facilitate tropical timber trade in the context of sustainable management of tropical forests. In the International Coffee Organization, USTR led Administration efforts to ensure strong implementation of the agreement (International Coffee Agreement 2007 which entered into force in 2011), which promotes development of a sustainable coffee sector.

2. Bilateral and Regional Activities

As described in more detail in the Bilateral and Regional Negotiations and Agreements section of this report, USTR ensured concrete achievements supporting green growth and trade during 2012. In September, APEC Leaders agreed on a list of 54 environmental goods on which they will cut tariffs to 5 percent or less by 2015. This historic outcome will lower the costs of important environmental technologies such as wastewater treatment filters and wind turbines, and will contribute to the Administration's goals to increase U.S. exports and expand green jobs domestically. These commitments in APEC have provided momentum on other key initiatives to liberalize trade in environmental technologies, including in the TPP and the WTO.

The United States also advanced its work to combat illegal logging and associated trade in the Asia-Pacific region at the inaugural meetings of a newly established APEC Experts Group charged with combating illegal logging and associated trade and promoting legal trade in forest products in the region. Additionally, USTR joined other agencies in participating in bilateral meetings with China and Indonesia under a separate Memorandum of Understanding with each country on combating illegal logging and associated trade. The meetings provided an opportunity to share detailed information on our respective efforts to combat illegal logging and associated trade and on potential areas of collaboration.

USTR also continued to pursue an ambitious set of environment proposals in the TPP negotiations, including with respect to public participation, effective enforcement of environmental laws, conservation of wildlife and wild plant species, disciplines on harmful fisheries subsidies, and promotion of environmental goods and services trade. Together, these U.S. proposals offer the opportunity to forge a new high standard for environmental provisions in trade agreements.

USTR was active during 2012 in monitoring implementation of environment provisions in free trade agreements (FTAs). In particular, USTR worked closely with Peru to advance implementation of the Annex on Forest Sector Governance under the United States-Peru Trade Promotion Agreement. USTR and other agencies continued to engage with Peru on the development of regulations to implement its new Forestry Law and on other aspects of Peru's ongoing efforts to further implement the Annex. In addition, USTR together with the U.S. State Department concluded negotiations with Peru on the terms of an agreement to establish an independent secretariat to consider citizen submissions which assert that a Party is failing to effectively enforce its environmental laws. As described elsewhere in this report (see Chapter III.A), USTR and other agencies carried out an in-depth review of a petition from a U.S. stakeholder, which raised concerns regarding certain shipments of bigleaf mahogany and Spanish cedar from Peru to the United States. The outcome of this review is a targeted bilateral action plan that will provide meaningful support to Peru's forestry reform efforts.

USTR convened environmental affairs councils and related fora under the Peru TPA and the CAFTA-DR to discuss, monitor, and ensure implementation of FTA environmental obligations. USTR also ensured that these meetings included sessions open to the public, consistent with our commitment to transparency. USTR also convened the TPSC Subcommittee on FTA Environment Chapter Monitoring and Implementation to consider the status of implementation of Environment Chapter commitments by our FTA partners and to develop a systematic plan for monitoring our FTA partners' implementation of, and compliance with, their obligations under the Environment Chapters of our FTAs.

B. Trade and Labor

The Administration's trade policy agenda includes a strong commitment to ensuring that workers and their families in America and around the world benefit from trade. The Administration has continued its

efforts to improve respect for labor rights and to increase monitoring and enforcement of trade agreement labor provisions. The Administration has also continued its effort to enhance U.S. Government engagement with trade partners on labor rights through the formal mechanisms of trade agreements, trade programs and other means. Labor issues were high on the agenda of commission meetings under existing FTAs, as well as meetings under Trade Investment Framework Agreements (TIFAs), and in multilateral fora, including the Asia Pacific Economic Cooperation (APEC) forum.

In 2012, the Administration successfully closed a GSP worker rights review of Sri Lanka after the government of Sri Lanka took specific steps to address the concerns arising out of the review, and a new TIFA committee on labor affairs was established to continue dialogue on labor issues. The Administration also continued to work closely with the government of Colombia in 2012 as Colombia implements the Action Plan Related to Labor Rights, which was announced in April 2011. The Administration, for instance, provided strong support for Colombia's newly established Labor Ministry and its greatly enhanced labor inspectorate. In the case brought against Guatemala under Chapter 20 (Dispute Settlement) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for apparent violations of labor rights obligations, an arbitration panel was constituted and negotiations continued in an attempt to find a mutually agreeable resolution that would significantly improve labor law enforcement in Guatemala. The Administration also pursued high-standard labor obligations through the continuing negotiations of the Trans-Pacific Partnership (TPP).

As an essential component of the Administration's trade agenda, the Trade Adjustment Assistance (TAA) program assists American workers adversely affected by global competition and helps ensure that they are given the best opportunity to acquire skills and credentials to get good jobs. *(For additional information, see Chapter V.B.7.*)

1. Multilateral and Regional Fora

In the Ministerial Declaration adopted during the WTO Ministerial Conference in Singapore (1996), and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), the WTO Members renewed their commitment to the observance of internationally recognized core labor standards and took note of collaboration between the WTO and International Labor Organization (ILO) Secretariats. In September 2011, the WTO and the ILO jointly released "Making Globalization Socially Sustainable." The publication summarizes knowledge on themes related to the social dimension of globalization through contributions by academic experts who analyze the various channels through which globalization affects jobs and wages. (*For additional information, visit http://www.wto.org/english/res_e/publications_e/glob_soc_sus_e.htm.*)

The Administration has continued to promote the discussion of labor rights as one of the topics relevant to the effort to strengthen economic integration and to build high quality trade agreements in the Asia-Pacific region. In APEC, the United States has continued to support inclusion by APEC economies of labor and social issues in next generation trade agreements. In particular, in the APEC Committee on Trade and Investment, the United States is co-sponsoring with Korea and other economies a program to build the capacity of APEC economies to negotiate labor provisions in their respective trade agreements. *(For additional information on APEC, see Chapter III.B.3..*)

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

The Eighteenth IACML will be held in Colombia in October 2013, and will mark the 50th anniversary of the conference. Labor ministers will adopt a Declaration at the conference, as well as endorse a new two-year Plan of Action. The Declaration from the 2011 conference in El Salvador focused on "advancing economic and social recovery with sustainable development, decent work, and social inclusion," and established a working group chaired by Brazil on "Sustainable Development with Decent Work for a new era of Social Justice." The United States and the Dominican Republic are co-vice-chairs of the Working Group. In 2012, the working group held seminars on globalization's labor dimension, including topics such as job creation and the role of labor ministries, youth employment, and green jobs.

2. Bilateral Agreements and Preference Programs

a. FTAs

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

The United States engages our FTA partners on labor issues as part of our ongoing monitoring and implementation of U.S. trade agreements. As part of engagement efforts in 2012, USTR led an interagency mission to Panama to monitor progress on its enforcement of labor laws as part of the Administration's entry into force review of the trade agreement. The mission verified that Panama implemented improvements to its labor system beginning in 2009, including by implementing administrative decrees and ministerial resolutions to strengthen its labor laws and enforcement. (*For additional information, see Chapter III.A and visit http://www.whitehouse.gov/sites/default/files/panama_trade_agreement_labor.pdf.*) The United States also worked with trade partners to advance labor rights through technical cooperation efforts, particularly in Central America, Morocco, Peru, and Colombia in 2012. *(For additional information, see Chapter III.A.*)

In 2012 the Administration worked closely with Colombia to implement the Colombian Action Plan Related to Labor Rights, which focuses on improving protection of labor rights, preventing violence against trade unionists, and prosecuting perpetrators of such violence. Throughout the year, the Colombian government took numerous steps to meet Action Plan commitments, including hiring and training hundreds of new labor inspectors and judicial prosecutors. In addition, the newly reconstituted Colombian Ministry of Labor moved aggressively to enforce new laws that prohibit the misuse of cooperatives and other forms of subcontracting that undermine labor rights. The Labor Ministry issued ground-breaking fines against employers found violating these laws, some in excess of $1 million. (*For additional information, see Chapter III.A and visit http://www.ustr.gov/uscolombiatpa/labor.*)

In 2012, in response to the Administration's request for the establishment of an arbitral panel in the case against Guatemala under Chapter 20 (Dispute Settlement) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for apparent violations of labor rights obligations, a three-member panel was consitututed. This is the first time the United States has taken such action on a labor matter under an FTA. (*For additional information, see Chapter III.A.3 and visit http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr*.)

Also in 2012, public reports addressing labor rights in Peru and Bahrain were issued pursuant to the public submission provisions of the labor chapters of FTAs with those countries. (*For additional information, see Chapter III.A.)* Under existing trade agreements, three new submissions on labor rights were accepted for review in 2012, involving Mexico (January 2012), the Dominican Republic (February 2012), and Honduras (May 2012). Public reports on these submissions are scheduled to be issued in 2013.

b. Other Bilateral Agreements and Preference Programs

President Obama certified to the U.S. Congress in October 2009 that Haiti met the necessary requirements to continue duty-free treatment for certain Haitian-made apparel and other articles under the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II). Pursuant to the requirements of HOPE II, Haiti established an independent labor ombudsman's office and a Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program, which is implemented through a U.S. Department of Labor-funded ILO Better Work program. The TAICNAR program, more commonly known as Better Work Haiti, assesses factory compliance with national laws and international standards relating to core labor rights and conditions of work and ensures that producers that wish to be eligible for duty-free treatment participate in the program. Significant progress has been made in implementing the TAICNAR program, including the provision of factory assessments and remediation assistance for all companies that produce HOPE II-eligible apparel. Pursuant to HOPE II requirements to identify producers who have failed to comply with the required labor standards, the U.S. Department of Labor, in consultation with USTR, identified three such producers in December 2011 and those producers were the subject of concerted compliance and assistance efforts during 2012. Consistent with the requirements of HOPE II, the ILO issued public reports on factory compliance in April 2012 and October 2012. USTR continues to work closely with the government of Haiti, the ILO, and other U.S. Government agencies on implementation of the program to monitor factories' compliance with core labor standards. *(For additional information, view the 2012 USTR Annual Report on the Implementation of the TAICNAR program at http://www.ustr.gov/sites/default/files/Haiti%20HOPE%20II%20report.pdf and the ILO Biannual reports at http://www.betterwork.org.)*

U.S. trade preference programs, including the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act, and the Generalized System of Preferences (GSP), require the application of statutory eligibility criteria pertaining to worker rights. In 2012, the Administration accepted for review new GSP worker rights-related petitions concerning Fiji and Iraq and held a public hearing on these reviews. The Administration also closed a worker rights review of Sri Lanka after significant progress made by the government of Sri Lanka, including progress in initiating, investigating and resolving cases of unfair labor practices; establishing trade union facilitation centers in each of the three largest Economic Processing Zones; improving procedures for conducting union certifications; and enacting legislation to increase the fines for labor practices violations. The United States and Sri Lanka agreed to establish a new labor affairs committee under the TIFA to continue dialogue on labor issues. Five other previously accepted worker rights-related GSP petitions remained under review at year's end, concerning Bangladesh, Georgia, Niger, the Philippines, and Uzbekistan. In

2012, USTR and other U.S. Government officials continued to engage with these governments through U.S. embassies in those countries, their embassies in Washington, D.C., and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions. An ATPA petition concerning worker rights in Ecuador was filed in 2005 and the review of practices in that country continued in 2012.

The United States and China committed to a dialogue on labor issues in 2009 during the first United States-China Strategic and Economic Dialogue (S&ED). The third meeting of the labor dialogue took place in Beijing in December 2012, at which Government representatives discussed various labor rights issues including labor law reform, labor law enforcement, industrial relations and collective bargaining, and employment training. In November 2012, the United States and China also launched a new dialogue on workplace safety and health. The United States will host the next meeting in 2013. Additionally, USTR participated in the United States-China Human Rights Dialogue led by the U.S. Department of State in July 2012, at which trade-related labor rights were discussed.

USTR also engaged with several countries on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. Most notably, the United States discussed labor rights issues during TIFA meetings with Sri Lanka in March 2012 and through the first meeting of the United States-Sri Lanka TIFA labor affairs committee in June 2012, as well as with Uzbekistan during the bilateral working group of the United States-Central Asia TIFA. Additionally, the United States concluded a TIFA with the Gulf Cooperation Council in September 2012 that reflects the importance of adopting and maintaining in law and practice the ILO fundamental labor rights and ensuring the effective enforcement of labor laws. Also in 2012, the Administration released the text of a new "model" for Bilateral Investment Treaties that includes strengthened provisions on labor rights. The new provisions establish stronger labor protections in the context of promoting investment and ensuring that U.S. companies benefit from a level playing field in foreign markets.

C. Small and Medium Sized Business Initiative

In October 2009, Ambassador Ron Kirk announced a new USTR initiative aimed at increasing exports by U.S. small and medium sized enterprises (SMEs). In the past three years, USTR has expanded efforts to ensure the specific export challenges and priorities of SMEs and their workers are reflected in our trade policy and enforcement activities. During 2012, USTR engaged on an interagency basis and with trading partners to develop and implement new initiatives that support small business exports.

This agency effort also supports the goals of the Administration's National Export Initiative (NEI) to double U.S. exports by the end of 2014 and to support millions of American jobs. The NEI highlights the importance of expanding SME exports.

U.S. small businesses are key engines for our economic growth, jobs, and innovation. SMEs that export tend to grow faster, add jobs faster, and pay higher wages than SMEs that serve only domestic markets. Direct and indirect exports by U.S. SMEs support an estimated four million jobs in the United States, while accounting for over 40 percent of the total value of U.S. exports of goods and services. There are some 28 million SMEs in the United States, but currently, only a small fraction of these companies export goods or services, and most export only one product or service to one foreign country. USTR is working to further unleash the export potential of American small businesses.

USTR is focused on making trade work to the benefit of American small businesses, helping them increase their sales to customers abroad, and thus create jobs at home. USTR does this by negotiating with foreign governments to open their markets, reducing trade barriers, and enforcing our existing trade

agreements to ensure a level playing field for American workers and businesses of all sizes. Agency-wide, USTR is working to better integrate specific SME issues and priorities into our trade policy development and implementation, increase our outreach to small businesses around the country, and expand our collaboration and coordination with our interagency colleagues.

In 2012, USTR undertook significant actions in continued support of our SME objectives.

1. USTR SME-Related Trade Policy Activities

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

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

- As the United States moves forward with negotiations to expand U.S. trade in the Asia-Pacific region through the Trans-Pacific Partnership (TPP), USTR designated a point person for SME issues and is working with our TPP partners to support the growth and development of small businesses, by enhancing their ability to participate in and benefit from the export opportunities created under the Agreement. This includes commitments by all TPP Parties to develop and promote web-based information and resources about the TPP Agreement for small businesses, and coordination to ensure that small businesses are able to take advantage of the Agreement after it is implemented. SMEs will benefit from increased transparency, predictability, and ambitious and comprehensive market access in TPP partners.

- In the Asia Pacific Economic Cooperation (APEC) forum, the U.S. and counterpart APEC Ministers agreed to a comprehensive approach to improve supply chain performance in the region so that businesses can move goods faster, easier, and more cheaply. For example, APEC will look for ways to further simplify customs procedures and document requirements, which will be of assistance to small and medium-sized businesses that oftentimes lack the resources necessary to navigate overly complex requirements to deliver their goods to overseas markets in the region.

- Under the United States-Korea FTA (KORUS), the United States and Korea established an SME Working Group to develop cooperative activities to help SMEs take better advantage of KORUS trade opportunities.

- Through the Transatlantic Economic Council, two U.S.-European Union Small and Medium Enterprises Workshops were held in Rome, Italy in July 2012 and Washington, D.C. in December 2012 with the aim of exchanging best practices and facilitating increased small business participation in transatlantic trade. U.S. small businesses from around the country including the Industry Trade Advisory Committee for Small and Minority Business (ITAC 11) and members of the District Export Councils participated in the discussions with the EU. As a result of the

workshops and stakeholder input, the United States and EU concluded an MOU on SME trade promotion cooperation at the December 2012 meeting.

- Through the Administration's Middle East North Africa Trade and Investment Partnership, USTR is partnering with AID and others to support the development of the critically important SME sector in countries in transition, such as Tunisia and Egypt, through initiatives designed to enhance SME-related trade and investment and to lay the foundation for future linkages with U.S. small businesses.

- With respect to FTA partners in the Western Hemisphere, USTR is working with the U.S. Small Business Administration (SBA), the U.S. State Department and other agencies to support the Administration's Small Business Network of the Americas, announced by President Obama in Tampa, Florida prior to the Summit of the Americas in April 2012. This interagency initiative is linking U.S. Small Business Development Centers around the country with a growing network of counterpart small business centers in FTA partners including Mexico, Central America and the Dominican Republic, Panama, Colombia and others, through online trade platforms and business competitions.

2. USTR Interagency SME Activities

Under the National Export Initiative, USTR's Small Business, Market Access, and Industrial Competitiveness office participates in the Trade Promotion Coordinating Committee's (TPCC) Small Business Working Group, collaborating with agencies including the U.S. Department of Commerce, the Small Business Administration (SBA), the U.S. Export-Import Bank, the U.S. Department of Agriculture, and others across the Government to promote small business exports. The TPCC Small Business Working Group connects SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements.

In 2011, USTR's Small Business office was designated as Co-Chair of the TPCC SME Task Force on connecting SMEs to international trade opportunities. As a result of work by the Task Force, USTR, the U.S. Department of Commerce and the SBA launched the FTA Tariff Tool. This new, free, online tool (http://export.gov/FTA/ftatarifftool/index.asp) can help small businesses take better advantage of the reduction and elimination of tariffs under U.S. FTAs. In 2012, the FTA Tariff Tool was expanded to include tariff information on textiles and apparel products as well as rules of origin under U.S. FTAs. USTR and other agencies also created an SME Exporter's Toolkit guide to U.S. Government exporting resources which reached tens of thousands of SME exporters in the U.S. Census Bureau newsletter.

3. USTR's SME Outreach and Consultations

Throughout 2012, Ambassador Kirk and senior USTR staff actively participated in numerous events around the country to hear directly from local small businesses, workers, and other stakeholders about the trade opportunities and challenges they face. Ambassador Kirk's meetings with SME exporters and community leaders to discuss the potential to grow their exports and take advantage of market openings abroad are highlighted on USTR's website and blog. The Small Business section of USTR's website also includes helpful links, fact sheets, and resources for SMEs, including short brochures for SMEs in English and Spanish with "Frequently Asked Questions" about opportunities to export to FTA partners in the Western Hemisphere, blogs which highlight small business export success stories around the country and USTR trade policy efforts supporting small business. On an interagency basis, USTR is working with the TPCC to improve trade information relevant for SMEs and highlight interagency programs to

assist SMEs with their individual export needs on the U.S. Government's one-stop export platform (http://www.export.gov).

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

In May 2012, Ambassador Sapiro testified before the House Committee on Small Business on efforts to expand exports by U.S. small businesses, thereby supporting greater economic growth and jobs throughout the country.

USTR's Small Business office also spoke at several SME events around the country in 2012, including at the Association of Small Business Development Centers annual conference in New Orleans, Louisiana; World Trade Week in Kansas City, Missouri; the Office of Small and Disadvantaged Business Units annual conference in Washington, D.C.; the NAFTA20 Summit Small and Medium Business Outlook in San Antonio, Texas; the U.S. Chamber and National District Export Council SME Trade Barriers Workshop in Washington, D.C., and other trade events aimed at apprising small businesses of international trade opportunities and encouraging them to begin or expand their exports.

D. Anti-Counterfeiting Trade Agreement

On October 5, 2012, Japan became the first signatory to the Anti-Counterfeiting Trade Agreement (ACTA) to deposit its instrument of acceptance. The United States is working with Japan and other negotiating parties to bring the ACTA into force.

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

ACTA signatories are Australia, Canada, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and the United States. The European Union and EU Member States, signed the Agreement in January 2012, but it was not approved by the European Parliament. For signatories, the next step towards bringing the ACTA into force is to deposit instruments of ratification, acceptance, or approval. The ACTA will enter into force for those signatories thirty days following the deposit of the sixth such instrument.

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

E. Import Food Safety

On January 4, 2011, President Obama signed the Food Safety Modernization Act. This legislation includes numerous provisions to strengthen the U.S. food safety system for both domestic and imported products. Several key regulations and programs that the Act provides, and are currently under development, will improve the safety of the U.S. food supply, including food that is imported from foreign producers.

USTR has continued to address the safety of imported products through its work on sanitary and phytosanitary (SPS) chapters in U.S. FTAs. These chapters establish standing committees of the parties to the FTA to enhance cooperation and consultation on SPS matters and improve the parties' understanding of each other's SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance. The ongoing TPP negotiations provide the United States with an opportunity to negotiate a 21st century trade agreement with the world's most dynamic economies to create and retain jobs in the United States. In the TPP SPS Chapter, USTR aims to strengthen commitments to apply science-based measures in a transparent manner.

The WTO SPS Committee provides an important forum for the United States to exchange information with its trading partners on countries' respective health and safety requirements, and address concerns about the implementation of those requirements. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that food safety requirements are based on scientific principles and sound evidence.

The U.S. Government's commitment to food safety is exemplified through its participation in the Asia-Pacific Economic Cooperation (APEC) Food Safety Cooperation Forum (FSCF) and the Partnership Training Institute Network (PTIN), which highlight the importance of investing in strengthening the food safety systems of U.S. trading partners in the Asia Pacific region. In 2012, the United States sponsored FSCF and PTIN training on export certificates and a series of focused sub-regional laboratory competency building seminars. The work on export certificates is ultimately aimed at developing APEC principles on export certification. The seminars addressed import-export trade facilitation methods, regulatory requirements, CODEX principles, and Good Laboratory Practices. The laboratory competency building program has resulted in the formation of the Scientific Technical Advisory Group (STAG), which is comprised of scientific experts who help identify areas for collaboration in strengthening the capacity of laboratories in APEC economies. The training for pesticides focused on methods of detection in fruits and vegetables for emerging APEC markets with hands-on laboratory work performed on several products.

In addition, Australia, China and the United States, with the support of other APEC economies, were awarded a three year grant from APEC to carry out competency building activities. These activities encourage countries to better align their food safety systems with the science-based international standards and best practices of the World Trade Organization (WTO) SPS Agreement. This funding represents APEC's commitment to the World Bank's Global Food Safety Partnership (GFSP) and will assist developing APEC economies in participating in the cornerstone APEC FSCF meetings in 2013 and 2015. It also will assist developing APEC economies engaged in APEC training on food incident management, risk assessment, laboratory competency building, risk-based food inspections, and pesticide maximum residue limits. APEC's collaborative model for strengthening food safety systems involving industry, academia, and governments has been so successful that it serves as a model worldwide for competency building initiatives in food safety.

The APEC FSCF and the World Bank signed a memorandum of understanding on food safety capacity building in May 2011. The World Bank announced the creation of a global partnership for food safety at the APEC Leader's meeting in November 2011, supported by a multi-donor trust fund with initial private sector and U.S. Government contributions totaling $1 million. The fund is expected to grow to $15 million. These efforts to deliver technical training and promote the use of best practices in food safety will increase the capacity of GFSP members to improve public health and market access through improving food safety. These activities will also further the adoption of science-based approaches that improve public health while also facilitating trade. The GFSP is based on the public-private partnership promoted by the PTIN. The GFSP is structured as a collaborative multi-stakeholder platform.

The first Global Food Safety Capacity Building Partnership Conference was held December 2012 in Paris, France. The focus of the conference was to launch formally the GFSP with the participation of senior level representatives from governments, industry, international organizations, and technical bodies. Participants discussed operational issues as well as the GFSP's five-year plan of action.

F. Organization for Economic Cooperation and Development

Thirty-four democracies in Europe, the Americas, Middle East, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. The OECD is a grouping of economically significant countries and serves as a policy forum covering a broad spectrum of economic, social, environmental, and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries, both OECD members and non-members, reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, although some OECD instruments such as the Anti-Bribery Convention are legally binding. Most OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the WTO.

The United States has a longstanding interest in trade issues studied by the OECD. The like-mindedness of the OECD's membership on the core values of democratic institutions, the rule of law, and open markets uniquely positions the OECD to serve as a valuable policy forum for addressing the opportunities and challenges of the global economy and multilateral trading system. On trade and trade policy, the OECD engages in meaningful research, provides a forum where OECD members can discuss complex and sometimes difficult issues, and communicates to the wider public the benefits that trade and open economies generate. Through its multi-disciplinary approach, the OECD offers a distinct advantage in addressing the complex economic effects of trade liberalization.

OECD efforts advance our understanding of how trade openness can bolster economies in member countries as well as in the major emerging and other non-member countries, including through economic modeling that illustrates the effects of trade liberalization on GDP, growth, and employment. In recent years, OECD research has shown that trade liberalization is an engine for job creation in all countries, especially as the world moves toward economic recovery. However, appropriate employment and social policies must accompany trade liberalization to ensure all participants reap the benefits of open markets. The Organization is also active in warning against the dangers of protectionist measures, and in describing how imports help firms to cut costs and improve efficiency. The OECD's work has advanced understanding of why imports, as well as exports, matter to the health of an economy. OECD analysis, particularly that of the Trade Committee, has helped to identify which policies, among the wide range of measures taken in response to the recent economic crisis, are most supportive of trade, growth, and employment.

1. Trade Committee Work Program

In 2012, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on the environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. The Trade Committee met in May and November 2012, and its Working Party met in March, June, October, and December. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and deepen understanding of the rationale for progressive trade

liberalization in a rules-based environment. Significant attention was paid to the areas of trade and jobs, global value chains, services trade, export restrictions, state owned enterprises, regional trade agreements, and export credits. The Trade Homepage on the OECD website (http://www.oecd.org/trade) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were developed or completed under the Trade Committee during 2012. These included:

- *Policy Priorities for International Trade and Jobs* (2012) Douglas Lippoldt (ed.)
- *Taking Stock of Measures Restricting the Export of Raw Materials: Analysis of OECD Inventory Data* (October 2012) Barbara Fliess and Tarja Mård
- *Global Production Networks: Labour Market Impacts and Policy Challenges* (October 2012) Susan Stone
- *Multilateralising Regionalism: Disciplines on Export Restrictions in Regional Trade Agreements* (July 2012) Jane Korinek, Jessica Bartos
- *The OECD Regulatory Reform Review of Indonesia: Market Openness* (June 2012) Molly Lesher
- *Trade, Employment and Structural Change: The Australian Experience* (March 2012) Greg Thompson, Tim Murray and Patrick Jomini (Australian Productivity Commission)
- *Trade Effects of Exchange Rates and their Volatility: Chile and New Zealand* (March 2012) Marilyne Huchet-Bourdon and Jane Korinek
- *Trade and Innovation: Synthesis Report* (January 2012) Nobuo Kiriyama

The Trade Committee continued its work developing the Services Trade Restrictiveness Index (STRI), a tool to measure the restrictiveness of barriers affecting trade in services. During 2012, the STRI Steering Group reviewed Secretariat and member country inputs for populating the STRI dataset, and services experts meetings were held to review specific sectors. The Group also held consultations with non-members as part of an active effort to include non-member data in the STRI to ensure that it is a comprehensive tool for trade policy experts.

The OECD Trade Committee also focused work on the trade effects and policy implications of state-owned enterprises (SOEs). Whereas in the past SOEs have tended to serve only their domestic markets, often shielded from competition, today SOEs and privately owned enterprises often find themselves competing with each other, both domestically (as when governments decide to expose sectors previously reserved for SOE monopolies to private competition) and internationally (as SOEs increasingly expand across borders). Systematic information on the extent and nature of competition between SOEs and privately owned enterprises in international markets remains scarce, and the OECD Trade Committee has started to fill this gap. The Trade Committee held a workshop on "Competition between State-owned and Privately-owned Enterprises in International Markets" in October 2012.

The OECD Ministerial Council Meeting took place in May 2012 in Paris. U.S. Trade Representative Ambassador Ron Kirk participated in the Trade Session which focused on trade and jobs, fighting protectionism, the services trade, and measuring trade in value-added terms. OECD members, Enhanced Engagement Partners, accession candidate Russia, and Trade Committee observers Argentina and Hong Kong participated in the session. Participants underscored the importance of trade for job creation and focused on areas where progress could be made on trade liberalization and fighting protectionism. Members expressed support for the completion of the OECD International Collaborative Initiative on Trade and Employment (ICITE), which culminated in the book *Policy Priorities for International Trade and Jobs* (OECD, 2012) that was delivered for the Ministerial. Members also encouraged ongoing work concerning the STRI and measuring trade in value-added terms.

2. Trade Committee Dialogue with Non-OECD Members

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

The OECD Trade Committee continued its contacts with non-member countries in line with its 2010 Global Relations Strategy. Enhanced Engagement and G-20 countries were invited to participate in special sessions of the May and November 2012 Trade Committee discussions related to fighting protectionism, creating and preserving jobs through goods and services trade, and measuring trade in value-added terms. This engagement facilitated discussions promoting the functioning and deepening of the multilateral trading system and increasing transparency of trade policies. Russia, the only current accession candidate to the OECD, also continued trade-related work on its OECD accession process throughout 2012.

The OECD Global Forum on Trade took place in November 2012 in Paris and focused on "trade and trade policy in services." The discussion centered on the trade policy implications of the changing market conditions facing service providers, with the objective of promoting more open services markets.

In addition, the Trade Committee continued its dialogue with civil society, discussing aspects of its work and issues of concern with representatives of civil society, including members of the OECD's Business and Industry Advisory Council (BIAC) and Trade Union Advisory Council (TUAC).

3. Other OECD Work Related to Trade

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

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

G. Localization Barriers to Trade

In the last few years, a growing number of America's trading partners have imposed what are called "localization barriers to trade" - measures designed to protect, favor, or stimulate domestic industries, service providers, and/or intellectual property (IP) at the expense of goods, services, or IP from other countries. Localization barriers are measures that can serve as disguised trade barriers when they unreasonably differentiate between domestic and foreign products, services, IP, or suppliers, and may or may not be consistent with WTO rules. Examples of localization barriers include:

- Local content requirements, i.e., requirements to purchase domestically-manufactured goods or domestically-supplied services;
- Subsidies or other preferences that are only received if producers use local goods, locally-owned service providers, or domestically-owned or developed IP, or IP that is first registered in that country;
- Requirements to provide services using local facilities or infrastructure;
- Measures to force the transfer of technology or IP;
- Requirements to comply with country- or region-specific or design-based standards that create unnecessary obstacles to trade; and
- Unjustified requirements to conduct or carry out duplicative conformity assessment procedures in-country.

Disadvantaging or excluding foreign goods, services, or IP in a market compared to domestic goods, services, or IP can distort trade, discourage foreign direct investment, and push other trading partners to impose similarly detrimental measures. Consequently, often over the long term, these measures can actually stand in the way of the economic growth and competitiveness objectives that they were intended to achieve.

For these reasons, it has been longstanding U.S. trade policy to advocate strongly against localization barriers and instead encourage trading partners to pursue policy approaches that help their economic growth and competitiveness without discriminating against imported goods or services.

In 2012, USTR established the Trade Policy Staff Committee Task Force on Localization Barriers to Trade to develop and execute a more strategic and coordinated approach to address localization barriers. In 2013, this work will build upon USTR initiatives already underway, including those that are seeking to address localization barriers through binding trade agreements, enforcement, and advocacy. The Task Force will work to promote global-level policy approaches that offer better ways to stimulate job creation and economic growth. The Task Force will pursue this mission through a variety of bilateral, regional, and multilateral forums, including the WTO, APEC, OECD, and the Trade and Investment Framework Agreement dialogues with other countries. It will also work closely with U.S. industry and other stakeholders, as well as with trading partners around the world, to carry out its mission and reduce market access challenges posed to U.S. goods, services, and IP by localization barriers.

V. TRADE ENFORCEMENT ACTIVITIES

A. Enforcing U.S. Trade Agreements

1. Overview

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

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

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

- Vigorously monitoring and enforcing bilateral and plurilateral agreements;

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

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

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

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 101 complaints at the WTO, thus far successfully concluding 69 of them by settling 29 disputes favorably and prevailing in 40 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.

a. Satisfactory settlements

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

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

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 40 cases to date. In 2012, the United States prevailed in disputes involving China's measures related to the exportation of raw materials, China's countervailing and antidumping duties on grain oriented flat-rolled electrical steel from the United States, and China's measures affecting electronic payment services. 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 subsidies to Airbus for large civil aircraft; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; the EU's moratorium on biotechnology products; the EU's non-uniform classification of LCD monitors; the EU's tariff treatment of certain information technology products; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's discriminatory measures on imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's restrictions on beef imports; Mexico's antidumping duties on high fructose corn syrup; Mexico's telecommunications barriers; Mexico's antidumping duties on rice; Mexico's discriminatory soft drink tax; the Philippines' discriminatory taxation of imported distilled spirits; and Turkey's measures affecting the importation of rice.

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

c. ITEC

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

An intelligence community liaison provides a variety of critical services and assistance to ITEC in furtherance of its objectives, including introducing ITEC, its mission, and priorities to the various collection and analytic components of the intelligence community. ITEC serves as the primary forum within the Federal Government for executive departments and agencies to coordinate enforcement of international and domestic trade rules. These efforts will include, as appropriate, an increase in engagement with foreign trade partners through the World Trade Organization, as well as through utilization of domestic trade enforcement authorities when necessary.

In 2012, ITEC quickly began contributing to fulfilling the President's goals. For example, ITEC played a critical role in providing research and analysis regarding three important matters (China Rare Earths Export Restraints, Argentina Import Licensing, and China Export Bases) for which there were serious concerns regarding U.S. trade interests. In each instance, the United States initiated steps in the WTO to protect U.S. rights. In addition, by the end of 2012 the critical initial infrastructure for ITEC had been established. It is being expanded on an ongoing basis. In coordination with other offices at USTR and other agencies, ITEC has identified priority projects for research and analysis regarding a number of countries and issues. ITEC staff has developed detailed workplans and is researching those projects intensively. These efforts are being supplemented by research activities conducted by other agencies in coordination with ITEC.

2. WTO Dispute Settlement

U.S. enforcement successes in 2012 include prevailing in a dispute involving China's export restrictions, including export quotas and export duties, on a number of important raw materials. The United States also prevailed in its challenge to China's countervailing and antidumping duties on grain oriented flat-rolled electrical steel from the United States and in its challenge to China's restrictions and requirements

pertaining to electronic payment services (EPS) for payment card transactions and the suppliers of those services.

The United States launched five new WTO disputes in 2012, requesting WTO consultations with India regarding its import prohibitions on various U.S. poultry products purportedly to prevent the entry of avian influenza into India; China's export restraints, including export duties and export quotas, on rare earths, tungsten, and molybdenum; China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of certain automobiles from the United States; Argentina's import restrictions including the broad use of non-transparent and discretionary import licensing requirements and burdensome trade balancing commitments; and China's auto and auto parts "export base" program, which appears to provide extensive prohibited export subsidies. Other ongoing enforcement actions include a dispute involving the EU's ban on the importation and marketing of U.S. poultry, a challenge to China's imposition of antidumping duties and countervailing duties on imports of chicken broiler products from the United States, and a compliance proceeding to determine whether the EU has complied with the WTO's recommendations to withdraw subsidies provided to Airbus, a manufacturer of large civil aircraft, or to remove their adverse effects.

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 U.S. Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce's Import Administration (IA) is to enforce the countervailing duty (CVD) law, and in accordance with responsibilities assigned by the U.S. 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 2012, 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. U.S. 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, 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 and Challenging Foreign Antidumping, Countervailing Duty and Safeguard Actions

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

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

Further, IA tracks foreign AD and CVD actions, as well as safeguard actions involving U.S. exporters, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of such actions. Information about foreign trade remedy actions affecting U.S. exports is accessible to the public via 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. In addition, IA promotes fair treatment, transparency, and consistency with WTO obligations through technical exchanges and other bilateral engagements.

During the past year, over 90 trade remedy actions involving exports from the United States were closely monitored, notable examples of which include: **Antidumping**— China's separate investigations of coated paper, glycol ether, and polysilicon; India's investigations of solar cells; the European Union's

investigation involving bioethanol; Mexico's separate investigations of chicken and ethylene glycol monobutyl ether (EGBE); South Africa's expiry review of chicken products; **Countervailing Duty**— the European Union's investigation of bioethanol; China's investigation of polysilicon; Peru's investigation of cotton; **Safeguards**— Brazil's investigation of fine or table wine; Chile's investigation of maize; Egypt's separate investigations of cotton textile and mixed cotton textile, and cotton yarn; India's investigation of dioctyl phthalate; Russia's investigation of combine harvesters; and Thailand's separate investigations of hot-rolled steel flat products and woven fabric.

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

4. Monitoring Foreign Standards-related Measures 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. As one step in response to that commitment, the Administration has deployed 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 by 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 do 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. Greater engagement with U.S. trading partners and increased monitoring of their practices can help ensure that U.S. trading partners are complying with their obligations. This helps facilitate trade in safe, high quality U.S. products.

As part of this intensified effort to identify and confront 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. USTR published the third TBT and SPS annual reports in April 2012. These annual reports are based on assessments from other U.S. Government agencies, including from commercial, agricultural, and foreign service officers stationed abroad, and submissions from industry and other interested stakeholders.

These reports 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 2013 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 2012, 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 2012, 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 (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. USTR also may self-initiate an investigation.

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

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

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

b. Developments during 2012

During 2012, USTR received no petitions requesting the initiation of an investigation. As described below, there were developments in 2012 relating to a previously initiated Section 301 investigation.

c. European Communities – Measures Concerning Meat and Meat Products (Hormones)

A directive of the European Communities (EC or European Union (EU) as of December 2009) prohibits the import into the EU of animals and meat from animals to which certain hormones have been administered (the "hormone ban"). This measure has the effect of banning most imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EU's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but it failed to do so. Accordingly, in May 1999, the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT 1994. The EC did not contest that it had failed to comply with its WTO obligations, but it objected to the level of suspension proposed by the United States.

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

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

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

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

In May 2009, the United States and the EC announced the signing of a Memorandum of Understanding (MOU) in the EC-Beef Hormones dispute. Under the first phase of the MOU, which concluded in August

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

On August 3, 2012, the United States and the EU, by mutual agreement, entered into the second phase of the MOU. USTR met the phase 2 obligations of the United States by terminating the remaining additional duties in May 2011, in advance of the phase 2 start date. As provided in the MOU, the EU in turn expanded the TRQ for beef produced without certain growth promoting hormones.

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

2. Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as "Priority Foreign Countries," 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. 2012 Special 301 Review Announcements

On April 30, 2012, the United States announced the results of the 2012 Special 301 annual review. The 2012 report reflects the Obama Administration's resolve to encourage and help maintain effective IPR protection and enforcement worldwide. In the Report, USTR announced that Malaysia was removed from the Watch List after making significant strides, including passing copyright amendments that strengthen copyright protection, intensified IPR enforcement, and promulgating regulations to protect pharmaceutical test data. In addition, Spain was removed from the Watch List because of its adoption of regulations implementing a law to combat piracy over the Internet. Ukraine was moved to the Priority Watch List from the Watch List in light of serious and growing concerns relating to counterfeiting and rampant piracy, including piracy over the Internet.

The 2012 Special 301 review process examined IPR protection and enforcement in 77 countries. Following extensive research and analysis, USTR designated 40 countries below as follows:

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

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

- Section 306 Monitoring: Paraguay.

The Report is the result of robust stakeholder input and interagency consultation. USTR requested written submissions from the public through a notice published in the *Federal Register* on December 28, 2011. The 2012 review yielded 42 comments from interested parties. The submissions received by USTR were made available to the public online at www.regulations.gov, docket number USTR-2011-0021. On February 23, 2012, USTR conducted a public hearing at which interested persons testified before the interagency Special 301 subcommittee. The hearing included testimony from 12 witnesses, including representatives from industry, non-governmental organizations and foreign governments. A transcript of the hearing was posted at www.ustr.gov.

In September 2012, USTR removed Israel from the Special 301 Priority Watch List based on steps it took under a Memorandum of Understanding (MOU) signed in 2010. Under the MOU, both Governments agreed that Israel would introduce three laws to the Knesset to improve the country's pharmaceutical patent regime. USTR announced that since Israel had introduced these laws, the United States was moving Israel from the Priority Watch List to the Watch List. USTR also announced that, as called for in the MOU, the United States would remove Israel from the Watch List once the three laws are enacted.

USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin to publish the Notorious Markets List separately from the Special 301 Report, as an "Out-of-Cycle Review of Notorious Markets," in order to increase public awareness and guide related enforcement efforts. Notorious Markets are marketplaces that have been the subject of enforcement action or that may merit further investigation for possible intellectual property rights infringements.

The Notorious Markets List was published in December 2012, and highlighted positive developments since the issuance of the previous Notorious Markets Review in December 2011. For example, USTR noted that Chinese Internet website Taobao worked with rights holders to significantly decrease the listing of infringing products for sale through its website, and committed to continue working to streamline its

complaint procedures to further reduce listings of counterfeit products. USTR encouraged other Chinese online marketplaces to take similar actions to ensure the timely removal of listings for sales of pirated and counterfeit goods on their sites. Similarly, Chinese website Sogou was removed from the list based on reports that it had also made notable efforts to work with rights holders to address the availability of infringing content on its site. In addition, the Philippine government took significant enforcement actions at the Quiapo Shopping District, which reduced the number of counterfeit and pirated goods available for sale in this marketplace.

In January 2012, shortly after the release of the previous Notorious Markets Review, the U.S. Department of Justice filed criminal copyright charges against defendants associated with the website MegaUpload, the cyberlocker site that actively promoted the unauthorized distribution of protected content through subscriptions and reward schemes for frequent uploaders. As a result of these actions, several cyberlockers in 2012 changed their business models in ways that reduce or eliminate piracy; others, such as btjunkie, also included in last year's list, shut down their operations completely. In addition, the Mexican government took action to shut down the operations of the previously-listed Bit Torrent Tracker Demonoid. Both Modchip.ca and Consolesource, which were listed for involvement in the marketing of circumvention devices, were also reportedly shut down before Canada implemented its recently enacted Copyright Modernization Act, which includes new provisions against trafficking in circumvention devices. As a result of these actions, these sites were not included in the December 2012 report.

Notwithstanding the progress made in 2012, USTR found that several markets continued to operate despite legal rulings or enforcement actions against them. In particular, the vKontakte website continues to operate, via its social media site, a music service that courts in Russia have found to be infringing. In Ukraine, the website Ex.ua, which offered unauthorized downloading and streaming of various content, was shut down on January 31, 2012 by criminal law enforcement authorities, but was back online by February 2. Servers and evidence seized in the raid of Ex.ua's offices were reportedly returned and the criminal case was reportedly closed in June with no further action. USTR urged the governments of Russia and Ukraine to persist in efforts to ensure that notorious markets are not allowed to continue infringing operations.

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 2012 Section 1377 Review focused on a range of concerns, including: impediments to the cross-border flow of data, access to networks of major suppliers of telecommunications services, increases in fixed and mobile call termination rates, and a variety of issues affecting the telecommunications equipment trade in Brazil, China, and India.

4. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the U.S. Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at "less than fair value") and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of

material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the Trade Agreements Act of l979, the Trade and Tariff Act of 1984, the Trade and Competiveness Act of 1988, and the 1994 Uruguay Round Agreements Act.

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

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

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

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

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

The United States initiated 11 antidumping investigations in 2012 and imposed 7 antidumping orders.

5. Countervailing Duty Actions

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

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. CBP collects CVDs on imported goods.

The United States initiated five CVD investigations and imposed five new CVD orders in 2012.

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

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

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

In 2012, the USITC instituted 40 new Section 337 investigations. In addition, the USITC instituted three enforcement proceedings in 2012. During the year, the USITC issued 4 general exclusion orders, 3 limited exclusion orders, and 26 cease and desist orders covering imports, as follows: *Certain Ground Fault Circuit Interrupters and Products Containing Same*, 337-TA-739 (general exclusion order and 12 cease and desist orders); *Certain Handbags, Luggage, Accessories, and Packaging Thereof*, 337-TA-754 (general exclusion order); *Certain Mobile Devices, Associated Software, and Components Thereof*, 337-TA-744 (limited exclusion order); *Certain Mobile Communication Devices and Related Software*, 337-TA-710 (limited exclusion order); *Certain Starter Motors and Alternators*, 337-TA-755 (limited exclusion order and one cease and desist order); *Certain Lighting Control Devices including Dimmer Switches and Parts Thereof*, 337-TA-776 (general exclusion order and 4 cease and desist orders); and *Certain Protective Cases and Components Thereof*, 337-TA-780 (general exclusion order and 9 cease and desist orders). Each of these orders became final after policy review.

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, 2013, the United States had no measures in place under Section 201. The United States did not impose any Section 201 measures during 2012, 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, which went into effect on September 26, 2009, were 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. The duties expired on September 25, 2012.

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. China appealed with respect to the panel's findings regarding the USITC's determination. The Appellate Body upheld all of the panel's findings in a report circulated on September 5, 2011.

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 October 21, 2011, President Obama signed the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), which preserves the key goals of the 2009 program – such as covering service workers and workers whose jobs shift to China, India, or any other countries – to ensure workers harmed by trade have the best opportunity to acquire skills and credentials to get good jobs. The passage of these critical elements of TAA offers trade-affected workers the best opportunity to retrain and retool for the 21st century economy, ensuring quality employment providing a middle class standard of living.

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. In FY 2012, $575,000,000 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 is the subject of a petition filed with the U.S. Department of Labor. 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 a petition with the U.S. Department of Labor. In response to the filing, the U.S. Department of Labor institutes an investigation to determine whether foreign trade was an important cause of the workers' job loss or threat of job loss. If the U.S. Department of Labor determines that the workers meet the statutory criteria for group certification of eligibility for the workers in the firm to apply for TAA, the Department of Labor will issue a certification.

The U.S. Department of Labor 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 located on the Internet at http://www.servicelocator.org, jobcenter.usa.gov, or by calling 1-877-US2-JOBS. Most benefits and services have specific individual eligibility criteria that must be met, such as previous work history, unemployment insurance eligibility, and individual skill levels.

In FY 2012, the U.S. Department of Labor issued 1,138 certifications compared to 1,207 certifications in FY 2011 and an estimated 81,695 workers were eligible for TAA benefits compared to 104,475 in FY 2011. The ETA received 1,460 petition filings in FY 2012 compared to 1,389 petitions filed in FY 2011.

b. Trade Adjustment Assistance for Farmers

Through the Trade Adjustment Assistance (TAA) for Farmers Program, the U.S. Department of Agriculture (USDA) provides training and cash benefits to eligible producers of raw agricultural commodities and fishermen whose operations have been hurt by import competition. The program provides training specifically tailored to the needs of farmers and fishermen, enabling them to compete more effectively with producers of similar imported products. The training is intended to offer domestic producers an opportunity to improve their production, consider different marketing opportunities, and evaluate alternative enterprises.

Program benefits include an orientation workshop, and a minimum of 12 hours of online or in-person training on the development of business plans. Eligible producers, who complete an approved initial and long-term business plan subsequent to the training, are entitled to receive cash payments to implement the plans. All producers must complete the program within 36 months from the date their respective petition is approved.

The TAA for Farmers Program was reauthorized and modified on February 17, 2009, by the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). In addition to reauthorizing the program, this legislation provided it with $90 million per year in funding for Fiscal Years (FYs) 2009-2010, and $22.5 million in funding for the first quarter of FY 2011. The Program officially expired on February 12, 2011. Approved FY 2009-2011 applicants may nonetheless continue to receive training and payments through September 2013.

On October 12, 2011, the U.S. Congress passed the Trade Adjustment Assistance Extension Act of 2011, which reauthorized the TAA for Farmers Program through the first quarter of FY 2014. However, the U.S. Congress has not appropriated funding for new participants for FY 2012, FY 2013, or FY 2014. As a result, in FY 2012, USDA did not accept any new petitions and is unlikely to accept new petitions or applications for benefits in FY 2013 or FY 2014.

c. Assistance for Firms and Industries

The U.S. Economic Development Administration's (EDA) Trade Adjustment Assistance for Firms Program (the TAAF Program) is authorized by chapters 3 and 5 of title II of the Trade Act of 1974, as amended (19 U.S.C. § 2341 et seq.) (Trade Act). Public Law 93-618, as amended, provides for trade adjustment assistance for firms and industries (19 USC §§2341-2355; 2391). Section 233 of Public Law 112-40 authorizes the TAAF Program through December 31, 2013.

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 U.S. Department of Commerce's Economic Development Administration (EDA). The U.S. Economic Development Administration's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at: http://www.eda.gov/InvestmentsGrants/Lawsreg.xml.

In Fiscal Year (FY) 2012, EDA awarded a total of $16,755,014.62 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 2012, EDA certified 79 petitions for eligibility and approved 102 adjustment proposals.

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

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 non-reciprocal, preferential duty-free U.S. market access to imports from countries covered by these programs. Individual countries may be covered by more than one preferential market access program. In such countries, exporters may choose among programs when seeking preferential access to the U.S. market. U.S. imports benefiting from preferential access under these programs totaled an estimated $69 billion in 2012, down about 12 percent from 2011. This compares to an overall 3.5 percent increase in total U.S. goods imports for consumption from the world over the same period. The decrease was largely due to a 37 percent decline in U.S. imports under African Growth and Opportunity Act (AGOA, excluding GSP) because of declining oil imports from some major AGOA oil-producing countries. Non-oil AGOA imports, which are the primary target of policy interventions to increase trade under AGOA, declined more modestly, by 3.6 percent, from $3.1 billion to $3.0 billion.

As a share of total U.S. goods imports for consumption, imports under non-reciprocal preference programs decreased from 3.6 percent in 2011 to 3.0 percent in the first 11 months of 2012. Again, the decrease would appear to be attributable largely to the decline in AGOA oil imports. Each programs' respective share of total U.S. preferential imports in the first 11 months of 2012 was as follows: (AGOA, excluding GSP), 48 percent; GSP, 29 percent; Andean Trade Preference Act (ATPA), 18 percent; and Caribbean Basin Initiative (CBI) and Caribbean Basin Trade and Partnership Act (CBTPA); 5 percent. Trade under GSP and ATPA increased in 2012, attributable in part to the fact that these two programs

were authorized for the full year, unlike in 2011, while trade under AGOA and CBI/CBTPA decreased. See the sections below for more information on developments related to specific preference programs.

b. Generalized System of Preferences

History and Purposes

The U.S. Generalized System of Preferences (GSP) program was established under the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.) and is currently authorized through July 31, 2013. The GSP program is designed to promote economic growth in the developing world by providing preferential duty-free entry for a wide range of products from 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 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 lower the cost of imported goods for U.S. businesses and consumers.

Beneficiaries

As of January 1, 2013, there were 127 designated GSP beneficiary developing countries (BDCs) and territories. Of these, 83 countries and territories are eligible for standard GSP benefits, which mean they can export approximately 3,500 products duty free to the United States. Forty-four are "least-developed" beneficiary developing countries (LDBDCs) that are eligible to export an additional 1,500 products to the United States duty free.

There were several changes to the list of GSP beneficiaries in 2012. A Presidential Proclamation of March 26, 2012 announced the designation of the Republic of South Sudan as a BDC, effective April 15, 2012, and as an LDBDC, effective May 28, 2012. The same Proclamation announced the suspension of Argentina from GSP eligibility, effective May 28, 2012, based on that country's failure to meet the statutory GSP eligibility requirement of acting in good faith in recognizing as binding and enforcing arbitral awards. Colombia and Panama were removed from eligibility for GSP and other unilateral preference programs following the entry into force of their respective free trade agreements with the United States on May 15, 2012 (Colombia) and October 31, 2012 (Panama). Senegal, already a BDC, was also designated an LDBDC, effective September 3, 2012.

In addition, the President announced that Gibraltar, the Turks and Caicos Islands, and the Federation of St. Kitts and Nevis[34] had become "high income" countries as defined by the World Bank and that, consistent with the GSP statute, their designation as BDCs would be terminated effective January 1, 2014.

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

[34] The presidential proclamation regarding Gibraltar and Turks and Caicos was issued on June 29, 2012, and the presidential proclamation regarding St. Kitts and Nevis was issued on December 20, 2012.

Eligible Products

As of the end of 2012, approximately 5,000 products were eligible for duty-free treatment under GSP, with nearly 1,500 products reserved for LDBDCs only. The list of GSP-eligible products from all beneficiaries includes most non-sensitive, dutiable manufactures and semi-manufactures; selected agricultural and fishery products; and many types of chemicals, minerals, and building materials that are not otherwise duty free. The GSP statute precludes certain import-sensitive articles from receiving GSP treatment, including most non-silk textiles and apparel; watches; most footwear, handbags, and luggage; and some gloves and leather products. The products that receive preferential market access only when imported from LDBDCs include petroleum and certain chemicals, plastics, animal and plant products, prepared foods, beverages, rum, and tobacco products.

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

Program Results

- *Value of Trade Entering the United States under the GSP program*: The value of U.S. imports claimed under the GSP program in the first 11 months of 2012 was approximately $18.6 billion, a 9.5 percent increase compared to the same period in 2011.[35] By comparison, total U.S. imports from GSP beneficiary countries increased by 9.8 percent, by value, over the same period.[36] The increase in trade under GSP in 2012 may be attributable in part to the reauthorization of GSP in October 2011[37] and to an increase in GSP imports from India, which was the largest source of GSP imports in 2012.

  Top U.S. imports under the GSP program in 2012 (at the four-digit HTSUS level), by trade value, were ferroalloys, motor vehicle parts, new pneumatic rubber tires, jewelry of precious metal, crude petroleum oils and oils from bituminous minerals, aluminum products, iron and steel tubes and pipe fittings, certain transmission parts bearing housings and gears, certain wires and cables, and electric motors and generators.

  In 2012 (through November), based on trade value, the top five GSP BDC suppliers were, in order, India, Thailand, Brazil, Indonesia, and South Africa. Eight of the top 50 GSP BDCs in 2012 were LDBDCs. In order of GSP trade value, these were Angola, Democratic Republic of Congo, Bangladesh, Cambodia, Malawi, Nepal, Ethiopia, and Madagascar.

- *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 2012 data on exports to the United States indicate that some beneficiaries have made progress in diversifying and expanding their exports to the United States under the GSP program. Among the countries with significant increases in GSP trade in 2012 were India, Turkey, Angola, the Democratic Republic of Congo, Pakistan, and Tunisia. Diversification of exports under GSP

[35] U.S. International Trade Commission, DataWeb (accessed November 14, 2012).
[36] Based on GSP-eligible countries as of July 1, 2012.
[37] Although GSP benefits were restored retroactively to January 2011, the 10-month lapse in GSP authorization in 2011 appears to have been a factor in the overall reduction of GSP-eligible imports in 2011.

also enhances the productive capacity and competitiveness of beneficiary countries with respect to their exports to markets other than the United States.

- *Efforts to promote wider distribution of the use of GSP benefits among beneficiaries*: As directed by the U.S. Congress, the Administration has sought to broaden the use of the GSP program's benefits among beneficiary countries. In 2012, USTR carried out GSP outreach activities in several countries, including Egypt, Tunisia, Pakistan, Nepal, Sri Lanka, Albania, Bosnia and Herzegovina, and Uruguay. 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 website at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preferences-gsp/gsp-use-%E2%80%93-coun.

- *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 significant source of imports and products for U.S. businesses, including small and medium sized companies. The GSP program also helps reduce costs for U.S. manufacturers that utilize inputs that are not produced or available domestically, thereby helping to improve the competitiveness of U.S. manufacturing.

Annual Reviews

An important element 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 "Annual Reviews" pages on the USTR website at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-0.

Conclusion of the 2011 GSP Annual Review

The results of the 2011 GSP Annual Review of product petitions were announced in a Presidential Proclamation dated June 29, 2012. Among other determinations, seven new cotton products were made GSP-eligible for LDBDCs, one product was redesignated for GSP eligibility, four petitions for competitive need limitation (CNL) waivers were granted (out of nine accepted for review), and the CNL waivers for three products from two countries were revoked. The Proclamation and a complete list of the results are available on the "GSP: 2011 Annual Review" page on the USTR website at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-4. On December 28, 2012, USTR published a notice in the *Federal Register* announcing that it had denied a petition submitted as part of the 2011 Annual Review to add certain pinch-seal plastic bags to eligibility for trade benefits under GSP.

As part of the GSP 2011 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. On July 12, 2012, USTR announced that it had closed, with no change to GSP benefits, the country practice case regarding worker rights in Sri Lanka in view of the significant progress made by the government of Sri Lanka in addressing worker rights issues. On the same date, USTR also announced that it had accepted for formal review three country practices petitions submitted as part of the 2011 Annual Review—on Fiji regarding worker rights and on Indonesia and Ukraine regarding intellectual property rights—as well as a petition on Iraq regarding worker rights that had been submitted as part of an earlier review. A public hearing was held on October 2, 2012 on these four newly accepted petitions. USTR deferred a decision on the acceptance of a country practice petition on Russia

regarding expropriation. Other outstanding country practices petitions that remained under active review at year's end included petitions on Lebanon, Russia and Uzbekistan with respect to IPR protection and petitions on Bangladesh, Georgia, Niger, the Philippines, and Uzbekistan with respect to worker rights or child labor concerns. For a complete list of the country practices petitions that remained under review as of July 1, 2012, go to http://www.ustr.gov/webfm_send/3487.

2012 GSP Annual Review

On July 30, 2012, a notice was published in the *Federal Register* launching the 2012 GSP Annual Review. That notice is available at http://www.regulations.gov/#!documentDetail;D=USTR-2012-0013-0001. On December 28, 2012, USTR announced that it had accepted for formal review petitions to add four products to eligibility for duty-free treatment under GSP and petitions for waivers of CNLs for 12 products from six countries.

c. The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), enacted in 2000, is a key element of U.S. economic policy in Africa, providing eligible sub-Saharan African countries with duty-free access to the U.S. market for over 1,800 products beyond those eligible under the GSP program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2012, 40 sub-Saharan African countries were eligible for AGOA benefits. Over 93 percent of U.S. imports from these countries entered the United States duty free in 2012 (first 11 months of 2012 annualized).

AGOA requires the President to determine annually which of the sub-Saharan African countries listed in the Act are eligible to receive benefits under the Act. These 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, establishing or making continual progress in establishing a market-based economy, rule of law, poverty-reduction policies, a system to combat corruption and bribery, and protection of internationally recognized worker rights. The Act also requires that eligible countries do not engage in activities that undermine U.S. national security or foreign policy interests, or engage in gross violations of international human rights. The annual review takes into account information drawn from U.S. Government agencies, the private sector, civil society, and prospective beneficiary governments. Through the AGOA eligibility review process, the annual AGOA Forum meeting (*see below*), and ongoing dialogue with AGOA partners, AGOA provides incentives to promote economic and political reform as well as trade expansion in AGOA-eligible countries. During 2012, the annual review resulted in President Obama designating 39 countries as eligible for AGOA benefits in 2013. The Republic of Mali and the Republic of Guinea-Bissau were both determined to be ineligible after military coups took place in both countries. South Sudan, as discussed below, was added to the list of eligible countries.

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as the "AGOA Forum," is an annual ministerial-level meeting with AGOA-eligible countries. The eleventh meeting of the AGOA Forum was held in June 2012 in Washington, DC. U.S. Trade Representative Ambassador Ron Kirk and Deputy U.S. Trade Representative Demetrios Marantis participated in the 2012 Forum, along with senior officials from more than a dozen U.S. Government agencies. They met with numerous African trade ministers, leaders of African regional economic organizations, and representatives of the African and American private sectors and civil society to discuss issues and strategies for advancing trade, investment, and economic development in Africa as well as ways to increase two-way U.S.-African trade.

During the AGOA Forum, Ambassador Kirk reiterated the Administration's support for legislation to extend AGOA's Third Country Fabric Provision which was due to expire in September 2012, and to add South Sudan to the list of sub-Saharan countries which could be considered for AGOA eligibility. Shortly after the Forum, the U.S. Congress passed and the President signed into law legislation to accomplish these two important goals. In December 2012, President Obama determined that South Sudan met the criteria for AGOA eligibility, ensuring that the country would receive AGOA benefits in 2013 for the first time.

AGOA and related GSP imports from AGOA-eligible countries were valued at $34.9 billion in 2012 (first 11 months of 2012 annualized), down 35 percent from 2011. Petroleum products continued to account for the largest portion of AGOA/GSP imports. The leading non-oil imports under AGOA/GSP in 2012 included apparel, vehicles and parts, ferroalloys, citrus, wine, chemicals, nuts, cocoa powder, essential oils, cut flowers, and fruit juices. The leading AGOA/GSP beneficiary countries were Nigeria, Angola, South Africa, Chad, and the Republic of the Congo.

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 the U.S. Congress, no benefits remain in effect under the program for Bolivia. In December 2010 the U.S. Congress removed Peru's beneficiary status under the ATPA effective January 1, 2011, since Peru had become a free trade agreement partner of the United States. Effective May 15, 2012, with the entry into force of the U.S.-Colombia Trade Promotion Agreement, Colombia was no longer a beneficiary country under the ATPA program. Currently, only Ecuador receives benefits under the program. On June 30, 2012, USTR issued the Sixth Report to the Congress on the Operation of the Andean Trade Preference Act as Amended. The U.S. Congress has extended the program through July 31, 2013.

e. Caribbean Basin Initiative

During 2012, 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, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. The United States published a Federal Register notice in October 2012 soliciting comments on the extension of benefits to Curacao, Sint Maarten and the Turks and Caicos Islands, as successor political entities of the recently dissolved Netherlands Antilles. The notice also solicited comments on the expansion of CBTPA benefits to eligible countries not currently receiving those benefits but which requested them in 2012.

On the date the CAFTA-DR entered into force for Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, each country ceased to be designated as a CBERA and CBTPA

beneficiary. Similarly, the U.S.-Panama Trade Promotion Agreement entered into force on October 31, 2012 and Panama ceased to be designated as a CBERA and CBTPA beneficiary.

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. In December 2011, USTR submitted its biannual report to the U.S. Congress on the operation of the CBERA. The report can be found on the USTR website, www.ustr.gov.

VI. TRADE POLICY DEVELOPMENT

A. Trade Capacity Building ("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 systems for meeting basic human needs;

- A new operational model that positions the United States to be a more effective partner and to leverage U.S. 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 its implementation. USTR has continued to work closely with the U.S. Department of State, USAID, MCC, USDA, and other U.S. Government 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. Through "aid for trade," the United States focuses on 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 these countries' ability to take advantage of the opportunities of the multilateral trading system and compete in a global economy. Accordingly, U.S. assistance addresses a broad range of issues so that communities, rural areas, and small businesses, including female entrepreneurs, benefit from ambitious reforms in trade rules that are being negotiated in the WTO and in other trade agreements.

An important element of this work involves coordinating U.S. Government technical assistance activities with those of 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 IMF, the regional development banks, and the United Nations. The United States, led by USTR at the WTO and by the Treasury Department at the international financial institutions, works in partnership with these institutions and other donors to ensure that, where appropriate, trade-related assistance is an integral component of development programs tailored to the circumstances within each developing country.

The United States' efforts build on our longstanding commitment to help partner countries benefit from the opportunities provided by the global trading system, both through bilateral assistance and 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); trade capacity building (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, Colombia, Panama, and Peru, and for some partners in the ongoing Trans-Pacific Partnership negotiations. The United States also provides bilateral assistance to developing countries to enable them to work with the private sector and non-governmental organizations to transition to a more open economy, to prepare for WTO negotiations, and to abide by 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 and the WTO's Global Trust Fund for Trade-Related Technical Assistance.

1. The Enhanced Integrated Framework

The Enhanced Integrated Framework for Trade-Related Assistance to Least-Developed Countries (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 Center. 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, exclusively for LDCs, aims to further the integration of the least trade-active countries into the multilateral trading system. Of the 49 LDCs, 47 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. 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. WTO Members recognize that TCB can facilitate 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 a wide range of TCB activities. 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 DDA Global Trust Fund. With an additional contribution of $1 million in 2012, total U.S. contributions to the WTO have amounted to almost $12 million since the launch of DDA negotiations.

b. WTO's Aid for Trade Initiative

The WTO's 2005 Hong Kong Declaration created a new WTO framework in which to discuss and prioritize Aid for Trade. In 2006, the Aid for Trade Task Force was created 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.

The Fourth Global Review of Aid for Trade will be held in July 2013 and will focus on global value chains and the role of the private sector in Aid for Trade.

c. WTO and Trade Facilitation

The United States has provided substantial assistance over the years in the areas of customs and trade facilitation. U.S. support for developing countries' implementation of trade facilitation reforms has been conducted through various mechanisms. For example, the United States provides support for building trade and development corridors in Africa, including through the U.S. Government's Global Hunger and Food Security Initiative. Through this assistance, the United States has supported the WTO DDA discussions by providing assistance to developing countries that seek help in responding to the regulatory proposals made by various Members in the Negotiating Group on Trade Facilitation. In November 2011, the United States announced the Partnership for Trade Facilitation, a new, flexible funding mechanism that will support developing countries' efforts to implement provisions of the WTO trade facilitation agreement currently under negotiation. In addition, in September 2012, the United States announced a contribution of $150,000 to the WTO Trust Fund for Trade Facilitation Needs Assessments. This support will assist developing countries in updating previously conducted needs assessments and help to identify gaps in implementation of trade facilitation reforms.

d. WTO Accession

The United States provides technical support to countries that are in the process of acceding to the WTO. In 2012, the United States provided WTO accession support to several countries, including Afghanistan, Azerbaijan, Ethiopia, Iraq, Kyrgyzstan, Laos, Lebanon, Liberia, and Serbia.

3. TCB Initiatives for Africa

Through bilateral and multilateral channels, the United States has invested more than $4.4 billion in trade-related projects in sub-Saharan Africa since 2001 to spur economic growth and fight poverty.

a. Africa Competitiveness and Trade Expansion Initiative

The centerpiece of U.S. support for building trade capacity in Africa for the period 2005-2010 was the $200 million African Global Competitiveness Initiative (AGCI). The program expired September 30, 2010. As set forth in greater detail in Chapter V, the primary focus of AGCI was to help expand African trade and investment with the United States, with other international trading partners, including by building exports under the African Growth and Opportunity Act (AGOA) preference program, and regionally within Africa through improving the competitiveness of sub-Saharan African enterprises. In June 2011, the United States reinforced this longstanding commitment to trade capacity building in sub-Saharan Africa by announcing the new African Competitiveness and Trade Expansion (ACTE) Initiative, a successor to AGCI. This initiative provides up to $120 million over 4 years to improve Africa's capacity to produce and export competitive, value-added products, including those that can enter the

United States duty free under AGOA, and to address supply-side constraints that impede African trade. ACTE supports the work of three regional trade hubs, helps drive economic development in African countries, and enhances trade opportunities for Africans and Americans alike.

b. Assistance to West African Cotton Producers

Since 2005, the United States has mobilized its development agencies to help the West African countries of Benin, Burkina Faso, Chad, Mali, and Senegal address obstacles they face in the cotton sector. The MCC, USAID, USDA, and the U.S. 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 address key challenges such as improved productivity and domestic reforms. 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 key element in U.S. assistance to the cotton sector in West Africa is USAID's West Africa Cotton Improvement Program (WACIP). The program aims 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. As part of the WACIP program, National Advisory Committees composed of stakeholders in each country work to identify specific policy priorities and projects that would meet the associated goals.

In 2010, WACIP was extended to April 2012. In December 2011, the U.S. Government announced that it would continue cotton-related trade capacity building to these West African countries beyond April 2012, providing up to $16 million over 4 years subject to congressional appropriations.

The U.S. Government also provides complementary support to the cotton sector through other programs. MCC is implementing or has implemented compacts with Benin ($307 million), Burkina Faso ($481 million), Mali ($460 million), and Senegal ($540 million). In 2012, the USDA through the Cochran Fellowship Program and in conjunction with the Cotton Council International supported technical training for West African cotton producers.

4. Free Trade Agreement 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, TCB working groups have been created in FTA negotiations with developing countries. The FTA partners have also formed Committees on TCB to prioritize and coordinate TCB activities during the transition and implementation periods once an FTA enters into force. USAID and USDA, in Washington and in their field missions, along with a number of other U.S. Government assistance providers actively participate in these working groups and committees so that identified TCB needs 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 (PTPA). 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 provides for a Committee on TCB. The CAFTA-DR was signed in 2004 and entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. CAFTA-DR TCB Committee meetings have been attended by representatives of each of the CAFTA-DR Parties and by the Inter-American Development Bank (IDB), and, as appropriate, by 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 the World Bank. The meetings have provided an opportunity for the Committee to review updates of recipient Parties' TCB strategies and priorities, as well as the TCB activities of U.S. donor agencies and the international institutions. They also have provided an opportunity for in-depth discussions of particular assistance areas, such as rural development, and sanitary and phytosanitary assistance.

Activities and projects carried out in CAFTA-DR partner countries have included streamlining customs procedures for importers and exporters; developing software for a virtual single window for imports in Nicaragua, Honduras, and El Salvador; training in risk-based selection criteria to reduce clearance time for goods; and assisting farmers and small and medium sized rural enterprises in the sanitary and phytosanitary area to enable them to benefit from the agreement. *For more information on TCB-related activities under the CAFTA-DR in 2012, please see chapter III.A.*

b. United States-Peru Trade Promotion Agreement

The 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. Peru presented its preliminary national trade capacity strategy to the Committee in March 2009, addressing several specific objectives relating to implementation of the PTPA and highlighting areas such as telecommunications, intellectual property and agricultural standards. Since that time, USAID/Peru has been working closely with its Peruvian government counterparts to ensure that its activities respond directly to Peru's trade capacity needs. To that end, USAID and USDA, along with Peruvian government agencies and universities, have been working together to strengthen Peru's agricultural sector through targeted capacity building in the areas of SPS regulatory and surveillance systems, agricultural research, and agricultural education.

Additionally, USAID launched a trade capacity building project in July of 2010 through which it works 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 has focused, *inter alia*, on the following: 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 comply with the PTPA and facilitate trade.

The United States is also 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 conjunction with the PTPA, and involving several ongoing projects in the region.

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

The United States-Colombia Trade Promotion Agreement entered into force on May 15, 2012. The United States-Panama Trade Promotion Agreement entered into force on October 31, 2012. As with the PTPA, each of these two agreements provides for the creation of a Committee on TCB to build upon the progress made by the preceding TCB working groups on economic assistance and poverty alleviation. Now that the agreements are in force, we will be engaging with both governments regarding their TCB needs and priorities under the respective FTAs.

B. Public Input and Transparency

The Obama Administration has broadened opportunities for public input and increased the transparency of trade policy through initiatives carried out by USTR's Office of Intergovernmental Affairs and Public Engagement (IAPE). 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; increasing transparency regarding specific policy initiatives; managing the agency's increased outreach and engagement with small and medium-sized businesses; meeting 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 speaking 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 the U.S. 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 redesigned USTR website at http://www.ustr.gov has expanded 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 marketplace 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 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 services providers.

The public is invited to sign up on USTR's homepage to receive the weekly e-mail newsletter, which highlights USTR's efforts to engage the public, open markets and enforce 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. In addition, USTR's first-ever enforcement newsletter was created to spotlight the Obama Administration's vigilant trade enforcement efforts.

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

Throughout 2012, USTR issued *Federal Register* Notices online to solicit public comment and 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 during 2012 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 continues to seek public comments on all elements of the agreement in order to develop U.S. negotiating positions. USTR also seeks feedback on including additional countries to participate in the agreement. In 2012, USTR held hearings and sought public comment on the participation of Canada and Mexico in the TPP.

- *Generalized System of Preferences (GSP):* An important aspect of the GSP program is its ability to adapt, product by product, to shifting market conditions, and to address concerns of producers, workers, exporters, importers, and consumers about beneficiaries' compliance with the program's eligibility criteria. Input and advice from the public is central to this process. In November 2011, as part of the 2011 GSP Annual Review, USTR informed the public that it was prepared to receive petitions to modify the list of products that are eligible for duty-free treatment under the program and to modify the status of certain GSP beneficiary developing countries because of country practices. USTR also solicited public comment on several country practices petitions that had been accepted for formal review in 2012 and earlier years.

- *Special 301 Out of Cycle Review of Notorious Markets:* The notorious markets list is a list of Internet and physical markets outside the United States that have been the subject of enforcement action or that may merit further investigation for possible IPR infringements. In 2012 USTR once again requested comments and submissions from the public to help update the list of potential notorious markets that exist outside the United States and, after review of all submissions, published the revised notorious markets list in December 2012.

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 three rounds of TPP negotiations held in the United States – Dallas, Texas; San Diego, California; and Leesburg, Virginia. Stakeholder engagements and briefings provided an opportunity for the public to interact with negotiators from all of the participating countries and provide presentations on various trade issues, including public health, textiles, investment, labor and the environment.

- *Transparency and the Implementation of the Colombia Labor Action Plan:* USTR continued to meet with stakeholders on the implementation of the Colombian Action Plan Related to Labor Rights, both to learn of any concerns and to provide updates on U.S. Government engagement with the Colombian government on its progress. USTR also encouraged the Colombian government to continue to post numerous laws, regulations, reports, and administrative actions related to the Action Plan.

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 U.S. Departments of Agriculture, Commerce, and 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 3 tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); 5 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. Additional information on the advisory committees can be found on the USTR website at www.ustr.gov/about-us/intergovernmental-affairs/advisory-committees.

In 2012, for the first time on record, IAPE and Ambassador Ron Kirk met twice with every advisory committee. Additionally, in cooperation with the other agencies served by the advisory committees, USTR has broadened the participation on committees to include a more diverse group 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 U.S. 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 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 to 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 U.S. 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 including steelworkers, farmers, automotive, aerospace, nurses, pilots, artists, and machinists. 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, and non-profit development organizations. 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), services, and non-Federal Governments. 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 2 areas: agriculture and industry. Representatives are appointed jointly by the U.S. Trade Representative and the Secretaries of Agriculture and Commerce, respectively. Each sectoral or technical committee represents a specific sector, commodity group, or functional area 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 that 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 16 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 Technologies Services and Electronic Commerce (ITAC 8); Non-Ferrous Metals and Building Materials (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); and 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 or interest area, 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 that the members appointed represent industries and other U.S. entities across the range of interests in that sector, commodity group, or functional area 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 (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 may directly affect 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 (IGPAC) 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 2012, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: implementation efforts on Trade Agreements with Colombia, Panama and South Korea; the Trans-Pacific Partnership; Russia's Accession to the WTO; Activities Related to the United States year-long hosting of meetings for the Asia Pacific Economic Cooperation (APEC) forum; 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 and Sanitary and Phytosanitary measures, 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 2012, Ambassador Ron Kirk addressed the U.S. Conference of Mayors and the Southern Governors Association. He has met with individual governors, mayors, and state legislators to discuss trade issues of interest to states and localities, as well as led conference calls with the Intergovernmental Policy Advisory Committee. 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 implementation of recently approved trade agreements with Colombia, Panama, and South Korea, negotiation of the Trans Pacific Partnership trade agreement, the application of the WTO Government Procurement Agreement, General Agreement on Trade in Services issues, enforcement of trade agreements, 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, the U.S. 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 2012, the TPSC held public hearings on the participation of Canada and Mexico in the TPP (September 2012) and China's Compliance with its WTO Commitments (October 2012).

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 U.S. 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 U.S. Agency for International Development, the Small Business Administration, 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.

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 66 new FOIA requests in 2012 and processed 59. USTR will continue to raise the bar as to responsiveness, efficiency, and transparency in the coming year.

ANNEX I

U.S. Trade in 2012

I. 2012 Overview

The recent slowdown in real global economic growth from 4.1 percent in 2010 to 2.8 percent in 2011 and 2.3 percent in 2012 has presented challenges for global trade and U.S. trade in particular. In 2012, U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)[1] reached a record $6.3 trillion,[2] however, the growth rate for U.S. trade (up 3.3 percent) was significantly lower than in either 2010 (up 15 percent) or 2011 (up 12 percent). Similarly, the growth rate in world trade of goods and services also slowed in 2012 (up 3.2 percent) from its rate in either 2010 (up 13 percent) or 2011 (up 6 percent).[3]

In 2012, U.S. trade in goods and services alone increased by 3.8 percent[4] – U.S. trade of goods alone increased by 3.9 percent and U.S. trade of services increased by 3.4 percent. U.S. exports of goods and services were up by 4.5 percent in 2012. U.S. goods exports were up 4.6 percent and U.S. services exports were up by 4.0 percent. U.S. imports of goods and services increased 3.2 percent in 2012. U.S. imports of goods increased by 3.4 percent and U.S. imports of services increased by 2.5 percent.

U.S. exports of goods and services over the past three years have made a significant contribution to the U.S. recovery from the Great Recession. Over the past 13 quarters of recovery (from the 3rd quarter of 2009 to the 3rd quarter of 2012), U.S. real GDP was up 2.3 percent at an annual rate, and exports have contributed 0.9 percentage points (or 42 percent) to this growth. In 2012, U.S. goods and services exports were nearly 40 percent above the level of exports in 2009.

Historically, U.S. trade expansion over the past 42 years (1970 to 2012) was more rapid than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an average annual rate of 9.6 percent per year between 1970 and 2012 (from $135 billion to $6.3 trillion – figure 1)[5] as compared to U.S. GDP whose average annual growth over the same period was 6.7 percent. In real terms, the average annual growth in trade was more than double the pace of GDP growth, 5.7 percent versus 2.8 percent. As a share of the value of GDP, trade was up from 13 percent in 1970 to 40 percent in 2012 (figure 2), but was still below the record 42 percent reached in 2008.[6]

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[1] Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

[2] In this Chapter, 2012 trade statistics are annualized based on January-November 2012 data and GDP is annualized based on the first 3 quarters of 2012.

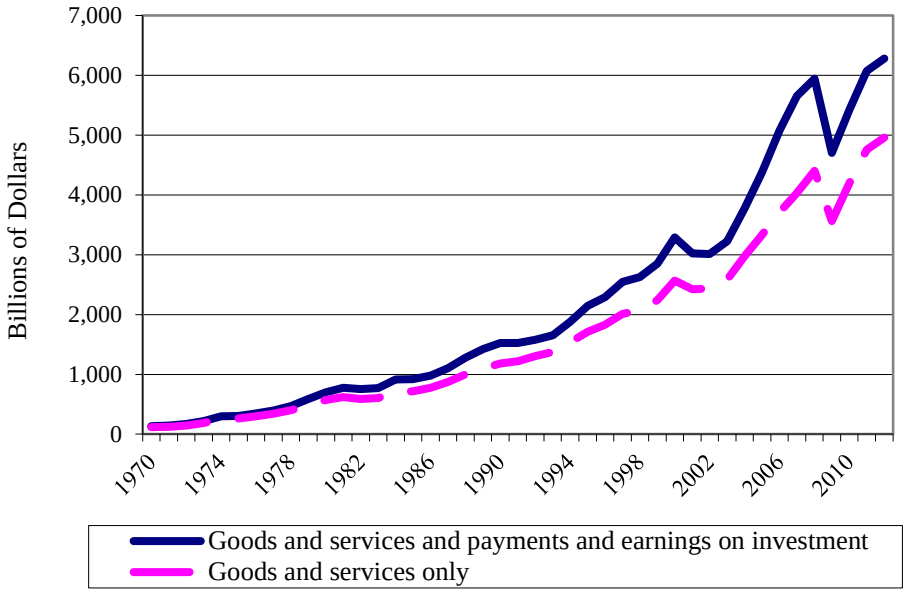
[3] According to the International Monetary Fund.

[4] On a balance of payments basis.

[5] Trade in goods and services alone has increased from $116 billion in 1970 to $5.0 trillion in 2012.

[6] For goods and services, excluding investment earnings and payments, U.S. trade represented a record 32 percent of the value of GDP in 2012, up from 11 percent in 1970.

Figure 1:
U.S. Trade Growth 1970-2012*

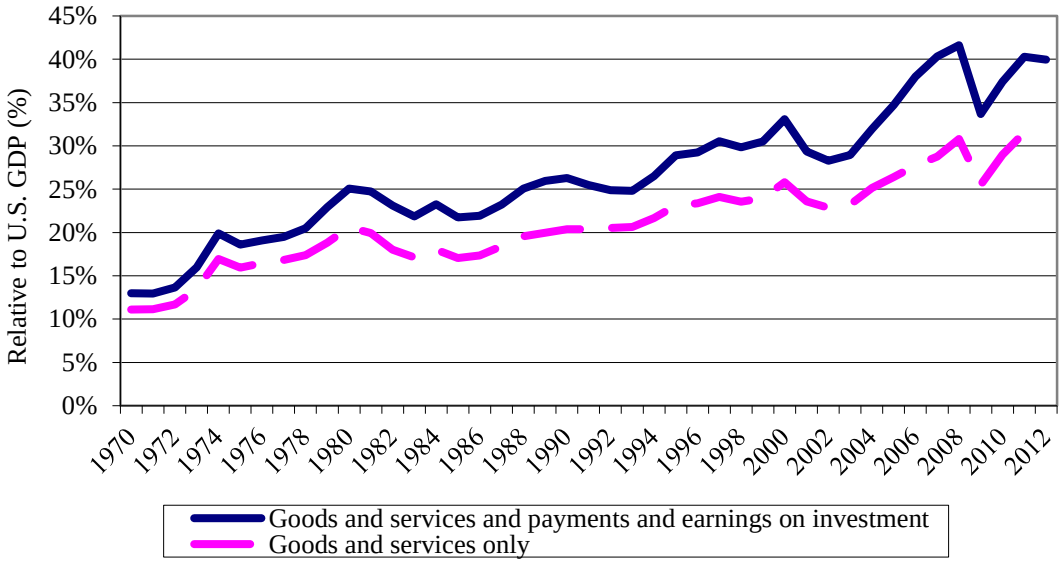


Total exports + imports

* 2012 Annualized based on the first 3 quarters of 2012 data.

Source: U.S. Department of Commerce

Figure 2:
Growing Importance of Trade in the U.S. Economy, 1970-2012*



Total exports + imports as a percentage of the value of U.S. GDP.

*2012 Annualized based on the first 3 quarters of 2012 data.

Source: U.S. Department of Commerce

The total deficit on goods and services trade (excluding earnings and payments on foreign investment) decreased compared to 2011 by approximately $7 billion in 2012 to $552 billion. The deficit was also about 21 percent lower than its pre-recession high of $698 billion in 2008. As a share of GDP, the deficit decreased from 3.7 percent of GDP in 2011 to approximately 3.5 percent of GDP in 2012.

The U.S. deficit in goods trade alone increased by $6 billion from $738 billion in 2011 (4.9 percent of GDP) to $745 billion in 2012 (4.7 percent of GDP), while the services trade surplus increased by $14 billion, from $179 billion in 2011 (1.2 percent of GDP) to $193 billion in 2012 (1.2 percent of GDP).

II. Goods Trade

A. Export Growth

Goods exports increased in 2012, up 4.6 percent to a record $1.6 trillion (*table 1 and figure 3*). Manufacturing exports, which accounted for 86 percent of total goods exports, were up 5.8 percent in 2012, while agriculture exports, which accounted for 9 percent of total goods exports, were up 2.9 percent in 2012. Advanced technology exports, a subset of manufacturing exports, accounted for 19 percent of total goods exports and were up 6.2 percent in 2012. U.S. goods exports increased for nearly all major end-use category in 2012, with the largest increases in the autos and auto parts category, up 10.6 percent, in the foods, feeds, and beverages category, up 7.5 percent, and in the capital goods, excluding autos category, up 7.1 percent. U.S. exports of industrial supplies and materials slightly declined in 2012 by 0.2 percent. Petroleum exports were up 9.3 percent, while non-petroleum exports increased by 4.4 percent.

U.S. goods exports have nearly doubled since 2000. U.S. agricultural exports grew by 177 percent since 2000, nearly double the growth of manufacturing exports (up 91 percent). U.S. advanced technology exports grew by 34 percent. Of the major end-use categories, exports of industrial supplies and materials (up 189 percent) led growth in the 2000-2012 timeframe over both the foods, feeds, and beverages category (up 183 percent) and the consumer goods category (up 103 percent). Of the more than three-quarter of a trillion dollar increase in goods exports since 2000, industrial supplies and materials accounted for 43 percent of the increase, and capital goods accounted for 22 percent.

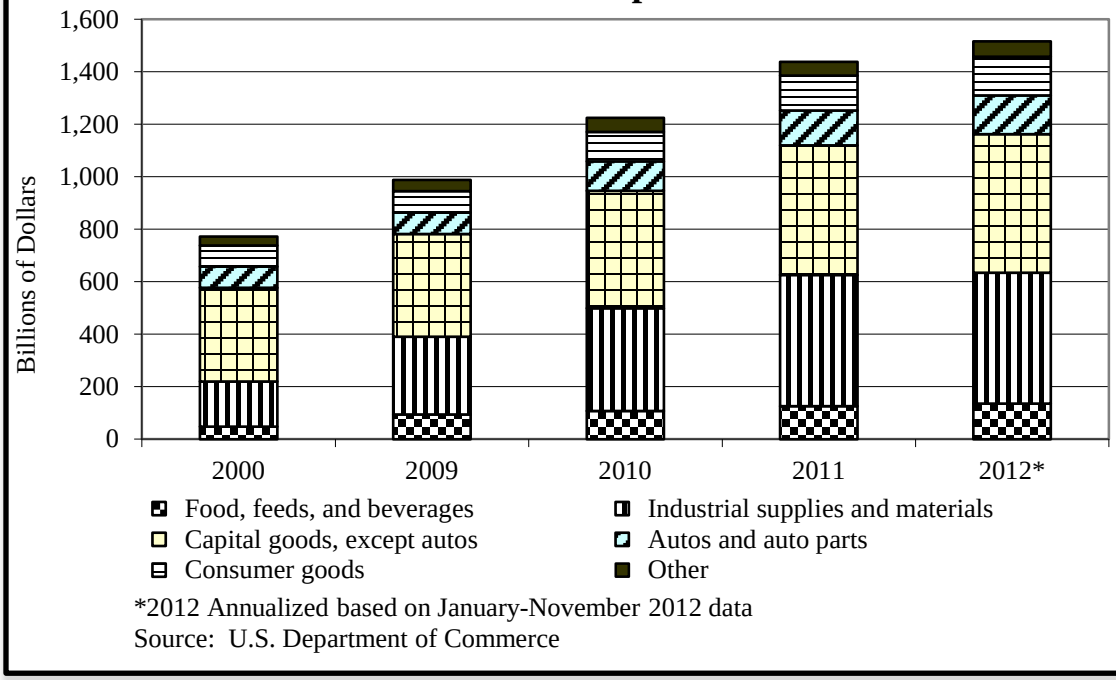
Table 1
U.S. Goods Exports

Exports:	2000	2009	2010	2011	2012*	11-12*	09-12*	00-12*
	Billions of Dollars					*Percent Changes*		
Total (BOP basis)	784.8	1,069.7	1,288.9	1,497.4	1,566.8	4.6%	46.5%	99.6%
Food, feeds, and beverages	47.9	93.9	107.7	126.2	135.7	7.5%	44.5%	183.4%
Industrial supplies and materials	172.6	296.5	391.5	500.3	499.3	-0.2%	68.4%	189.2%
Capital goods, except autos	356.9	391.2	447.5	493.0	528.1	7.1%	35.0%	47.9%
Autos and auto parts	80.4	81.7	112.0	133.1	147.3	10.6%	80.2%	83.3%
Consumer goods	89.4	149.5	165.2	175.0	181.7	3.8%	21.6%	103.3%
Other	34.8	43.2	54.3	52.8	58.7	11.1%	35.8%	68.7%
Addendum: Agriculture	52.1	98.7	119.3	140.3	144.4	2.9%	46.3%	177.4%
Addendum: Manufacturing	708.0	917.9	1,101.3	1,276.3	1,350.0	5.8%	47.1%	90.7%
Addendum: Advanced Technology	227.4	244.7	273.3	286.8	304.7	6.2%	24.5%	34.0%

*** Annualized based on January-November 2012 data.**

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

Figure 3:
U.S. Goods Exports



*2012 Annualized based on January-November 2012 data

Source: U.S. Department of Commerce

Table 2 U.S. Goods Exports to Selected Countries/Regions								
	2000	2009	2010	2011	2012*	11-12*	09-12*	00-12*
Exports to:	*Billions of Dollars*					*Percent Changes*		
Canada	178.9	204.7	249.1	280.9	293.8	4.6%	43.5%	64.2%
Mexico	111.3	128.9	163.5	198.4	217.9	9.8%	69.1%	95.7%
China	16.2	69.5	91.9	103.9	110.5	6.4%	59.1%	583.0%
Japan	64.9	51.1	60.5	65.7	69.8	6.2%	36.4%	7.5%
European Union (EU 27)	168.5	220.6	239.6	268.5	266.1	-0.9%	20.6%	57.9%
Asian Pacific Rim, except Japan and China	121.5	133.9	174.0	198.2	198.2	0.0%	48.0%	63.2%
Latin America, except Mexico	59.3	109.5	138.6	168.8	182.8	8.3%	66.9%	208.4%
Addendum: Industrial Countries**	432.7	511.7	589.1	663.6	684.5	3.1%	33.8%	58.2%
Addendum: Developing Countries**	349.2	544.3	689.2	816.8	866.1	6.0%	59.1%	148.0%
Addendum: FTA Countries	379.5	466.1	579.1	679.3	722.0	6.3%	54.9%	90.3%

*** Annualized based on January-November 2011 data.**
**** As defined by the International Monetary Fund.**

Source: U.S. Department of Commerce, Census basis.

In 2012, U.S. goods exports increased to most of the major markets ranging from an increase of 9.8 percent to Mexico, and 4.6 percent to Canada. U.S. goods exports to the Pacific Rim (excluding China and Japan) remained at approximately the same level as in 2011, but goods exports to the European Union declined by 0.9 percent (*table 2*). U.S. goods exports to the 20 FTA countries grew by 6.3 percent in 2012, surpassing the 3.2 percent export growth rate to the rest of the world. [7] U.S. manufacturing exports to these countries were up 7.4 percent in 2012, higher than the 5.8 percent U.S. manufacturing exports growth rate to the rest of the world. Over the last year, U.S. goods exports increased by 6 percent to developing countries, and by 3.1 percent to industrial countries. Since 2000, U.S. goods exports to developing countries have grown more than twice as fast as U.S. goods exports to industrial countries, 148 percent compared to 58 percent.[8] Due to this long-term higher-growth difference, the share of U.S. goods exports to developing countries grew from 45 percent in 2000 to 55 percent in 2012.

B. Import Growth

U.S. goods imports increased by 3.4 percent in 2012 to a record $2.3 trillion (*table 3 and figure 4*). U.S. manufacturing imports, accounting for 78 percent of total goods imports, increased by 5.5 percent in 2012. Agriculture imports, accounting for 4.5 percent of total goods imports, increased by 4.6 percent, and advanced technology imports, accounting for 17 percent of total goods imports, increased by 3.0 percent in 2012.

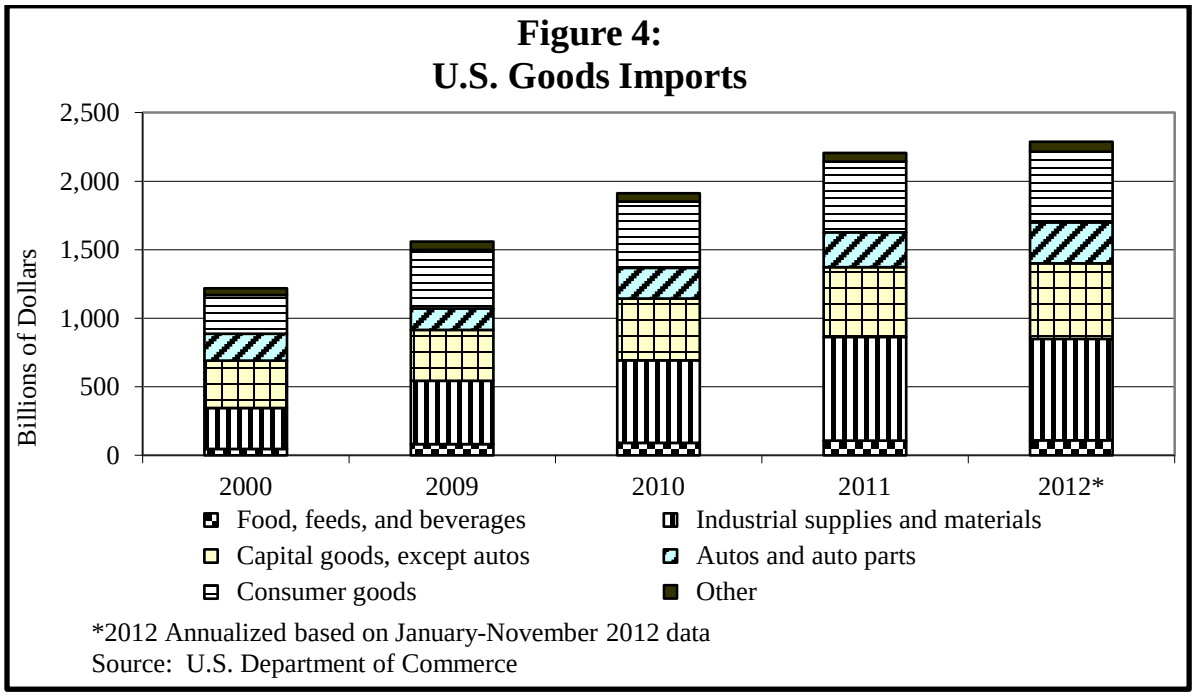
[7] The 20 FTA countries currently entered into force accounted for 46 percent of total goods exports in 2012.

[8] Since 2000, U.S. exports to developing countries (excluding China) grew more than 2 times as much as that from industrial countries (127 percent compared to 58 percent).

Table 3 U.S. Goods Imports								
	2000	2009	2010	2011	2012*	11-12*	09-12*	00-12*
Imports:	*Billions of Dollars*					*Percent Changes*		
Total (BOP basis)	1,226.7	1,575.5	1,934.0	2,235.8	2,311.6	3.4%	46.7%	88.4%
Food, feeds, and beverages	46.0	81.6	91.7	107.5	110.4	2.7%	35.3%	140.1%
Industrial supplies and materials	299.0	462.4	602.5	755.8	739.1	-2.2%	59.9%	147.2%
Capital goods, except autos	347.0	370.5	449.3	510.7	550.6	7.8%	48.6%	58.7%
Autos and auto parts	195.9	157.7	225.1	254.6	300.8	18.1%	90.8%	53.6%
Consumer goods	281.8	427.3	483.2	514.1	514.4	0.1%	20.4%	82.5%
Other	48.3	60.2	61.3	65.2	72.2	10.9%	20.1%	49.5%
Addendum: Agriculture	39.2	71.8	82.0	99.1	103.7	4.6%	44.3%	164.6%
Addendum: Manufacturing	1,024.1	1,236.4	1,512.4	1,717.4	1,811.6	5.5%	46.5%	76.9%
Addendum: Advanced Technology	222.1	300.9	354.2	386.4	398.1	3.0%	32.3%	79.2%

*** Annualized based on January-November 2012 data.**

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.



U.S. goods imports increased for nearly every major end-use category in 2012, with only the industrial supplies and materials category declining (down 2.2 percent). The growth of U.S.

goods imports for the remaining major end-use categories ranged between an increase of 18.1 percent for the autos and auto parts category and 0.1 percent for the consumer goods category. In 2012, U.S. imports of petroleum, a subset of the industrial supplies and materials category, decreased by 3.7 percent to $423.1 billion, while imports of non-petroleum goods increased by 5.4 percent.

U.S. goods imports have increased by 88.4 percent since 2000, lower than the 99.6 percent increase in goods exports. U.S. agriculture imports have increased by 165 percent since 2000, while imports of advanced technology products and manufactured goods have increased by 79 percent and 77 percent, respectively. For the major end-use categories, U.S. imports of industrial supplies and materials led growth since 2000 (up 147 percent), followed by foods, feeds, and beverages (up 140 percent), and consumer goods (up 83 percent).

Table 4 U.S. Goods Imports from Selected Countries/Regions								
	2000	**2009**	**2010**	**2011**	**2012***	**11-12***	**09-12***	**00-12***
Imports from:	***Billions of Dollars***					***Percent Changes***		
Canada	230.8	226.2	277.6	315.3	325.9	3.3%	44.0%	41.2%
Mexico	135.9	176.7	229.9	262.9	280.1	6.6%	58.6%	106.1%
China	100.0	296.4	364.9	399.4	425.9	6.6%	43.7%	325.8%
Japan	146.5	95.8	120.5	128.9	148.5	15.2%	55.0%	1.4%
European Union (EU27)	227.6	281.8	319.2	368.4	384.4	4.3%	36.4%	68.9%
Asian Pacific Rim, except Japan and China	171.5	140.8	168.4	189.3	190.0	0.4%	34.9%	10.8%
Latin America, except Mexico	73.3	108.1	130.9	174.3	173.0	-0.7%	60.1%	135.9%
Addendum: Industrial Countries**	621.1	627.2	742.8	842.1	886.2	5.2%	41.3%	42.7%
Addendum: Developing Countries**	596.9	932.4	1,170.4	1,365.7	1,401.1	2.6%	50.3%	134.7%
Addendum: FTA Countries	473.8	528.0	658.1	759.8	793.3	4.4%	50.2%	67.4%

*** Annualized based on January-November 2012 data.**
****As defined by the International Monetary Fund.**

Source: U.S. Department of Commerce, Census basis.

On a major country/region basis, the growth of U.S. goods imports from major markets in 2012 ranged between an increase of 15 percent from Japan and 0.4 percent from the Pacific Rim (excluding China and Japan) *(table 4)*. However, U.S. goods imports from Latin America (excluding Mexico) declined by 0.7 percent, primarily due to a decline in imports of petroleum (down 9 percent). U.S. goods imports from the 20 FTA countries grew by 4.4 percent in 2012, surpassing the 3.3 percent import growth rate to the rest of the world. [9] The import growth from our FTA partners was approximately 50 percent lower than U.S. export growth to these countries (6.3 percent).

U.S. imports from industrial countries increased twice as fast than imports from developing countries (5.2 percent to 2.6 percent). Since 2000, U.S. goods imports from developing countries have exhibited higher growth (more than 3 times as much) than that from industrial countries, 135 percent compared with 43 percent.[10] Accordingly, the share of U.S. imports from developing countries has increased from 49 percent in 2000 to 61 percent in 2012.

[9] The 20 FTA countries currently entered into force accounted for 34 percent of total goods imports in 2012.

[10] Since 2000, U.S. imports from developing countries (excluding China) grew more than 2 times as much as that from industrial countries (96 percent compared to 43 percent).

III. Services Trade

A. Export Growth

U.S. exports of services increased by 4 percent to a record $630.5 billion in 2012 *(table 5 and figure 5)*. U.S. services exports accounted for 29 percent of the level of U.S. goods and services exports in 2012.

All of the major services export categories exhibited increases in 2012, except for transfers under U.S. military sales contracts (down 0.5 percent). The growth of U.S. services exports was led by travel (up 10 percent), U.S. Government miscellaneous services (up 9.0 percent) and passenger fares (up 8.5 percent).

U.S. services exports have increased by 119 percent over the past 12 years. Of the $343 billion increase in U.S. services exports between 2000 and 2012, the other private services category accounted for 52 percent of the increase, while the royalties and licensing fees category accounted for 20 percent.

Detailed sectoral breakdowns for exports of the other private services category as well as exports to countries/regions are available only through 2011.

In 2011, 33 percent of U.S. exports of other private services were to business related parties (to a foreign parent or affiliate). The largest categories for U.S. exports of other private services to related and unrelated parties, in 2011 were: business, professional and technical services, $134 billion; financial services, $74 billion; and education, $23 billion. The business, professional and technical services category were led by management and consulting services ($32 billon), research and development and testing services ($21 billion), computer and information services ($16 billion), and the installation, maintenance, and repair of equipment ($14 billion).

Canada was the largest purchaser of U.S. private services exports in 2011, accounting for 10 percent ($56 billion) of total U.S. private services exports. The next 5 largest purchasers of U.S. private services exports in 2011 were: United Kingdom ($53 billion), Japan ($44 billion), Ireland ($28 billion), China ($27 billion), and Germany ($26 billion). Regionally, in 2011, the United States exported $189 billion to the EU, $157 billion to the Asia/Pacific region ($86 billion excluding Japan and China), $81 billion to NAFTA countries, and $55 billion to Latin America (excluding Mexico).

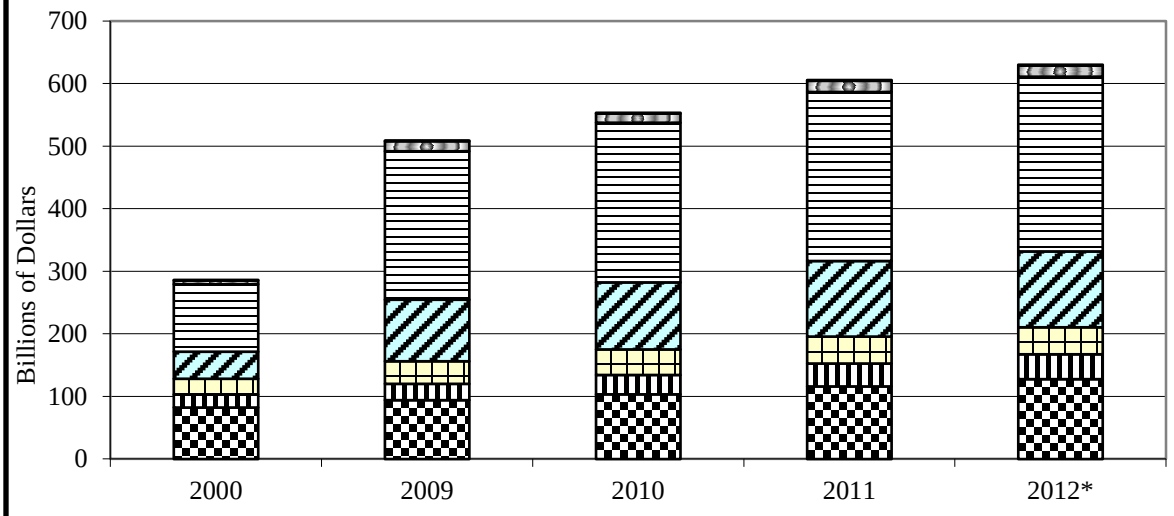
Table 5
U.S. Services Exports

Exports:	2000	2009	2010	2011	2012*	11-12*	09-12*	00-12*
	Billions of Dollars					*Percent Changes*		
Total (BOP basis)	288.0	509.2	553.6	606.0	630.5	4.0%	23.8%	118.9%
Travel	82.9	94.2	103.5	116.1	127.8	10.0%	35.7%	54.1%
Passenger Fares	20.2	26.1	31.0	36.6	39.8	8.5%	52.3%	96.8%
Other Transportation	25.6	36.1	40.8	43.1	43.2	0.2%	19.6%	68.9%
Royalties and Licensing Fees	51.8	98.4	107.2	120.8	121.2	0.3%	23.2%	134.0%
Other Private Services	100.8	237.3	255.3	270.2	279.4	3.4%	17.7%	177.2%
Transfers under U.S. Military Sales Contracts	6.2	16.0	14.8	17.9	17.9	-0.5%	11.5%	187.5%
U.S. Government Miscellaneous Services	0.5	1.1	1.1	1.2	1.3	9.0%	19.9%	136.5%

*** Annualized based on January-November 2012 data.**

Source: U.S. Department of Commerce, Balance of Payments basis.

Figure 5:
U.S. Services Exports



*2012 Annualized based on January-November 2012 data
Source: U.S. Department of Commerce

B. Import Growth

U.S. services imports increased by 2.5 percent to $438 billion in 2012 (*table 6, figure 6*). This increase was less than the increase in services exports (up 4.0 percent) and goods imports (up 3.4 percent). The royalties and licensing fees category showed the largest increase in 2012, up 14 percent. U.S. services imports accounted for roughly 16 percent of the level of U.S. goods and services imports in 2012.

U.S. services imports in 2012 have doubled since 2000, again lower than the growth in services exports during this same time period (up 119 percent). Of the $219 billion growth in services imports since 2000, the other private services category accounted for 59 percent of the increase.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2011.

In 2011, 43 percent of U.S. imports of other private services were from business related parties (from a foreign parent or affiliate). The largest categories for U.S. imports of other private services from related and unrelated parties in 2011 were: business professional and technical services, $105 billion; insurance services, $57 billion; and financial services, $16 billion. The business, professional and technical services category was led by management, and consulting services ($25 billion), computer and information services ($25 billion), and research, development, and testing services ($22 billion).

The United Kingdom remained our largest supplier of private services, accounting for 11 percent of total U.S. private services imports in 2011. The next 5 largest suppliers of U.S. private services imports in 2011 were: Bermuda ($29 billion), Canada ($28 billion), Japan ($25 billion), Germany ($22 billion), and Switzerland ($19 billion). Regionally, the United States imported $136 billion of services from the EU-27 in 2011, $97 billion from the Asia/Pacific region ($61 billion excluding Japan and China), $42 billion from NAFTA, and $24 billion from Latin America (excluding Mexico).

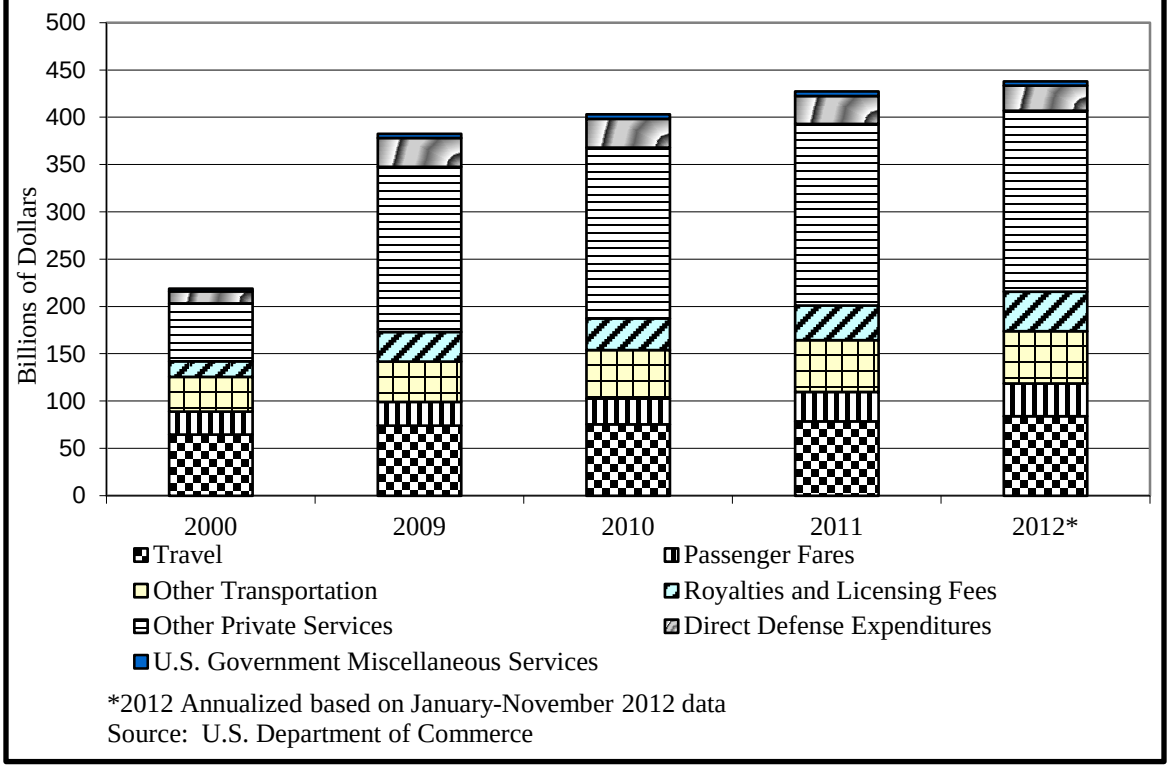
Table 6
U.S. Services Imports

Imports:	2000	2009	2010	2011	2012*	11-12*	09-12*	00-12*
	Billions of Dollars					*Percent Changes*		
Total (BOP basis)	219.0	382.6	403.2	427.4	438.0	2.5%	14.5%	100.0%
Travel	65.4	74.1	75.5	78.7	84.1	6.9%	13.4%	28.7%
Passenger Fares	23.6	25.1	27.3	31.1	34.6	11.3%	37.8%	46.6%
Other Transportation	37.2	42.6	51.3	54.7	55.2	1.0%	29.7%	48.5%
Royalties and Licensing Fees	16.6	31.3	33.4	36.6	41.8	14.0%	33.4%	151.5%
Other Private Services	61.1	174.6	180.6	192.0	191.3	-0.3%	9.6%	213.2%
Direct Defense Expenditures	12.7	30.5	30.4	29.5	26.5	-10.2%	-13.1%	108.6%
U.S. Government Miscellaneous Services	2.4	4.4	4.8	4.9	4.5	-7.4%	1.8%	88.4%

*** Annualized based on January-November 2012 data.**

Source: U.S. Department of Commerce, Balance of Payments basis.

Figure 6:
U.S. Services Imports



*2012 Annualized based on January-November 2012 data
Source: U.S. Department of Commerce

IV. The U.S. Trade Deficit

In 2012, the U.S. goods and services deficit decreased by 1.4 percent ($8 billion) to a level of $552 billion (*table 7*), significantly lower, by 21 percent, than its pre-recession level in 2008. The U.S. deficit in goods trade alone increased by $6 billion to $745 billion in 2012, more than offset by the U.S. surplus in services trade increased by $14 billion to $193 billion.

As a share of U.S. GDP, the goods and services trade deficit decreased to 3.5 percent of GDP in 2012 from 3.7 percent of GDP in 2011 (*table 8).* The goods trade deficit decreased from 4.9 percent of GDP in 2011 to 4.7 percent of GDP in 2012, while the services trade surplus remained at 1.2 percent of GDP in 2012.

The decrease in the overall deficit was due mostly to the decrease in petroleum deficit which declined by $26.8 billion (8.2 percent). The U.S. deficit in petroleum accounted for approximately 54.7 percent of the overall goods and services trade deficit in 2012, down from 58.8 percent in 2011. The non-petroleum goods and services deficit was up by 9.0 percent ($32.9 billion) in 2012.

The regional distribution of the goods trade deficit for 2000, and 2009-2012 is shown in table 9.

Table 7
U.S. Trade Balances with the World

Balance:	2000	2009	2010	2011	2012*
	Billions of Dollars				
Goods and Services (BOP Basis)	-374.4	-379.2	-494.7	-559.9	-552.3
Goods (BOP Basis)	-441.9	-505.8	-645.1	-738.4	-744.8
Services (BOP Basis)	67.5	126.6	150.4	178.5	192.5

*** Annualized based on January-November 2012 data.**

Source: U.S. Department of Commerce

Table 8
U.S. Trade Balances as a Share of GDP

Share of GDP:	2000	2009	2010	2011	2012*
	Percents				
Goods and Services (BOP Basis)	-3.8	-2.7	-3.4	-3.7	-3.5
Goods (BOP Basis)	-4.4	-3.6	-4.4	-4.9	-4.7
Services (BOP Basis)	0.7	0.9	1.0	1.2	1.2

*** Annualized based on January-November 2012 data.**

Source: U.S. Department of Commerce

Table 9
U.S. Goods Trade Balances with Selected Countries/Regions

Balance:	2000	2009	2010	2011	2012*
	Billions of Dollars				
Canada	-51.9	-21.6	-28.5	-34.5	-32.1
Mexico	-24.6	-47.8	-66.4	-64.5	-62.2
China	-83.8	-226.9	-273.1	-295.4	-315.3
Japan	-81.6	-44.7	-60.1	-63.2	-78.7
European Union (EU27)	-59.1	-61.2	-79.6	-99.9	-118.3
Asian Pacific Rim, except Japan and China	-50.0	-6.9	5.6	8.9	8.2
Latin America, except Mexico	-14.1	1.5	7.7	-5.5	9.8
Addendum: Industrial Countries**	-188.4	-115.5	-153.7	-178.4	-201.7
Addendum: Developing Countries**	-247.7	-388.1	-481.2	-548.9	-535.0
Addendum: FTA Countries	-79.9	-53.4	-79.0	-80.5	-71.3

*** Annualized based on January-November 2012 data.**
**** As defined by the International Monetary Fund**
Source: U.S. Department of Commerce

ANNEX II

ANNEX II: BACKGROUND INFORMATION ON THE WTO

Doha Development Agenda

1. Doha Ministerial Declaration (see table)
2. Doha Declaration on the TRIPS Agreement and Public Health (see table)
3. Doha Declaration on Implementation-Related Issues and Concerns (see table)
4. Doha Work Program
5. Amendment of the TRIPS Agreement
6. Hong Kong Ministerial Declaration
7. U.S. Submissions to the WTO in Support of the Doha Development Agenda
8. WTO Affinity Groups in the DDA (see table)

Institutional Issues

1. Membership of the WTO
2. 2012 Budgets for the WTO
3. 2012 WTO Budget Contributions
4. Waivers Currently in Force
5. WTO Secretariat Personnel Statistics
6. WTO Accession Application and Status
7. Indicative List of Governmental and Non-Governmental Panelists
8. Appellate Body Membership
9. Where to Find More Information on the WTO

DOHA DEVELOPMENT AGENDA

Document Name	Document Number
Doha Ministerial Declaration	WT/MIN(01)/DEC/1 (Nov. 20, 2001)
Doha Declaration on the TRIPS Agreement and Public Health	WT/MIN(01)/DEC/2 (Nov. 20, 2001)
Doha Declaration on Implementation-Related Issues and Concerns	WT/MIN(01)/17 (Nov. 20, 2001)
Hong Kong Ministerial Declaration	(WT/MIN(05)/DEC (Dec. 2, 2005)
WTO Affinity Groups in the DDA	N/A

WORLD TRADE ORGANIZATION

WT/L/579
2 August 2004

(04-3297)

Doha Work Programme

Decision Adopted by the General Council on 1 August 2004

1. The General Council reaffirms the Ministerial Declarations and Decisions adopted at Doha and the full commitment of all Members to give effect to them. The Council emphasizes Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. Taking into account the Ministerial Statement adopted at Cancún on 14 September 2003, and the statements by the Council Chairman and the Director-General at the Council meeting of 15-16 December 2003, the Council takes note of the report by the Chairman of the Trade Negotiations Committee (TNC) and agrees to take action as follows:

a. Agriculture: the General Council adopts the framework set out in Annex A to this document.

b. Cotton: the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations. The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.

Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre, to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

c. Non-agricultural Market Access: the General Council adopts the framework set out in Annex B to this document.

d. Development:

Principles: development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and recommits Members to fulfilling the development dimension of the Doha Development Agenda, which places the needs and interests of

developing and least-developed countries at the heart of the Doha Work Programme. The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.

Special and Differential Treatment: the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.

Technical Assistance: the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particular least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

Implementation: concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.

Other Development Issues: in the ongoing market access negotiations, recognizing the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood,

preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

Least-Developed Countries: the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfill these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.

e. Services: the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services[11] and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the recommendations agreed by the Special Session, set out in Annex C to this document, on the basis of which further progress in the services negotiations will be pursued. Revised offers should be tabled by May 2005.

f. Other negotiating bodies:

Rules, Trade & Environment and TRIPS: the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.[12] The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.

Dispute Settlement: the General Council takes note of the report to the TNC by the Special Session of the Dispute Settlement Body[13] and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the TNC's recommendation that work in the Special Session should continue on the basis set out by the Chairman of that body in his report to the TNC.

g. Trade Facilitation: taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration and the work carried out under the auspices of the General Council both prior to the Fifth Ministerial Conference and after its conclusion, the General Council decides by explicit consensus to commence negotiations on the basis of the modalities set out in Annex D to this document.

Relationship between Trade and Investment, Interaction between Trade and Competition Policy and Transparency in Government Procurement: the Council agrees that these issues, mentioned in the Doha Ministerial Declaration in paragraphs 20-22, 23-25 and 26 respectively, will not form part of the Work Programme set out in that Declaration and therefore no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.

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[11] This report is contained in document TN/S/16.

[12] The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

[13] This report is contained in document TN/DS/10.

h. Other elements of the Work Programme: the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfill the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.

2. The General Council agrees that this Decision and its Annexes shall not be used in any dispute settlement proceeding under the DSU and shall not be used for interpreting the existing WTO Agreements.

3. The General Council calls on all Members to redouble their efforts towards the conclusion of a balanced overall outcome of the Doha Development Agenda in fulfillment of the commitments Ministers took at Doha. The Council agrees to continue the negotiations launched at Doha beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference. Recalling its decision of 21 October 2003 to accept the generous offer of the government of Hong Kong, China to host the Sixth Session, the Council further agrees that this Session will be held in December 2005.

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Annex A

Framework for Establishing Modalities in Agriculture

1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13 of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.

2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.

3. The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner.

4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.

5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.

DOMESTIC SUPPORT

6. The Doha Ministerial Declaration calls for "substantial reductions in trade-distorting domestic support". With a view to achieving these substantial reductions, the negotiations in this pillar will ensure the following:

- Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.

- There will be a strong element of harmonization in the reductions made by developed Members. Specifically, higher levels of permitted trade-distorting domestic support will be subject to deeper cuts.

- Each such Member will make a substantial reduction in the overall level of its trade-distorting support from bound levels.

- As well as this overall commitment, Final Bound Total AMS and permitted *de minimis* levels will be subject to substantial reductions and, in the case of the Blue Box, will be capped as specified in paragraph 15 in order to ensure results that are coherent with the long-term reform objective. Any clarification or development of rules and conditions to govern trade distorting support will take this into account.

Overall Reduction: A Tiered Formula

7. The overall base level of all trade-distorting domestic support, as measured by the Final Bound Total AMS plus permitted *de minimis* level and the level agreed in paragraph 8 below for Blue Box payments, will be reduced according to a tiered formula. Under this formula, Members having higher levels of trade-distorting domestic support will make greater overall reductions in order to achieve a harmonizing result. As the first installment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support will not exceed 80 per cent of the sum of Final Bound Total AMS plus permitted *de minimis* plus the Blue Box at the level determined in paragraph 15.

8. The following parameters will guide the further negotiation of this tiered formula:

- This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, *de minimis* and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member.

- The base for measuring the Blue Box component will be the higher of existing Blue Box payments during a recent representative period to be agreed and the cap established in paragraph 15 below.

Final Bound Total AMS: A Tiered Formula

9. To achieve reductions with a harmonizing effect:

- Final Bound Total AMS will be reduced substantially, using a tiered approach.

- Members having higher Total AMS will make greater reductions.

- To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed.

- Substantial reductions in Final Bound Total AMS will result in reductions of some product-specific support.

10. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

De Minimis

11. Reductions in *de minimis* will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt.

12. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

Blue Box

13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:

- Direct payments under production-limiting programmes if:
  - such payments are based on fixed and unchanging areas and yields; or
  - such payments are made on 85% or less of a fixed and unchanging base level of production; or
  - livestock payments are made on a fixed and unchanging number of head.

Or

- Direct payments that do not require production if:
  - such payments are based on fixed and unchanging bases and yields; or
  - livestock payments are made on a fixed and unchanging number of head; and
  - such payments are made on 85% or less of a fixed and unchanging base level of production.

14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:

- Any new criteria would need to take account of the balance of WTO rights and obligations.

- Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms.

15. Blue Box support will not exceed 5% of a Member's average total value of agricultural production during a historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a basis to be agreed to ensure that such a Member is not called upon to make a wholly disproportionate cut.

Green Box

16. Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box.

EXPORT COMPETITION

17. The Doha Ministerial Declaration calls for "reduction of, with a view to phasing out, all forms of export subsidies". As an outcome of the negotiations, Members agree to establish detailed modalities ensuring the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by a credible end date.

End Point

18. The following will be eliminated by the end date to be agreed:

- Export subsidies as scheduled.

- Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days.

- Terms and conditions relating to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below which are not in accordance with disciplines to be agreed. These disciplines will cover, *inter alia*, payment of interest, minimum interest rates, minimum premium requirements, and other elements which can constitute subsidies or otherwise distort trade.

- Trade distorting practices with respect to exporting STEs including eliminating export subsidies provided to or by them, government financing, and the underwriting of losses. The issue of the future use of monopoly powers will be subject to further negotiation.

- Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement. The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations.

19. Effective transparency provisions for paragraph 18 will be established. Such provisions, in accordance with standard WTO practice, will be consistent with commercial confidentiality considerations.

Implementation

20. Commitments and disciplines in paragraph 18 will be implemented according to a schedule and modalities to be agreed. Commitments will be implemented by annual installments. Their phasing will take into account the need for some coherence with internal reform steps of Members.

21. The negotiation of the elements in paragraph 18 and their implementation will ensure equivalent and parallel commitments by Members.

Special and Differential Treatment

22. Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.

23. Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.

24. Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Improved obligations for monitoring and surveillance of all new disciplines as foreshadowed in paragraph 48 will be critically important in this regard. Provisions to be agreed in this respect must not undermine the commitments undertaken by Members under the obligations in paragraph 18 above.

25. STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.

Special Circumstances

26. In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, *ad hoc* temporary financing arrangements relating to exports to developing countries may be agreed by Members. Such agreements must not have the effect of undermining commitments undertaken by Members in paragraph 18 above, and will be based on criteria and consultation procedures to be established.

MARKET ACCESS

27. The Doha Ministerial Declaration calls for "substantial improvements in market access". Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the negotiations.

The Single Approach: a Tiered Formula

28. To ensure that a single approach for developed and developing country Members meets all the objectives of the Doha mandate, tariff reductions will be made through a tiered formula that takes into account their different tariff structures.

29. To ensure that such a formula will lead to substantial trade expansion, the following principles will guide its further negotiation:

- Tariff reductions will be made from bound rates. Substantial overall tariff reductions will be achieved as a final result from negotiations.

- Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements.

- Progressivity in tariff reductions will be achieved through deeper cuts in higher tariffs with flexibilities for sensitive products. Substantial improvements in market access will be achieved for all products.

30. The number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation. The role of a tariff cap in a tiered formula with distinct treatment for sensitive products will be further evaluated.

Sensitive Products

Selection

31. Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.

Treatment

32. The principle of 'substantial improvement' will apply to each product.

33. 'Substantial improvement' will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product**.** However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned.

34. Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula.

Other Elements

35. Other elements that will give the flexibility required to reach a final balanced result include reduction or elimination of in-quota tariff rates**,** and operationally effective improvements in tariff quota administration for existing tariff quotas so as to enable Members, and particularly developing country Members, to fully benefit from the market access opportunities under tariff-rate quotas.

36. Tariff escalation will be addressed through a formula to be agreed.

37. The issue of tariff simplification remains under negotiation.

38. The question of the special agricultural safeguard (SSG) remains under negotiation.

Special and Differential treatment

39. Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff-rate quotas, and implementation period.

40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.

41. Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.

42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.

43. Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.

44. The importance of long-standing preferences is fully recognised. The issue of preference erosion will be addressed. For further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as a reference.

LEAST- DEVELOPED COUNTRIES

45. Least-Developed Countries, which will have full access to all special and differential treatment provisions above, are not required to undertake reduction commitments. Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries.

46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.

RECENTLY ACCEDED MEMBERS

47. The particular concerns of recently acceded Members will be effectively addressed through specific flexibility provisions.

MONITORING AND SURVEILLANCE

48. Article 18 of the Agreement on Agriculture will be amended with a view to enhancing monitoring so as to effectively ensure full transparency, including through timely and complete notifications with respect to the commitments in market access, domestic support and export competition. The particular concerns of developing countries in this regard will be addressed.

OTHER ISSUES

49. Issues of interest but not agreed: sectoral initiatives, differential export taxes, GIs.

50. Disciplines on export prohibitions and restrictions in Article 12.1 of the Agreement on Agriculture will be strengthened.

Annex B

Framework for Establishing Modalities in Market Access for Non-Agricultural Products

1. This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the overall balance therein.

2. We reaffirm that negotiations on market access for non-agricultural products shall aim to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. We also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities.

3. We acknowledge the substantial work undertaken by the Negotiating Group on Market Access and the progress towards achieving an agreement on negotiating modalities. We take note of the constructive dialogue on the Chair's Draft Elements of Modalities (TN/MA/W/35/Rev.1) and confirm our intention to use this document as a reference for the future work of the Negotiating Group. We instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration, on the basis set out below.

4. We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a non-linear formula applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.

5. We further agree on the following elements regarding the formula:

- product coverage shall be comprehensive without *a priori* exclusions;
- tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, the basis for commencing the tariff reductions shall be [two] times the MFN applied rate in the base year;
- the base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November);
- credit shall be given for autonomous liberalization by developing countries provided that the tariff lines were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round;
- all non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of a methodology to be determined and bound in *ad valorem* terms;

- negotiations shall commence on the basis of the HS96 or HS2002 nomenclature, with the results of the negotiations to be finalized in HS2002 nomenclature;
- the reference period for import data shall be 1999-2001.

6. We furthermore agree that, as an exception, participants with a binding coverage of non-agricultural tariff lines of less than [35] percent would be exempt from making tariff reductions through the formula. Instead, we expect them to bind [100] percent of non-agricultural tariff lines at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

7. We recognize that a sectorial tariff component aiming at elimination or harmonization is another key element to achieving the objectives of paragraph 16 of the Doha Ministerial Declaration with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We recognize that participation by all participants will be important to that effect. We therefore instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and adequate provisions of flexibility for developing-country participants.

8. We agree that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they shall be given the following flexibility:

a) applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or

b) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports.

We furthermore agree that this flexibility could not be used to exclude entire HS Chapters.

9. We agree that least-developed country participants shall not be required to apply the formula nor participate in the sectorial approach, however, as part of their contribution to this round of negotiations they are expected to substantially increase their level of binding commitments.

10. Furthermore, in recognition of the need to enhance the integration of least-developed countries into the multilateral trading system and support the diversification of their production and export base, we call upon developed-country participants and other participants who so decide, to grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries by the year […].

11. We recognize that newly acceded Members shall have recourse to special provisions for tariff reductions in order to take into account their extensive market access commitments undertaken as part of their accession and that staged tariff reductions are still being implemented in many cases. We instruct the Negotiating Group to further elaborate on such provisions.

12. We agree that pending agreement on core modalities for tariffs, the possibilities of supplementary modalities such as zero-for-zero sector elimination, sectorial harmonization, and request & offer should be kept open.

13. In addition, we ask developed-country participants and other participants who so decide to consider the elimination of low duties.

14. We recognize that NTBs are an integral and equally important part of these negotiations and instruct participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2004 and to proceed with identification, examination, categorization, and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants.

15. We recognize that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed. We also recognize the work that has already been undertaken in these areas and ask participants to continue to identify such issues to improve participation in the negotiations.

16. We recognize the challenges that may be faced by non-reciprocal preference beneficiary Members and those Members that are at present highly dependent on tariff revenue as a result of these negotiations on non-agricultural products. We instruct the Negotiating Group to take into consideration, in the course of its work, the particular needs that may arise for the Members concerned.

17. We furthermore encourage the Negotiating Group to work closely with the Committee on Trade and Environment in Special Session with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31 (iii) of the Doha Ministerial Declaration.

Annex C

Recommendations of the Special Session of the Council for Trade in Services

(a) Members who have not yet submitted their initial offers must do so as soon as possible.

(b) A date for the submission of a round of revised offers should be established as soon as feasible.

(c) With a view to providing effective market access to all Members and in order to ensure a substantive outcome, Members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.

(d) Members shall aim to achieve progressively higher levels of liberalization with no *a priori* exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries. Members note the interest of developing countries, as well as other Members, in Mode 4.

(e) Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII and XV in accordance with their respective mandates and deadlines.

(f) Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.

(g) For the purpose of the Sixth Ministerial meeting, the Special Session of the Council for Trade in Services shall review progress in these negotiations and provide a full report to the Trade Negotiations Committee, including possible recommendations.

Annex D

Modalities for Negotiations on Trade Facilitation

1. Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.[1] Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.

2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.

3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.

5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations.[2]

6. Support and assistance should also be provided to help developing and least-developed countries implement the commitments resulting from the negotiations, in accordance with their nature and scope. In this context, it is recognized that negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In these limited cases, developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. While every effort will be made to ensure the necessary support and assistance, it is understood that the commitments by developed countries to provide such support are not open-ended.

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[1] It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes.

[2] In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.

7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.

9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.

10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

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WORLD TRADE ORGANIZATION

WT/L/641
8 December 2005

(05-5842)

AMENDMENT OF THE TRIPS AGREEMENT

Decision of 6 December 2005

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Noting the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and, in particular, the instruction of the Ministerial Conference to the Council for TRIPS contained in paragraph 6 of the Declaration to find an expeditious solution to the problem of the difficulties that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement;

Recognizing, where eligible importing Members seek to obtain supplies under the system set out in the proposed amendment of the TRIPS Agreement, the importance of a rapid response to those needs consistent with the provisions of the proposed amendment of the TRIPS Agreement;

Recalling paragraph 11 of the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;

Having considered the proposal to amend the TRIPS Agreement submitted by the Council for TRIPS (IP/C/41);

Noting the consensus to submit this proposed amendment to the Members for acceptance;

Decides as follows:

1. The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.

2. The Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.

3. The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

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ATTACHMENT

PROTOCOL AMENDING THE TRIPS AGREEMENT

Members of the World Trade Organization;

Having regard to the Decision of the General Council in document WT/L/641, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Hereby agree as follows:

- The Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement") shall, upon the entry into force of the Protocol pursuant to paragraph 4, be amended as set out in the Annex to this Protocol, by inserting Article 31*bis* after Article 31 and by inserting the Annex to the TRIPS Agreement after Article 73.

- Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.

- This Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.

- This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.

- This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.

- This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this sixth day of December two thousand and five, in a single copy in the English, French and Spanish languages, each text being authentic.

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ANNEX TO THE PROTOCOL AMENDING THE TRIPS AGREEMENT

Article 31bis

1. The obligations of an exporting Member under Article 31(f) shall not apply with respect to the grant by it of a compulsory licence to the extent necessary for the purposes of production of a pharmaceutical product(s) and its export to an eligible importing Member(s) in accordance with the terms set out in paragraph 2 of the Annex to this Agreement.

2. Where a compulsory licence is granted by an exporting Member under the system set out in this Article and the Annex to this Agreement, adequate remuneration pursuant to Article 31(h) shall be paid in that Member taking into account the economic value to the importing Member of the use that has been authorized in the exporting Member. Where a compulsory licence is granted for the same products in the eligible importing Member, the obligation of that Member under Article 31(h) shall not apply in respect of those products for which remuneration in accordance with the first sentence of this paragraph is paid in the exporting Member.

3. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products: where a developing or least-developed country WTO Member is a party to a regional trade agreement within the meaning of Article XXIV of the GATT 1994 and the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903), at least half of the current membership of which is made up of countries presently on the United Nations list of least-developed countries, the obligation of that Member under Article 31(f) shall not apply to the extent necessary to enable a pharmaceutical product produced or imported under a compulsory licence in that Member to be exported to the markets of those other developing or least-developed country parties to the regional trade agreement that share the health problem in question. It is understood that this will not prejudice the territorial nature of the patent rights in question.

4. Members shall not challenge any measures taken in conformity with the provisions of this Article and the Annex to this Agreement under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994.

5. This Article and the Annex to this Agreement are without prejudice to the rights, obligations and flexibilities that Members have under the provisions of this Agreement other than paragraphs (f) and (h) of Article 31, including those reaffirmed by the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and to their interpretation. They are also without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under the provisions of Article 31(f).

ANNEX TO THE TRIPS AGREEMENT

1. For the purposes of Article 31*bis* and this Annex:

   (a) "pharmaceutical product" means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address the public health problems as recognized in paragraph 1 of the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2). It is understood that active ingredients necessary for its manufacture and diagnostic kits needed for its use would be included[1];

   (b) "eligible importing Member" means any least-developed country Member, and any other Member that has made a notification[2] to the Council for TRIPS of its intention to use the system set out in Article 31*bis* and this Annex ("system") as an importer, it being understood that a Member may notify at any time that it will use the system in whole or in a limited way, for example only in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. It is noted that some Members will not use the system as importing Members[3] and that some other Members have stated that, if they use the system, it would be in no more than situations of national emergency or other circumstances of extreme urgency;

   (c) "exporting Member" means a Member using the system to produce pharmaceutical products for, and export them to, an eligible importing Member.

2. The terms referred to in paragraph 1 of Article 31*bis* are that:

   (a) the eligible importing Member(s)[4] has made a notification[2] to the Council for TRIPS, that:

      (i) specifies the names and expected quantities of the product(s) needed[5];

      (ii) confirms that the eligible importing Member in question, other than a least-developed country Member, has established that it has insufficient or no manufacturing capacities in the pharmaceutical sector for the product(s) in question in one of the ways set out in the Appendix to this Annex; and

      (iii) confirms that, where a pharmaceutical product is patented in its territory, it has granted or intends to grant a compulsory licence in accordance

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[1] This subparagraph is without prejudice to subparagraph 1(b).

[2] It is understood that this notification does not need to be approved by a WTO body in order to use the system.

[3] Australia, Canada, the European Communities with, for the purposes of Article 31*bis* and this Annex, its member States, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States.

[4] Joint notifications providing the information required under this subparagraph may be made by the regional organizations referred to in paragraph 3 of Article 31*bis* on behalf of eligible importing Members using the system that are parties to them, with the agreement of those parties.

[5] The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

with Articles 31 and 31*bis* of this Agreement and the provisions of this Annex[6];

(b) the compulsory licence issued by the exporting Member under the system shall contain the following conditions:

(i) only the amount necessary to meet the needs of the eligible importing Member(s) may be manufactured under the licence and the entirety of this production shall be exported to the Member(s) which has notified its needs to the Council for TRIPS;

(ii) products produced under the licence shall be clearly identified as being produced under the system through specific labelling or marking. Suppliers should distinguish such products through special packaging and/or special colouring/shaping of the products themselves, provided that such distinction is feasible and does not have a significant impact on price; and

(iii) before shipment begins, the licensee shall post on a website[7] the following information:

- the quantities being supplied to each destination as referred to in indent (i) above; and

- the distinguishing features of the product(s) referred to in indent (ii) above;

(c) the exporting Member shall notify[8] the Council for TRIPS of the grant of the licence, including the conditions attached to it.[9] The information provided shall include the name and address of the licensee, the product(s) for which the licence has been granted, the quantity(ies) for which it has been granted, the country(ies) to which the product(s) is (are) to be supplied and the duration of the licence. The notification shall also indicate the address of the website referred to in subparagraph (b)(iii) above.

3. In order to ensure that the products imported under the system are used for the public health purposes underlying their importation, eligible importing Members shall take reasonable measures within their means, proportionate to their administrative capacities and to the risk of trade diversion to prevent re-exportation of the products that have actually been imported into their territories under the system. In the event that an eligible importing Member that is a developing country Member or a least-developed country Member experiences difficulty in implementing this provision, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in order to facilitate its implementation.

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[6] This subparagraph is without prejudice to Article 66.1 of this Agreement.

[7] The licensee may use for this purpose its own website or, with the assistance of the WTO Secretariat, the page on the WTO website dedicated to the system.

[8] It is understood that this notification does not need to be approved by a WTO body in order to use the system.

[9] The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

4. Members shall ensure the availability of effective legal means to prevent the importation into, and sale in, their territories of products produced under the system and diverted to their markets inconsistently with its provisions, using the means already required to be available under this Agreement. If any Member considers that such measures are proving insufficient for this purpose, the matter may be reviewed in the Council for TRIPS at the request of that Member.

5. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products, it is recognized that the development of systems providing for the grant of regional patents to be applicable in the Members described in paragraph 3 of Article 31*bis* should be promoted. To this end, developed country Members undertake to provide technical cooperation in accordance with Article 67 of this Agreement, including in conjunction with other relevant intergovernmental organizations.

6. Members recognize the desirability of promoting the transfer of technology and capacity building in the pharmaceutical sector in order to overcome the problem faced by Members with insufficient or no manufacturing capacities in the pharmaceutical sector. To this end, eligible importing Members and exporting Members are encouraged to use the system in a way which would promote this objective. Members undertake to cooperate in paying special attention to the transfer of technology and capacity building in the pharmaceutical sector in the work to be undertaken pursuant to Article 66.2 of this Agreement, paragraph 7 of the Declaration on the TRIPS Agreement and Public Health and any other relevant work of the Council for TRIPS.

7. The Council for TRIPS shall review annually the functioning of the system with a view to ensuring its effective operation and shall annually report on its operation to the General Council.

APPENDIX TO THE ANNEX TO THE TRIPS AGREEMENT

Assessment of Manufacturing Capacities in the Pharmaceutical Sector

Least-developed country Members are deemed to have insufficient or no manufacturing capacities in the pharmaceutical sector.

For other eligible importing Members insufficient or no manufacturing capacities for the product(s) in question may be established in either of the following ways:

(i) the Member in question has established that it has no manufacturing capacity in the pharmaceutical sector;

or

(ii) where the Member has some manufacturing capacity in this sector, it has examined this capacity and found that, excluding any capacity owned or controlled by the patent owner, it is currently insufficient for the purposes of meeting its needs. When it is established that such capacity has become sufficient to meet the Member's needs, the system shall no longer apply.

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U.S. SUBMISSIONS TO THE WTO IN SUPPORT OF THE DOHA DEVELOPMENT AGENDA

(WTO Document Symbol in Parentheses)

Committee on Agriculture, Special Session

- Export Competition, Market Access and Domestic Support (JOB(02)/122)
- Joint EC-US Paper on Agriculture (JOB(03)/157)
- Proposal for Tariff-Rate Quota Reform (G/AG/NG/W/58)
- Proposal for Comprehensive Long-Term Agricultural Trade Reform (G/AG/NG/W/15)
- Note on Domestic Support Reform (G/AG/NG/W/16)
- Tariff Quota Administration (JOB(06)/188)
- Domestic Support Simulations – Simulations (JOB(06)/186)
- Tariff Quota Administration - Communication by the United States (JOB(06)/184)
- Comments on Food Aid (JOB(06)/183)
- Agriculture Domestic Support Simulations – Simulations (JOB(06)/151)
- Applied Tariff Simulations - Agriculture - Summary of Results (JOB(06)/152)
- United States Communication on Special Products (JOB(06)/137)
- United States Communication on Export Credits, Export Credit Guarantees or Insurance Programs (JOB(06)/119)
- United States Communication on State Trading Export Enterprises (JOB(06)/79)
- United States Communication on Domestic Support - Annex 2 - Domestic Support: The Basis for Exemption from the Reduction Commitments (JOB(06)/80)
- United States' Communication on Food Aid (JOB(06)/78)
- Market Access Simulations – Simulations (JOB(06)/63)
- US Communication on US Product-Specific Blue Box Limits (JOB(08)/10)
- Elements of Special Products Modalities - Communication from Australia, Canada, Costa Rica, Malaysia, New Zealand, Paraguay, Thailand, United States and Uruguay (JOB(08)/24)
- Agriculture Templates – An Approach and Initial Thoughts on Base Data and Base Data Templates (JOB(09)/104)
- Agriculture Templates - Domestic Support Base Data Templates (JOB(09)/115)
- Agriculture Templates - Market Access Base Data Templates (JOB(09)/125)
- Agriculture Templates - Market Access Doha Development Agenda (DDA) Tariff-Rate Quotas (TRQs) Template (JOB(09)/172)

Council on Trade in Services, Special Session

- Framework for Negotiation (S/CSS/W/4)
- Proposals for Negotiation (JOB(00)/8376)
- Accounting Services (S/CSS/W/20)
- Audiovisual and Related Services (S/CSS/W/21)
- Distribution Services (S/CSS/W/22)
- Higher (Tertiary) Education, Adult Education and Training (S/CSS/W/23)
- Energy Services (S/CSS/W/24)
- Environmental Services (S/CSS/W/25)
- Express Delivery Services (S/CSS/W/26)
- Financial Services (S/CSS/W/27)
- Legal Services (S/CSS/W/28)
- Movement of Natural Persons (S/CSS/W/29)
- Market Access in Telecommunications and Complementary Services (S/CSS/W/30)

- Tourism and Hotels (S/CSS/W/31)
- Transparency in Domestic Regulation (S/CSS/W/102)
- Advertising and Related Services (S/CSS/W/100)
- Desirability of a Safeguard Mechanism for Services: Promoting Liberalization of Trade in Services (S/WPGR/W/37)
- Modalities for the Special Treatment For Least-Developed Country Members in the Negotiations on Trade In Services – JOB(03)/133
- U.S. Government Points of Contact in Least-Developed Country Members (JOB (03)/33)
- Proposed Guide for Scheduling Commitments on Energy Services in the WTO (JOB(03)/89)
- Small and Medium Sized Enterprises (TN/S/W/5)
- Initial Offer (TN/S/O/USA)
- An Assessment of Services Trade and Liberalization in the United States and Developing Economies (TN/S/W/12)
- Joint Statement on Market Access in Services (JOB(04)/176)
- U.S. Proposal for Transparency Disciplines in Domestic Regulation: Building on Existing International Disciplines and Proposals (JOB(04)/128)
- Communication from the United States: Horizontal Transparency Disciplines in Domestic Regulation (JOB(06)/182)
- Outline of the U.S. position on a Draft Consolidated Text in the WPDR (JOB(06)/223)
- Classification in the Telecommunications Sector under the WTO-GATS Framework (TN/S/W/35 and S/CSC/W/45)
- Guidelines for Scheduling Commitments Concerning Postal and Courier Services, including Express Delivery (TN/S/W/30)
- Joint Statement on Liberalization of Logistics Services (TN/S/W/34)
- Joint Statement on Legal Services (TN/S/W/37 and S/CSC/W/46)
- Legal Services – Objectives for Further Liberalisation and Limitations to be Removed (JOB(05)/276)
- Joint Statement on Liberalization of Construction and Related Engineering Services (JOB(05)/130)
- Joint Statement on Liberalization of Financial Services (JOB(05)/17)
- Working Toward a Productive Information Exchange (in the Working Party on GATS Rules) (JOB(05)/5)
- Statement on Services of Common Interest in the Energy Sector (JOB(06)/17)
- Implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Trade in Services Negotiations (JOB(06)/77)
- Revised Services Offer (TN/S/O/USA/Rev.1)
- Review of Progress in Telecommunications Services (JOB(07)/199)
- Review of Progress in Postal and Courier Services, including Express Delivery Collective Request (JOB(07)/200)

Negotiating Group on Market Access

- Tariffs & Trade Data Needs Assessment (TN/MA/W/2)
- Negotiations on Environmental Goods (TN/MA/W/3 and TN/TE/W/8)
- Modalities Proposal (TN/MA/W/18)
- Proposal on Modalities for Addressing Non-Tariff Barriers (NTBs) (TN/MA/W/18/Add.1)
- Revenue Implications of Trade Liberalization (TN/MA/W/18/Add.2)
- Vertical NTB Modality (TN/MA/W/18/Add.3)
- Contribution on an Environmental Goods Modality (TN/TE/W/38) & (TN/MA/W/18/Add.5)
- Liberalizing Trade in Environmental Goods (TN/MA/W/3, TN/MA/W/18/Add.4, Add.5, and Add.7)
- Non-Tariff Barrier Notifications (TN/MA/W/46/Add.8)
- Non-Tariff Barrier Notifications – Revision (TN/MA/W/46/Add.8/Rev.1)

- Non-Agricultural Market Access: Modalities (TN/MA/W/44)
- Contribution by Canada, European Communities and United States, Non-Agricultural Market Access: Modalities (JOB(03)/163)
- Progress Report: Discussions on Forestry NTBs (TN/MA/W/48/Add.1)
- Negotiating NTBs Related to Remanufacturing and Refurbishing (TN/MA/W/18/Add.11)
- A View To Harmonize Textile, Apparel, and Footwear Labeling Requirements (TN/MA/W/18/Add.12)
- Progress Report: WTO NAMA Discussions on Autos NTBs (TN/MA/W/18/Add.9)
- Tariff Elimination in the Gems and Jewelry Sector (TN/MA/W/61)
- Tariff Liberalization in the Forest Products Sector (TN/MA/W/64)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/59)
- Initial List of Environmental Goods (TN/MA/W/18/Add.7 or TN/TE/W/52)
- Treatment of Non Ad Valorem Technical Tariffs (TN/MA/W/18/Add.8)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/58)
- How to Create a Critical Mass Sectoral Initiative (TN/MA/W/55)
- U.S. Proposal on Negotiating NTBs Related to the Auto Sector (TN/MA/W/18/Add.6)
- Non-Tariff Barriers Building Codes and the Wood Products Sector (TN/MA/W/48)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/69)
- Open Access to Enhanced Healthcare (JOB(06)/35)
- Progress Report: NTB Discussions Related to Remanufactured and Refurbished Goods (TN/MA/W/18/Add.10) and (TN/MA/W/18/Add.10/Corr.1)
- Tariff Liberalisation in the Forest Products Sector (TN/MA/W/75)
- Negotiating Text on Textiles, Apparel, Footwear and Travel Goods Labeling Requirements (TN/MA/W/18/Add.14)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/72)
- Progress Report: Sectoral Discussions on Tariff Elimination in the Chemicals Sector (TN/MA/W/18/Add.1)
- Tariff Elimination in the Electronics/Electrical Sector JOB(06)/85
- Negotiating Proposal on Tariff Liberalisation in the Forest Products Sector JOB(06)/128
- Market Access for Environmental Goods TN/MA/W/70
- Negotiating Proposal on Tariff Elimination in the Gems and Jewellery Sector TN/MA/W/61/Add.2
- Swiss Dual Proposal JOB(05)/36
- Analytical Contributions June 2005 JOB(05)/97
- Room Document for Simulation Presentation March 06. Actual doc # unknown.
- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.15)
- Revised U.S. Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16)
- Regulation of Remanufactured Goods: Answers to Frequently Asked Questions (JOB(07)/60)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3/Add.2)
- Proposal for Modifications to "Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers" (TN/MA/W/88) NTBs (JOB(07)/145)
- Reducing Non-Tariff Barriers to Trade Related to Labeling of Textiles, Apparel, Footwear and Travel Goods – HS Classifications of Travel Goods (JOB(07)/59)
- Reducing Non-Tariff Barriers to Trade Related to Labelling of Textiles, Apparel, Footwear and Travel Goods - U.S. Responses to U.S. Questions (JOB(06)/266/Add.1)
- Non-Tariff Barriers to Trade Related to Textiles, Clothing and Footwear - U.S. answers to Questionnaire by the European Communities (JOB(07)/22)
- Communication from the European Communities and the United States on NTBs related to Textiles, Apparel, Footwear and Clothing (TN/MA/W/93)

- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.1)
- Illustrative Examples of Remanufactured Goods (JOB(07)/224)
- Negotiating Text on Non-Tariff Barriers Pertaining to the Electrical Safety and Electromagnetic Compatibility (EMC) of Electronic Goods (TN/MA/W/105 Rev.1)
- Negotiating Protocol on Enhanced Transparency on Export Licensing (TN/MA/W/15/Add.4/Rev.1)
- Communication from the United States on Automotive NTBs (JOB(08)/39)
- Non Paper on "Committee-First" for the "Horizontal Mechanism", TN/MA/W/106 of 9 May 2008 (JOB(08)/45)
- Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (JOB (08)/46)
- Sectoral Negotiations in Non-Agricultural Market Access (NAMA) (TN/MA/W/97/Rev.1)
- Joint paper on Revised Draft Modalities for Non-Agricultural Market Access (NAMA) (TN/MA/W/95)
- Communication from the European Communities and the United States for an Anti-Concentration Clause in NAMA (TN/MA/W/96)
- Tariff Elimination in the Sports Equipment Sector (TN/MA/W/85)
- Answers by the Co-sponsors to Questions from the Republic of Korea on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/113)
- Answers to Frequently Asked Questions on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/114)
- Answers by the Co-sponsors to Questions from Singapore on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/116)
- Revised Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/93/Rev/1)
- Answers by the Co-sponsors to Questions from New Zealand, Switzerland, and China on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (JOB(09)/162)
- Compendium of Questions and Answers on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/123)
- Revised Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/105/Rev.2)
- Answers to Questions from Singapore on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/115)
- Answers to Questions from Thailand on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (JOB(09)/37)
- Answers to Questions from Canada on U.S. Autos and Electronics NTBs Negotiating Texts (JOB(09)/157)
- Compendium of Questions and Answers on Agreement on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/125)
- Revised Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/120)
- Answers to Questions from Singapore on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/121)
- Compendium of Questions and Answers on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/126)
- Answers by the Co-sponsors to Questions from the Republic of Korea on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/112)
- Answers by the Co-sponsors to Questions from Singapore on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/117)

- Revised Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.3)
- Answers by the Co-sponsors to Questions from Malaysia on the Ministerial Decision on Trade in Remanufactured Goods (JOB(09)/155)
- Answer by the Co-sponsors to Questions from China on Remanufacturing (TN/MA/W/122)
- Compendium of Questions and Answers on Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/124)
- Report on 4 November 2009 Remanufacturing Workshops (JOB(09)/179
- Revised Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/Add.4/Rev.4)
- Answers by the Co-sponsors to Questions from Malaysia on Negotiating Text on Enhanced Transparency in Export Licensing (JOB(09)/127)
- Compendium on Questions and Answers on Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/130)

Negotiating Group on Rules

- Fisheries Subsidies -- Joint communication from the United States, Australia, Chile, Ecuador, Iceland, New Zealand, Peru, and the Philippines (TN/RL/W/3)
- Fisheries Subsidies (TN/RL/W/21)
- OECD Steel Paper (TN/RL/W/24)
- Questions on Papers Submitted to Rules Negotiating Group (TN/RL/W/25)
- Basic Concepts of the Trade Remedies Rules (TN/RL/W/27)
- Special and Differential Treatment and the Subsidies Agreement (TN/RL/W/33)
- Second Set of Questions from the United States on Papers Submitted to the Rules Negotiating Group (TN/RL/W/34)
- Investigatory Procedures Under The Antidumping and Subsidies Agreements (TN/RL/W/35)
- Communication From The United States Attaching A Communiqué From The Organization For Economic Cooperation And Development (OECD) (TN/RL/W/49)
- Circumvention (TN/RL/W/50)
- Replies To Questions Presented To The United States On Submission TN/Rl/W/27 (TN/RL/W/53)
- Third Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/54)
- Responses By The United States To Questions From Australia On Investigatory Procedures Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/71)
- Identification Of Certain Major Issues Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/72)
- Possible Approaches To Improved Disciplines On Fisheries Subsidies (TN/RL/W/77)
- Subsidies Disciplines Requiring Clarification And Improvement (TN/RL/W/78)
- Elements Of A Steel Subsidies Agreement (TN/RL/W/95)
- Identification of Additional Issues under the Anti-dumping and Subsidies Agreements (TN/RL/W/98)
- Fourth Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/103)
- Further Issues Identified Under The Anti-Dumping And Subsidies Agreements For Discussion By the Negotiating Group On Rules (TN/RL/W/130)
- Replies to the Questions from India on TN/RL/W/35 (TN/RL/W/147)
- Three Issues Identified by the United States (TN/RL/W/153)
- Accrual of Interest (TN/RL/W/168)
- Additional Views on the Structure of the Fisheries Subsidies Negotiations (TN/RL/W/169)
- Fisheries Subsidies (TN/RL/W/196) (co-sponsored with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan and Peru)

- Offsets for Non-Dumped Comparisons (TN/RL/W/208)
- Allocation of Subsidy Benefits Over Time (TN/RL/GEN/4)
- Exchange Rates (TN/RL/W/GEN/5)
- New Shipper Reviews (TN/RL/GEN/11)
- Allocation Periods for Subsidy Benefits (TN/RL/GEN/12)
- Prompt Access to Non-Confidential Information (TN/RL/GEN/13)
- Conduct of Verifications (TN/RL/GEN/15)
- All-Others Rate (TN/RL/GEN/16)
- Expensing Versus Allocating Subsidy Benefits (TN/RL/GEN/17/Rev.1)
- Preliminary Determinations (TN/RL/GEN/25)
- Circumvention (TN/RL/GEN/29)
- Fisheries Subsidies – Programmes for Decommissioning of Vessels and Licence Retirement (TN/RL/GEN/41)
- Further Submission on When and How to Allocate Subsidy Benefits Over Time (TN/RL/GEN/45)
- Further Comments on Lesser Duty Proposals (TN/RL/GEN/58)
- Causation (TN/RL/GEN/59)
- Submission on Circumvention (TN/RL/GEN/71)
- Identification of Parties (TN/RL/GEN/89) (co-sponsored with Brazil)
- Access to Non-Confidential Information (TN/RL/GEN/90)
- New Shipper Reviews (TN/RL/GEN/91)
- Expanding the Prohibited "Red Light" Subsidy Category (TN/RL/GEN/94)
- Further Submission on Facts Available (TN/RL/GEN/105)
- Circumvention (TN/RL/GEN/106)
- Exchange Rates (TN/RL/GEN/107)
- Disclosure of Essential Preliminary Legal and Factual Considerations (Mandatory Preliminary Determinations) (TN/RL/GEN/108)
- Fisheries Subsidies (TN/RL/GEN/127)
- Causation (TN/RL/GEN/128)
- Definition of Domestic Industry for Perishable, Seasonal Agricultural Products (TN/RL/GEN/129)
- Allocation and Expensing of Subsidies Benefits (TN/RL/GEN/130)
- Collection of Anti-Dumping Duties under Article 9.3 (TN/RL/GEN/131)
- Conduct of On-the-Spot Investigations (TN/RL/GEN/132)
- Disclosure of Calculations in Preliminary and Final Determinations (TN/RL/GEN/133)
- Fisheries Subsidies: Proposed New Disciplines (TN/RL/GEN/145)
- Expanding the Prohibited Red Light Subsidy Category – Draft Text (TN/RL/GEN/146)
- Proposal on Offsets for Non-Dumped Comparisons (TN/RL/GEN/147)
- Fisheries Subsidies (TN/RL/W/235) (co-sponsored with Australia and New Zealand)
- Fisheries Subsidies – Articles I.2, II, IV, and V (TN/RL/GEN/165)

Dispute Settlement Body, Special Session

- Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO-Related to Transparency (TN/DS/W/13)
- Negotiations on Improvements And Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/28)
- Further Contribution of The United States to The Improvement of The Dispute Settlement Understanding of the WTO Related to Transparency (TN/DS/W/46)
- Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement, Joint communication from United States and Chile (TN/DS/W/52)

- Some Questions for Consideration on Item(f) (TN/DS/W/74)
- Contribution of the United States on Some Practical Considerations in Improving the Dispute Settlement Understanding of the WTO Related to Transparency and Open Meetings (TN/DS/W/79)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/82)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum (TN/DS/W/82/Add.1)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum, Corrigendum (TN/DS/W/82/Add.1/Corr.1)
- Further Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO Related to Transparency - Revised Legal Drafting (TN/DS/W/86)
- Dispute Settlement Body - Special Session - Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding - Further Contribution of the United States on Improving Flexibility and Member Control - Addendum (TN/DS/W/82/Add.2)
- Flexibility and Member Control - Revised Textual Proposal by Chile and the United States (TN/DS/W/89)

Trade Facilitation

- Article VIII - Fees and Formalities (G/C/W/384)
- Article X - Publication and Administration (G/C/W/400)
- Integrated and Comprehensive Approach to Special and Differential Treatment (G/C/W/451)
- Communication on Trade Facilitation (JOB(04)/103)
- Introduction to Proposals by the United States of America (TN/TF/W/11)
- Advance Binding Rulings (TN/TF/W/12)
- Proposal on Transparency and Publication (TN/TF/W/13)
- Communication from the United States (TN/TF/W/14)
- Express Shipments (TN/TF/W/15)
- Release of Goods (TN/TF/W/21)
- Consularization - Proposal from Uganda and the United States (TN/TF/W/22)
- Multilateral Mechanism - Proposal from India and the United States (TN/TF/W/57)
- United States Assistance on Trade Facilitation (TN/TF/W/71)
- Communication from Australia, Canada and the United States - Draft Text on Advance Rulings (TN/TF/W/125)
- Communication from Uganda and the United States – Consularization (TN/TF/W/86 and Add.1)
- Communication from Uganda and the United States – Consularization (TN/TF/W/104)
- Communication from the United States - Express Shipments (TN/TF/W/91)
- Communication from Chile, Peru, and the United States - Internet Publication (TN/TF/W/89)
- Communication from Australia, Canada, and the United States - Common Elements of Advance Rulings (TN/TF/W/80)
- Communication from the United States – Draft Text on Internet Publication (TN/TF/W/145)
- Communication from the United States – Draft Text on Expedited Shipments (TN/TF/W/144 and Rev.1,2 &3)
- Communication from the United States United States – Assistance on Trade Facilitation (TN/TF/W/151)
- Communication From Australia, Canada, Turkey And The United States – Draft Text On Advance Rulings (TN/TF/W/153 and Rev.1)
- Communication From Uganda And The United States – Prohibiting Consularization Requirements: Fulfilling A Longstanding Trade Facilitation Objective (TN/TF/W/156)

- Communication from the United States – Transition Provisions for Developing and Least-Developed Country Members (TN/TF/W/166)
- Communication by the United States - Draft Text on Penalty Disciplines (TN/TF/W/169)

Committee on Trade and Environment, Regular and Special Session

- Sub-Paragraph 31 (i) of the Doha Declaration – Relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs) (TN/TE/W/20 and TN/TE/W/40)
- Sub-Paragraph 31 (ii) of the Doha Declaration - Procedures for information exchange between MEA Secretariats and relevant WTO committees and criteria for granting MEA observer status (TN/TE/W/5 and TN/TE/W/70)
- Sub-Paragraph 31(iii) of the Doha Declaration – Market access for environmental goods and services (TN/TE/W/8, TN/TE/W/34, TN/TE/W/38, TN/TE/W/52, TN/TE/W/64, TN/TE/W/65, JOB(06)140 and JOB(06)169, JOB(07)/54, and JOB(07)193)
- Paragraph 33 of the Doha Declaration (WT/CTE/W/227)

Six dual submissions on Environmental Goods to the Committee on Trade and Environment Special Session and the Negotiating Group on Market Access are also listed under the Negotiating Group on Market Access.

Council on TRIPS, Regular & Special Session

- Questions and Answers: Comparison of Proposals (TN/IP/W/1)
- Issues for Discussion, Article 23.4 (TN/IP/W/2)
- Proposal for a Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits Based on Article 23.4 of the TRIPS Agreement (TN/IP/W/5)
- Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits (TN/IP/W/6)
- Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/340)
- Second Submission on Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/358)
- Implications of Article 23 Extension (IP/C/W/386)
- Moratorium to Address Needs of Developing and Least-Developed Members with No or Insufficient Manufacturing Capacities in the Pharmaceutical Sector (IP/C/W/396)
- Joint Proposal for a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/9)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/434)
- Technology Transfer Practices of the U.S. National Cancer Institute's Departmental Therapeutics Program (IP/C/W/341)
- Access to Genetic Resources: Regime of the United States' National Parks (IP/C/W/393)
- Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/10 and Add.1)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD and the Protection of Traditional Knowledge and Folklore (IP/C/W/449)
- Comments on Implementation of the 30 August 2003 Agreement (Solution) on the TRIPS Agreement and Public Health (IP/C/W/444)
- Relationship between the Trips Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/469)

Committee on Trade and Development, Special Session

- Remarks on the Review of Special and Differential Treatment (TN/CTD/W/9)
- Monitoring Mechanism (TN/CTD/W/19)
- Approach to Agreement-Specific Proposals (TN/CTD/W/27)

Working Group on Transparency in Government Procurement

- Capacity Building Questions (WT/WGTGP/W/34)
- Workplan Proposal (WT/WGTGP/W/35)
- Considerations Related to Enforcement of an Agreement on Transparency in Government Procurement (WT/WGTGP/W/38)

Work Program on Electronic Commerce

- Work Program on Electronic Commerce (WT/GC/W/493/Rev.1)

Working Group on the Relationship between Trade and Investment

- Covering FDI & Portfolio Investment in an Agreement (WT/WGTI/W/142)

Working Group on the Interaction between Trade and Competition Policy

- Technical Assistance (WT/WGTCP/W/185)
- Hardcore Cartels (WT/WGTCP/W/203)
- Voluntary Cooperation (WT/WGTCP/W/204)
- Transparency & Non-discrimination (WT/WGTCP/W/218)
- Procedural Fairness (WT/WGTCP/W/219)
- The Benefits of Peer Review in the WTO Competition Context (WT/WGTCP/W/233)

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

As of December 31, 2012 (157 Members)[1]

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Albania	September 8, 2000	Democratic Republic of the Congo	January 1, 1997
Angola	November 23, 1996	Denmark	January 1, 1995
Antigua and Barbuda	January 1, 1995	Djibouti	May 31, 1995
Argentina	January 1, 1995	Dominica	January 1, 1995
Armenia	February 5, 2003	Dominican Republic	March 9, 1995
Australia	January 1, 1995	Ecuador	January 21, 1996
Austria	January 1, 1995	Egypt	June 30, 1995
Bahrain	January 1, 1995	El Salvador	May 7, 1995
Bangladesh	January 1, 1995	Estonia	November 13, 1999
Barbados	January 1, 1995	European Union	January 1, 1995
Belgium	January 1, 1995	Fiji	January 14, 1996
Belize	January 1, 1995	Finland	January 1, 1995
Benin	February 22, 1996	France	January 1, 1995
Bolivia	September 12, 1995	Gabon	January 1, 1995
Botswana	May 31, 1995	Georgia	June 14, 2000
Brazil	January 1, 1995	Germany	January 1, 1995
Brunei Darussalam	January 1, 1995	Ghana	January 1, 1995
Bulgaria	December 1, 1996	Greece	January 1, 1995
Burkina Faso	June 3, 1995	Grenada	February 22, 1996
Burundi	July 23, 1995	Guatemala	July 21, 1995
Cambodia	October 12. 2004	Guinea	October 25, 1995
Cameroon	December 13, 1995	Guinea Bissau	May 31, 1995
Canada	January 1, 1995	Guyana	January 1, 1995
Cape Verde	July 23, 2008	Haiti	January 30, 1996
Central African Republic	May 31, 1995	Honduras	January 1, 1995
Chad	October 19, 1996	Hong Kong, China	January 1, 1995
Chile	January 1, 1995	Hungary	January 1, 1995
China	December 11, 2001	Iceland	January 1, 1995
Colombia	April 30, 1995	India	January 1, 1995
Congo	March 27, 1997	Indonesia	January 1, 1995
Costa Rica	January 1, 1995	Ireland	January 1, 1995
Côte d'Ivoire	January 1, 1995	Israel	April 21, 1995
Croatia	November 30, 2000	Italy	January 1, 1995
Cuba	April 20, 1995	Jamaica	March 9, 1995
Cyprus	July 30, 1995	Japan	January 1, 1995
Czech Republic	January 1, 1995	Jordan	April 11, 2000

[1]The accession packages of the Lao PDR and Tajikistan were approved by the General Council on October 26, 2012 and December 10, 2012, respectively. Both are securing acceptance of the package by their domestic authorities and will be WTO Members 30 days after notifying the WTO Secretariat of their acceptance, probably in 2013.

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Kenya	January 1, 1995	Poland	July 1, 1995
Korea, Republic of	January 1, 1995	Portugal	January 1, 1995
Kuwait	January 1, 1995	Qatar	January 13, 1996
Kyrgyz Republic	December 20, 1998	Romania	January 1, 1995
Latvia	February 10, 1999	Russian Federation	August 22, 2012
Lesotho	May 31, 1995	Rwanda	May 22, 1996
Liechtenstein	September 1, 1995	Saint Kitts and Nevis	February 21, 1996
Lithuania	May 31, 2001	Saint Lucia	January 1, 1995
Luxembourg	January 1, 1995	Saint Vincent and the Grenadines	January 1, 1995
Macao, China	January 1, 1995	Samoa	May 10, 2012
Macedonia	April 4, 2003	Saudi Arabia	December 11, 2005
Madagascar	November 17, 1995	Senegal	January 1, 1995
Malawi	May 31, 1995	Sierra Leone	July 23, 1995
Malaysia	January 1, 1995	Singapore	January 1, 1995
Maldives	May 31, 1995	Slovak Republic	January 1, 1995
Mali	May 31, 1995	Slovenia	July 30, 1995
Malta	January 1, 1995	Solomon Islands	July 26, 1996
Mauritania	May 31, 1995	South Africa	January 1, 1995
Mauritius	January 1, 1995	Spain	January 1, 1995
Mexico	January 1, 1995	Sri Lanka	January 1, 1995
Moldova	July 26, 2001	Suriname	January 1, 1995
Mongolia	January 29, 1997	Swaziland	January 1, 1995
Montenegro	April 29, 2012	Sweden	January 1, 1995
Morocco	January 1, 1995	Switzerland	July 1, 1995
Mozambique	August 26, 1995	Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002
Myanmar	January 1, 1995	Tanzania	January 1, 1995
Namibia	January 1, 1995	Thailand	January 1, 1995
Nepal	April 23, 2004	The Gambia	October 23, 1996
Netherlands - For the Kingdom in Europe and Netherlands Antilles	January 1, 1995	Togo	May 31, 1995
New Zealand	January 1, 1995	Tonga	July 27, 2007
Nicaragua	September 3, 1995	Trinidad and Tobago	March 1, 1995
Niger	December 13, 1996	Tunisia	March 29, 1995
Nigeria	January 1, 1995	Turkey	March 26, 1995
Norway	January 1, 1995	Uganda	January 1, 1995
Oman	November 9, 2000	Ukraine	May 16, 2008
Pakistan	January 1, 1995	United Arab Emirates	April 10, 1996
Panama	September 6, 1997	United Kingdom	January 1, 1995
Papua New Guinea	June 9, 1996	United States of America	January 1, 1995
Paraguay	January 1, 1995	Uruguay	January 1, 1995
Peru	January 1, 1995	Vanuatu	August 24, 2012
Philippines	January 1, 1995	Venezuela	January 1, 1995

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Vietnam	January 11, 2007	Zimbabwe	March 5, 1995
Zambia	January 1, 1995		

2012-2013 PROPOSED REVISED CONSOLIDATED WTO BUDGET FOR
THE WTO SECRETARIAT AND THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss Francs)

Section	2011	Inc/Dec 2012	2012	Inc/Dec 2013	2013	Diff 2012	Diff 2013
A							
Sect 1 Work Years							
(a) Salary	89,084,300	276,300	89,360,600	678,300	90,038,900	0.31%	0.76%
(b) Pension	18,770,100	251,000	19,021,100	225,900	19,247,000	1.34%	1.19%
(c) Common Staff Costs	18,456,200	163,600	18,619,800	(121,900)	18,497,900	0.89%	-0.65%
Sect 2 Temporary Assistance	15,992,700	(822,200)	15,170,500	70,000	15,240,500	-5.14%	0.46%
B							
Sect 3 Communications							
(a) Telecommunications	506,500	167,500	674,000	0	674,000	33.07%	0.00%
(b) Postal Charges	1,280,000	(174,300)	1,105,700	(60,000)	1,045,700	-13.62%	-5.43%
Sect 4 Building Facilities							
(a) Rental	625,000	68,000	693,000	585,000	1,278,000	10.88%	84.42%
(b) Utilities	1,929,000	0	1,929,000	(170,000)	1,759,000	0.00%	-8.81%
(c) Maintenance and Insurance	1,312,000	380,000	1,692,000	(200,000)	1,492,000	28.96%	-11.82%
Sect 5 Permanent Equipment							
(a) Permanent Equipment	1,025,000	285,000	1,310,000	100,000	1,410,000	27.80%	7.63%
(b) Permanent Equipment Lease	64,000	(20,000)	44,000	0	44,000	-31.25%	0.00%
Sect 6 Expendable	**1,281,000**	**(80,000)**	**1,201,000**	**0**	**1,201,000**	**-6.25%**	**0.00%**
Sect 7 Contractual Services							
(a) Reproduction	1,620,600	(150,000)	1,470,600	(100,000)	1,370,600	-9.26%	-6.80%
(b) Office Automation	3,365,000	0	3,365,000	0	3,365,000	0.00%	0.00%
(c) Other	238,000	0	238,000	0	238,000	0.00%	0.00%
(d) Security Outsourcing	4,013,000	(50,000)	3,963,000	0	3,963,000	-1.25%	0.00%
C							
Sect 8 Staff Overheads							
(a) Training	1,525,000	0	1,525,000	0	1,525,000	0.00%	0.00%
(b) Insurance	3,011,000	105,000	3,116,000	200,000	3,316,000	3.49%	6.42%
(c) Joint Services	255,000	0	255,000	0	255,000	0.00%	0.00%
(d) Miscellaneous	36,000	30,000	66,000	0	66,000	83.33%	0.00%
Sect 9 Missions							
(a) Missions Official	1,533,000	118,000	1,651,000	100,000	1,751,000	7.70%	6.06%
(b) Missions Technical	1,406,000	0	1,406,000	0	1,406,000	0.00%	0.00%
Sect 10 Trade Policy Courses	**3,315,000**	**(354,900)**	**2,960,100**	**(108,800)**	**2,851,300**	**-10.71%**	**-3.68%**
Sect 11 Various							
(a) Representation and Hospitality	299,000	0	299,000	500	299,500	0.00%	0.17%
(b) Dispute Settlement Panels	987,000	0	987,000	0	987,000	0.00%	0.00%
(c) Experts	50,000	0	50,000	0	50,000	0.00%	0.00%
(d) Appellate Body Members	793,500	0	793,500	0	793,500	0.00%	0.00%
(e) Library	700,000	(100,000)	600,000	0	600,000	-14.29%	0.00%
(f) Publications	803,000	(23,000)	780,000	1,000	781,000	-2.86%	0.13%
(g) Public Information Activities	380,000	(80,000)	300,000	0	300,000	-21.05%	0.00%
(h) External Auditors	50,000	0	50,000	0	50,000	0.00%	0.00%
(i) Ministerial Operating Fund	600,000	0	600,000	0	600,000	0.00%	0.00%
(j) ISO	57,000	0	57,000	0	57,000	0.00%	0.00%
(k) Other	130,000	10,000	140,000	0	140,000	7.69%	0.00%
(l) Appellate Body Operating Fund	1,600,000	0	1,600,000	0	1,600,000	0.00%	0.00%
D							
Sect 12 ITC	**18,911,000**	**0**	**18,911,000**	**0**	**18,911,000**	**0.00%**	**0.00%**
Grand Total	**196,003,900**	**0**	**196,003,900**	**1,200,000**	**197,203,900**	**0.00%**	**0.61%**

2012-2013 PROPOSED REVISED BUDGET FOR

THE WTO SECRETARIAT

(in Swiss Francs)

Section	2011	Inc/Dec 2012	2012	Inc/Dec 2013	2013	Diff 2012	Diff 2013
A							
Sect 1 Work Years							
(a) Salary	86,975,300	30,800	87,006,100	586,500	87,592,600	0.04%	0.67%
(b) Pension	18,326,100	196,900	18,523,000	203,800	18,726,800	1.07%	1.10%
(c) Common Staff Costs	18,027,200	57,400	18,084,600	(71,200)	18,013,400	0.32%	-0.39%
Sect 2 Temporary Assistance	**15,927,100**	(822,200)	15,104,900	70,000	15,174,900	-5.16%	0.46%
B							
Sect 3 Communications							
(a) Telecommunications	500,000	167,500	667,500	0	667,500	33.50%	0.00%
(b) Postal Charges	1,280,000	(174,300)	1,105,700	(60,000)	1,045,700	-13.62%	-5.43%
Sect 4 Building Facilities							
(a) Rental	625,000	68,000	693,000	585,000	1,278,000	10.88%	84.42%
(b) Utilities	1,916,000	0	1,916,000	(170,000)	1,746,000	0.00%	-8.87%
(c) Maintenance and Insurance	1,307,000	380,000	1,687,000	(200,000)	1,487,000	29.07%	-11.86%
Sect 5 Permanent Equipment							
(a) Permanent Equipment	1,000,000	285,000	1,285,000	100,000	1,385,000	28.50%	7.78%
(b) Permanent Equipment Lease	64,000	(20,000)	44,000	0	44,000	-31.25%	0.00%
Sect 6 Expendable	**1,261,000**	**(80,000)**	**1,181,000**	**0**	**1,181,000**	**-6.34%**	**0.00%**
Sect 7 Contractual Services							
(a) Reproduction	1,605,600	(150,000)	1,455,600	(100,000)	1,355,600	-9.34%	-6.87%
(b) Office Automation	3,355,000	0	3,355,000	0	3,355,000	0.00%	0.00%
(c) Other	238,000	0	238,000	0	238,000	0.00%	0.00%
(d) Security Outsourcing	4,013,000	(50,000)	3,963,000	0	3,963,000	-1.25%	0.00%
C							
Sect 8 Staff Overheads							
(a) Training	1,500,000	0	1,500,000	0	1,500,000	0.00%	0.00%
(b) Insurance	2,999,000	105,000	3,104,000	200,000	3,304,000	3.50%	6.44%
(c) Joint Services	255,000	0	255,000	0	255,000	0.00%	0.00%
(d) Miscellaneous	34,000	30,000	64,000	0	64,000	88.24%	0.00%
Sect 9 Missions							
(a) Missions Official	1,496,000	105,000	1,601,000	100,000	1,701,000	7.02%	6.25%
(b) Missions Technical	1,406,000	0	1,406,000	0	1,406,000	0.00%	0.00%
Sect 10 Trade Policy Courses	**3,315,000**	**(354,900)**	**2,960,100**	**(108,800)**	**2,851,300**	**-10.71%**	**-3.68%**
Sect 11 Various							
(a) Representation and Hospitality	298,000	0	298,000	500	298,500	0.00%	0.17%
(b) Dispute Settlement Panels	987,000	0	987,000	0	987,000	0.00%	0.00%
(c) Experts	50,000	0	50,000	0	50,000	0.00%	0.00%
(e) Library	690,000	(100,000)	590,000	0	590,000	-14.49%	0.00%
(f) Publications	803,000	(23,000)	780,000	1,000	781,000	-2.86%	0.13%
(g) Public Information Activities	380,000	(80,000)	300,000	0	300,000	-21.05%	0.00%
(h) External Auditors	50,000	0	50,000	0	50,000	0.00%	0.00%
(i) Ministerial Operating Fund	600,000	0	600,000	0	600,000	0.00%	0.00%
(j) ISO	57,000	0	57,000	0	57,000	0.00%	0.00%
(k) Other	130,000	10,000	140,000	0	140,000	7.69%	0.00%
D							
Sect 12 ITC	**18,911,000**	**0**	**18,911,000**	**0**	**18,911,000**	**0.00%**	**0.00%**
Grand Total	**190,381,300**	**(418,800)**	**189,962,500**	**1,136,800**	**191,099,300**	**-0.22%**	**0.60%**

2012-2013 PROPOSED REVISED BUDGET FOR
THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss Francs)

Section	2011	Inc/Dec 2012	2012	Inc/Dec 2013	2013	Diff 2012	Diff 2013
A							
Sect 1 Work Years							
(a) Salary	2,109,000	245,500	2,354,500	91,800	2,446,300	11.64%	3.90%
(b) Pension	444,000	54,100	498,100	22,100	520,200	12.18%	4.44%
(c) Common Staff Costs	429,000	106,200	535,200	(50,700)	484,500	24.76%	-9.47%
Sect 2 Temporary Assistance	**65,600**	**0**	**65,600**	**0**	**65,600**	**0.00**%	**0.00**%
B							
Sect 3 Communications							
(a) Telecommunications	6,500	0	6,500	0	6,500	0.00%	0.00%
Sect 4 Building Facilities							
(b) Utilities	13,000	0	13,000	0	13,000	0.00%	0.00%
(c) Maintenance and Insurance	5,000	0	5,000	0	5,000	0.00%	0.00%
Sect 5 Permanent Equipment							
(a)Permanent Equipment	25,000	0	25,000	0	25,000	0.00%	0.00%
Sect 6 Expendable	**20,000**	**0**	**20,000**	**0**	**20,000**	**0.00**%	**0.00**%
Sect 7 Contractual Services							
(a) Reproduction	15,000	0	15,000	0	15,000	0.00%	0.00%
(b) Office Automation	10,000	0	10,000	0	10,000	0.00%	0.00%
C							
Sect 8 Staff Overheads							
(a) Training	25,000	0	25,000	0	25,000	0.00%	0.00%
(b) Insurance	12,000	0	12,000	0	12,000	0.00%	0.00%
(d) Miscellaneous	2,000	0	2,000	0	2,000	0.00%	0.00%
Sect 9 Missions							
(a) Missions Official	37,000	13,000	50,000	0	50,000	35.14%	0.00%
Sect 11 Various							
(a) Representation and Hospitality	1,000	0	1,000	0	1,000	0.00%	0.00%
(d) Appellate Body Members	793,500	0	793,500	0	793,500	0.00%	0.00%
(e) Library	10,000	0	10,000	0	10,000	0.00%	0.00%
(l) Appellate Body Operating Fund	1,600,000	0	1,600,000	0	1,600,000	0.00%	0.00%
Grand Total	**5,622,600**	**418,800**	**6,041,400**	**63,200**	**6,104,600**	**7.45%**	**1.05%**

2012 DRAFT SCALE OF CONTRIBUTIONS
(in Swiss Francs with a minimum contribution of 0.015%)

MEMBER	2012 Contribution CHF	2012 Contribution	Interest[2] earned in 2010 for 2012 CHF	2012 net Contribution CHF
Albania	54,404	0.028%	46	54,358
Angola	441,061	0.227%	156	440,905
Antigua and Barbuda	29,145	0.015%	18	29,127
Argentina	716,967	0.369%	529	716,438
Armenia	31,088	0.016%	12	31,076
Australia	2,380,175	1.225%	2,513	2,377,662
Austria	2,432,636	1.252%	2,217	2,430,419
Bahrain	184,585	0.095%	191	184,394
Bangladesh	211,787	0.109%	101	211,686
Barbados	29,145	0.015%	4	29,141
Belgium	4,414,496	2.272%	5,184	4,409,312
Belize	29,145	0.015%	22	29,123
Benin	29,145	0.015%	0	29,145
Bolivia, Plurinational State of	58,290	0.030%	0	58,290
Botswana	62,176	0.032%	24	62,152
Brazil	2,088,725	1.075%	1,590	2,087,135
Brunei Darussalam	75,777	0.039%	71	75,706
Bulgaria	340,025	0.175%	338	339,687
Burkina Faso	29,145	0.015%	0	29,145
Burundi	29,145	0.015%	0	29,145
Cambodia	73,834	0.038%	13	73,821
Cameroon	71,891	0.037%	0	71,891
Canada	5,727,964	2.948%	7,319	5,720,645
Cape Verde	29,145	0.015%	17	29,128
Central African Republic	29,145	0.015%	0	29,145
Chad	46,632	0.024%	0	46,632
Chile	748,055	0.385%	160	747,895
China, People's Republic of	14,156,698	7.286%	3,779	14,152,919
Colombia	437,175	0.225%	407	436,768
Congo	52,461	0.027%	0	52,461
Costa Rica	161,269	0.083%	195	161,074
Côte d'Ivoire	116,580	0.060%	0	116,580
Croatia	322,538	0.166%	359	322,179
Cuba	145,725	0.075%	86	145,639
Cyprus	139,896	0.072%	141	139,755
Czech Republic	1,581,602	0.814%	1,626	1,579,976
Democratic Republic of the Congo	68,005	0.035%	0	68,005
Denmark	1,884,710	0.970%	2,192	1,882,518
Djibouti	29,145	0.015%	0	29,145
Dominica	29,145	0.015%	0	29,145
Dominican Republic	163,212	0.084%	0	163,212
Ecuador	198,186	0.102%	191	197,995
Egypt	579,014	0.298%	471	578,543

[2] Interest earned in 2010 under the Early Payment Encouragement Scheme (L/6384) to be deducted from the 2012 contributions.

MEMBER	2012 Contribution CHF	2012 Contribution	Interest[2] earned in 2010 for 2012 CHF	2012 net Contribution CHF
El Salvador	91,321	0.047%	4	91,317
Estonia	188,471	0.097%	214	188,257
European Union	0	0.000%	0	0
Fiji	29,145	0.015%	29	29,116
Finland	1,239,634	0.638%	1,342	1,238,292
Former Yugoslav Republic of Macedonia	58,290	0.030%	0	58,290
France	8,545,314	4.398%	9,914	8,535,400
Gabon	40,803	0.021%	0	40,803
Gambia	29,145	0.015%	0	29,145
Georgia	52,461	0.027%	51	52,410
Germany	17,135,317	8.819%	19,374	17,115,943
Ghana	97,150	0.050%	0	97,150
Greece	973,443	0.501%	812	972,631
Grenada	29,145	0.015%	0	29,145
Guatemala	137,953	0.071%	107	137,846
Guinea	29,145	0.015%	0	29,145
Guinea-Bissau	29,145	0.015%	0	29,145
Guyana	29,145	0.015%	23	29,122
Haiti	29,145	0.015%	14	29,131
Honduras	99,093	0.051%	0	99,093
Hong Kong, China	5,073,173	2.611%	6,160	5,067,013
Hungary	1,268,779	0.653%	0	1,268,779
Iceland	89,378	0.046%	107	89,271
India	3,240,924	1.668%	1,029	3,239,895
Indonesia	1,509,711	0.777%	92	1,509,619
Ireland	2,300,512	1.184%	2,861	2,297,651
Israel	866,578	0.446%	1,014	865,564
Italy	7,074,463	3.641%	6,872	7,067,591
Jamaica	77,720	0.040%	12	77,708
Japan	9,310,856	4.792%	6,574	9,304,282
Jordan	155,440	0.080%	153	155,287
Kenya	101,036	0.052%	53	100,983
Kingdom of Saudi Arabia	2,261,652	1.164%	1,441	2,260,211
Korea, Republic of	5,298,561	2.727%	5,062	5,293,499
Kuwait	617,874	0.318%	451	617,423
Kyrgyz Republic	29,145	0.015%	35	29,110
Latvia	159,326	0.082%	170	159,156
Lesotho	29,145	0.015%	16	29,129
Liechtenstein	46,632	0.024%	56	46,576
Lithuania	281,735	0.145%	58	281,677
Luxembourg	825,775	0.425%	0	825,775
Macao, China	163,212	0.084%	124	163,088
Madagascar	29,145	0.015%	0	29,145
Malawi	29,145	0.015%	0	29,145
Malaysia	2,209,191	1.137%	1,810	2,207,381
Maldives	29,145	0.015%	25	29,120
Mali	29,145	0.015%	0	29,145
Malta	79,663	0.041%	93	79,570
Mauritania	29,145	0.015%	0	29,145

MEMBER	2012 Contribution CHF	2012 Contribution	Interest[2] earned in 2010 for 2012 CHF	2012 net Contribution CHF
Mauritius	60,233	0.031%	70	60,163
Mexico	3,516,830	1.810%	3,527	3,513,303
Moldova	36,917	0.019%	34	36,883
Mongolia	31,088	0.016%	21	31,067
Morocco	367,227	0.189%	270	366,957
Mozambique	40,803	0.021%	33	40,770
Myanmar, Union of	38,860	0.020%	25	38,835
Namibia	44,689	0.023%	43	44,646
Nepal	31,088	0.016%	18	31,070
Netherlands	6,272,004	3.228%	6,588	6,265,416
New Zealand	444,947	0.229%	541	444,406
Nicaragua	44,689	0.023%	0	44,689
Niger	29,145	0.015%	0	29,145
Nigeria	699,480	0.360%	63	699,417
Norway	1,756,472	0.904%	1,796	1,754,676
Oman	293,393	0.151%	149	293,244
Pakistan	363,341	0.187%	376	362,965
Panama	178,756	0.092%	130	178,626
Papua New Guinea	48,575	0.025%	14	48,561
Paraguay	81,606	0.042%	14	81,592
Peru	330,310	0.170%	0	330,310
Philippines	722,796	0.372%	774	722,022
Poland	2,115,927	1.089%	2,254	2,113,673
Portugal	996,759	0.513%	704	996,055
Qatar	443,004	0.228%	5	442,999
Romania	709,195	0.365%	584	708,611
Rwanda	29,145	0.015%	31	29,114
Saint Kitts and Nevis	29,145	0.015%	0	29,145
Saint Lucia	29,145	0.015%	0	29,145
Saint Vincent and the Grenadines	29,145	0.015%	14	29,131
Senegal	46,632	0.024%	32	46,600
Sierra Leone	29,145	0.015%	0	29,145
Singapore	4,379,522	2.254%	5,062	4,374,460
Slovak Republic	744,169	0.383%	653	743,516
Slovenia	376,942	0.194%	412	376,530
Solomon Islands	29,145	0.015%	28	29,117
South Africa	1,084,194	0.558%	1,225	1,082,969
Spain	4,995,453	2.571%	3,643	4,991,810
Sri Lanka	136,010	0.070%	28	135,982
Suriname	29,145	0.015%	25	29,120
Swaziland	29,145	0.015%	15	29,130
Sweden	2,485,097	1.279%	2,974	2,482,123
Switzerland	2,642,480	1.360%	3,127	2,639,353
Chinese Taipei	3,122,401	1.607%	3,815	3,118,586
Tanzania, United Republic of	68,005	0.035%	50	67,955
Thailand	2,110,098	1.086%	2,375	2,107,723
Togo	29,145	0.015%	0	29,145
Tonga	29,145	0.015%	19	29,126
Trinidad and Tobago	132,124	0.068%	122	132,002

MEMBER	2012 Contribution CHF	2012 Contribution	Interest[2] earned in 2010 for 2012 CHF	2012 net Contribution CHF
Tunisia	248,704	0.128%	132	248,572
Turkey	1,863,337	0.959%	1,399	1,861,938
Uganda	40,803	0.021%	0	40,803
Ukraine	788,858	0.406%	372	788,486
United Arab Emirates	2,150,901	1.107%	934	2,149,967
United Kingdom	9,019,406	4.642%	10,441	9,008,965
United States	23,687,113	12.191%	922	23,686,191
Uruguay	89,378	0.046%	39	89,339
Venezuela, Bolivarian Republic of	742,226	0.382%	0	742,226
Viet Nam	736,397	0.379%	58	736,339
Zambia	52,461	0.027%	20	52,441
Zimbabwe	29,145	0.015%	27	29,118
TOTAL	**194,300,000**	**100.000**%	**152,151**	**194,147,849**

WAIVERS CURRENTLY IN FORCE
(as of December 31, 2012)

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2012[1]
Granted in 2012				
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions[2]	WT/L/873	December 11, 2012	December 31, 2013	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions[3]	WT/L/874	December 11, 2012	December31, 2013	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions[4]	WT/L/875	December 11, 2012	December 31, 2013	-
Kimberly Process Certification Scheme for Rough Diamonds - Extension of Waiver[5]	WT/L/876	December 11, 2012	December 31, 2018	-
Cuba – Article XV:6 – Extension of waiver	WT/L/850	February 14, 2012	December 31, 2016	WT/L/867

[1] Applicable if so stipulated in the corresponding waiver Decision.

[2] The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; China; Croatia; European Union; Iceland; India; Malaysia; and Uruguay.

[3] The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; Dominican Republic; El Salvador ; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Philippines; Singapore; Switzerland; Thailand; United States; and Uruguay.

[4] The Members which have requested to be covered under this waiver are: Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea, Republic of; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States.

[5] Annex: Australia, Botswana, Brazil, Canada, Croatia, European Union, India, Israel, Japan, Korea, Mexico, New Zealand, Norway, Philippines, Russian Federation, Singapore, Chinese Taipei, Thailand, Turkey, United States, and Bolivarian Republic of Venezuela.

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2012[1]
European Union – Preferences for Pakistan	WT/L/851	February14, 2012	December 31, 2013	-
Previously granted – in force in 2012				
Preferential Treatment to Services and Service Suppliers of Least-Developed Countries	WT/L/847	December 17, 2011	December 17, 2026	-
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions[6]	WT/L/832	November 30, 2011	December 31, 2012	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions[7]	WT/L/833	November 30, 2011	December 31, 2012	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions[8]	WT/L/834	November 30, 2011	December 31, 2012	-
CARIBCAN	WT/L/835	November 30, 2011	December 31, 2013	WT/L/868
European Union - Application of Autonomous Preferential Treatment to the Western Balkans	WT/L/836	November 30, 2011	December 31, 2016	WT/L/870 and Corr. 1

[6] The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; China; Croatia; European Union; Iceland; India; Malaysia; Mexico; Thailand; and Uruguay.

[7] The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Philippines; Singapore; Switzerland; Thailand; United States and Uruguay.

[8] The Members which have requested to be covered under this waiver are: Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Republic of Korea; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand and United States.

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2012[1]
Cape Verde – Implementation of Article VII of GATT 1994 and of the Agreement on Customs Valuation	WT/L/812	May 3, 2011	January 1, 2012	-
Preferential Tariff Treatment for Least-Developed Countries – Decision on Extension of waiver	WT/L/759	May 27, 2009	June 30, 2019	-
United States – Andean Trade Preference Act – Renewal of waiver	WT/L/755	May 27, 2009	December 31, 2014	WT/L/860
United States – African Growth and Opportunity Act	WT/L/754	May 27, 2009	September 30, 2015	WT/L/859
United States - Caribbean Basin Economic Recovery Act – Renewal of waiver	WT/L/753	May27, 2009	December 31, 2014	WT/L/858
European Communities – Application of Autonomous Preferential Treatment to Moldova	WT/L/722	May 7, 2008	December 31 2013	WT/L/861
Mongolia - Export duties on raw cashmere	WT/L/695	July 27, 2007	January 29, 2012	-
United States – Former Trust Territory of the Pacific Islands	WT/L/694	July 27, 2007	December 31, 2016	WT/L/857
Kimberley Process Certification Scheme for rough diamonds[9]	WT/L/676	December 15, 2006	December 31, 2012	-
Implementation of Para. 6 of the Doha Declaration on the TRIPS Agreement and Public Health	WT/L/540 and Corr.1	August 30, 2003	See WT/L/540 and Corr.1	IP/C/63
Least-Developed Country Members – Obligations under Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products	WT/L/478	July 8 2002	January 1, 2016	-

[9] Annex: Australia; Botswana; Brazil; Canada; Croatia; India; Israel; Japan; Korea; Mauritius; Mexico; Norway; Philippines; Sierra Leone; Chinese Taipei; Thailand; United Arab Emirates; United States and Venezuela.

Number of WTO Staff Members by Country on 1 January 2013
(As per information available on December 18, 2012)

Country	Senior	Professional	Support	Total
Albania			1	1
Argentina		5	5	10
Australia		8	2	10
Austria		5		5
Bangladesh		1		1
Barbados		1		1
Belgium		1	4	5
Benin		1		1
Bolivia		3		3
Brazil		7	2	9
Bulgaria		3		3
Burundi		1		1
Canada		20	1	21
Chad		1		1
Chile	1	1	2	4
China		9	1	10
Colombia		9	2	11
Congo, The Democratic Republic		1		1
Costa Rica		2		2
Côte d'Ivoire			1	1
Croatia		1		1
Cuba			1	1
Denmark		1	1	2
Ecuador		3		3
Egypt		5		5
Estonia		1		1
Finland		2	3	5
France	1	55	128	184
Germany		21	2	23
Ghana		2		2
Greece		3	2	5
Guatemala		1		1
Guinea		3		3
Honduras			1	1
Hungary		1	1	2
India	1	10	1	12
Ireland		5	7	12
Italy		13	3	16
Jamaica		1		1
Japan		4		4
Jordan		1		1
Kenya		1		1
Korea, Republic of		5		5
Malawi		1		1
Malaysia		2	1	3
Mauritius		1	1	2
Mexico		5	1	6
Morocco		3		3
Nepal			1	1
Netherlands		5	1	6
New Zealand		1	1	2
Nigeria		1		1
Norway		1	1	2

Pakistan		2		2
Paraguay			1	1
Peru		2	6	8
Philippines		8	4	12
Poland		2	2	4
Portugal		1	1	2
Romania		1	1	2
Rwanda	1	1		2
Saint Lucia		1		1
Senegal		1	1	2
Sierra Leone		1		1
South Africa		1		1
Spain		22	20	42
Sri Lanka		1	2	3
Sweden		3		3
Switzerland		19	19	38
Tanzania		1		1
Thailand		1		1
Trinidad and Tobago		1		1
Tunisia		3	2	5
Turkey		4		4
Uganda		3		3
United Kingdom		27	42	69
United States of America	1	24	4	29
Uruguay		3	5	8
Venezuela		4	1	5
Vietnam		1		1
Zambia		2		2
Zimbabwe		1	1	2
Total	5	379	290	674

Note: Senior Management includes the Director-General and Deputies Director-General.

Source: WTO Secretariat as of 18 December 2012.

WTO ACCESSION APPLICATIONS AND STATUS (as of 01-01-13)[1]

Applicant	Status of Multilateral and Bilateral Work
Afghanistan* (2004)	Second and Third Working Parties (WP) meetings held in June and December 2012. Bilateral market access offers have been circulated. The United States is providing technical assistance through the United States Agency for International Development (USAID), including drafting documentation, training, legal drafting, and institution building.
Algeria (1987)	Most recent WP meeting held in January 2008 to review draft WP report and status of market access negotiations. No WP meetings held since 2009. Algeria has requested the help of the WTO Secretariat to resume its WTO accession process and a next meeting of the Working Party is likely in 2013.
Andorra (1997)	Inactive. Last WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers.
Azerbaijan (1997)	Ninth and Tenth WP meetings held in February and December 2012. Progress was recorded in bilateral market access negotiations on goods and services. Next meeting will be convened when Azerbaijan has submitted responses to WTO Members' questions and comments from the December meeting, including revised goods and services market access offers.
The Bahamas (2001)	Second WP meeting was held in June 2012. Next WP meeting contemplated in early 2013. Bilateral market access negotiations for goods and services are underway based on initial offers circulated in March 2012. The next Working Party meeting will be held when The Bahamas circulates responses to comments and requests for information and additional documentation provided by WTO Members after the June meeting.
Belarus (1993)	Belarus' last WP meeting was in October 2005. Chairman's Consultations since that time have confirmed willingness of WP Members to resume Working Party deliberations based on Belarus' demonstration that it intends to implement WTO provisions. Belarus has provided updated documentation on its trade regime, some additional legislation, and an improved offer on services market access. Revised draft WP report in preparation based on these submissions and additional information on Belarus' participation in a Customs Union (CU) with Russia and Kazakhstan. WP meeting, possibly in informal mode, contemplated in 2013.
Bhutan * (1999)	Inactive. Fourth WP meeting held in January 2008 to review additional documentation and conduct market access negotiations for goods and services. Bhutan did not seek further work on its WTO accession in 2011, and no further meetings are scheduled at this time.

* Designates "least developed country" applicant.

[1] "Applicant" column includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

Applicant	Status of Multilateral and Bilateral Work
Bosnia and Herzegovina (1999)	Tenth WP meeting held October 2012.. Bilateral market access negotiations with the United States are well advanced, though more work is required on goods in particular. The review of Bosnia and Herzegovina's trade regime in the Working Party is nearing completion based on comprehensive comments and drafting suggestions submitted by the United States and other WTO Members after the October 2012 meeting.
Comoros * (2007)	Application accepted at October 2007 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Equatorial* Guinea (2008)	Application accepted at February 2008 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Ethiopia* (2003)	The third meeting of Ethiopia's Working Party was held in April 2012. The next Working Party meeting will be held upon circulation of the necessary inputs. Bilateral market access negotiations are underway, on the basis of Ethiopia's initial offer on market access for goods, circulated in the first half of 2012. Ethiopia has not yet circulated an offer on market access for services. The United States provides technical assistance through USAID in the form of a resident advisor for drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Iraq (2004)	Iraq's last WP meeting was held in April 2008. A third WP meeting will be scheduled following Iraq's submission of initial market access offers for goods and services and written responses to questions and comments from the previous meeting. The United States provided technical assistance through USAID, to help with drafting documentation, training, legal drafting, and institution building.
Iran (2005)	Iran submitted its Memorandum on Foreign Trade Regime to activate the accession negotiations in November 2009, and provided responses to questions and comments on it and other documentation in December 2011. The General Council Chairman is consulting with WTO Members on the designation of a WP Chair. Once Iran's responses to the written questions and other documentation have been circulated to and reviewed by the WTO Members, and a WP Chair has been selected, a first WP meeting may be called.
Kazakhstan (1996)	In four WP meetings (April, July, October, and December) during 2012, Kazakhstan made significant progress towards completion of its WTO accession process. A revised WP report document updated and expanded information on Kazakhstan's trade regime, adding information on Kazakhstan's participation in in the Customs Union with Russia and Belarus. Consolidation and verification of goods and services bilateral market access agreements were initiated, and outstanding rules issues identified. Kazakhstan also provided updated information on agricultural supports and export subsidies. Substantial technical work remains to finalize Kazakhstan's market access schedules, complete legislative implementation of WTO provisions, and resolve remaining issues. Kazakhstan seeks to complete its accession process in 2013.

Applicant	Status of Multilateral and Bilateral Work
Lao PDR* (1998)	Working Party deliberations were completed in 2012 in WP meetings in March, July and September, and Lao PDR completed its market access negotiations at that time. The WTO General Council approved the terms of accession on October 26, 2012, and Lao PDR will become a Member of the WTO 30 days after notifying the WTO Secretariat that its domestic authorities have ratified/accepted the accession package. In 2012, the United States provided technical assistance through USAID in the form of a resident advisor for drafting documentation, training, and legal drafting to help complete the accession negotiations and to lay the foundation for further assistance as WTO commitments are implemented.
Lebanon (1999)	There have been no WP meetings on Lebanon's WTO accession since October 2009. Lebanon's efforts on legislative implementation remain blocked by domestic political issues, delaying completion of the accession process. Lebanon has provided an improved offer on services market access but there has been no movement on goods. At this time, no WP meeting is scheduled.
Liberia* (2007)	Liberia's first WP meeting was held in July 2012. The next meeting will be convened after Liberia submits its replies to Members questions and comments. In June 2010, the MCC Board approved a Threshold Program for Liberia that includes legal assistance connected to Liberia's WTO accession. The United States is providing technical assistance, including a resident advisor.
Libya (2004)	Application accepted at July 2004 General Council meeting. No documentation or market access offers circulated to date.
Sao Tome and Principe* (2005)	Application accepted at May 2005 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Serbia (2005)	Serbia's twelfth WP meeting was held in March 2012 to review revised draft WP report and other new documentation and to assess status of legislative implementation, which is generally proceeding well. Serbia still has not passed a corrective amendment to the problematic Serbian "GMO law" which bans trade in biotechnology products. Bilateral negotiations on market access are near completion, pending a final agreement on agricultural tariffs.
The Seychelles (1995)	Third WP meeting was held in July 2012. Bilateral market access negotiations are underway on the basis of Seychelles' latest offers on market access for goods and services, circulated in the first half of 2012.
Sudan* (1995)	Inactive. Second WP meeting held March 10, 2004. Market access offers for goods and services were last tabled in October 2006.
Syria (2010)	Application for accession to the WTO first circulated in October 2001. Application accepted at May 2010 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.

Applicant	Status of Multilateral and Bilateral Work
Tajikistan (2001)	The seventh, eighth, and ninth WP meetings were held in March, July, and October 2012. Tajikistan completed its WTO accession process when the accession package was approved by the General Council on December 10, 2012. In December 2012, Tajikistan began seeking ratification/acceptance of its accession package from its domestic authorities so that it could become a WTO Member, most likely early in 2013.
Uzbekistan (1995)	Inactive. Third WP meeting was held in October 2005 to review additional documentation and initial market access offers. No meetings have been held since that time. Uzbekistan has requested the help of the WTO Secretariat to resume its WTO accession process and a meeting of the Working Party is possible in 2013, based on revised and updated documentation.
Yemen * (2000)	The tenth WP meeting was held in July and negotiations on WTO provisions are completed. Yemen also substantially concluded bilateral market access negotiations on goods and services during 2012, with the exception of tariff negotiations with Ukraine which are still in the process of verification. Negotiations could conclude early in 2013. The United States has provided help with orientation and the development of documentation through USAID and the United States - Middle East Partnership Initiative.

WORLD TRADE ORGANIZATION

WT/DSB/44/Rev.21
7 January 2013

(13-0041)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Revision

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

The attached is a revised consolidated list of governmental and non-governmental panelists.[1] The list is based on the previous indicative list issued on 3 December 2012 (WT/DSB/44/Rev.20). It includes an additional name approved by the DSB at its meeting on 17 December 2012[2] and reflects deletions from the previous list as proposed by Members and for other appropriate reasons. Any future modifications or additions to this list submitted by Members will be circulated in periodic revisions of this list.

For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

[1] Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (CTNC Division).
[2] See document: WT/DSB/W/495.

MEMBER	NAME	SECTORAL EXPERIENCE
ARGENTINA	BARDONESCHI, Mr. Rodrigo C.	Trade in Goods
	CHIARADIA, Mr. Alfredo Vicente	Trade in Goods
	DUMONT, Mr. Alberto Juan	Trade in Goods
	LUNAZZI, Mr. Gustavo Nerio	Trade in Goods
	MAKUC, Mr. Adrían Jorge	Trade in Services
	MÉNDEZ, Mr. Gustavo Héctor	Trade in Goods
	MORELLI, Mr. Esteban Andrés	Trade in Goods
	NEGRO, Ms. Sandra Cecilia	Trade in Goods
	NISCOVOLOS, Mr. Luis Pablo	Trade in Goods and Services
	PAN, Ms. Julia Adriana Gabriela	Trade in Goods
	PÉREZ GABILONDO, Mr. José Luis	Trade in Goods; TRIPS
	PETRI, Mr. Gerardo Luis	Trade in Goods
	PIÑEIRO, Mr. Martín Enrique	Trade in Goods
	RAITERI, Ms. María Valeria	Trade in Goods
	REGÚNAGA, Mr. Marcelo	Trade in Goods
	RIABOI, Mr. Jorge B.	Trade in Goods
AUSTRALIA	CHESTER, Mr. Douglas Owen	TRIPS
	CHURCHE, Mr. Milton	Trade in Goods
	DEADY, Mr. Stephen	Trade in Goods
	FARBENBLOOM, Mr. Simon	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
AUSTRALIA (cont'd)	GALLAGHER, Mr. Peter	Trade in Goods; TRIPS
	GOSPER, Mr. Bruce	Trade in Goods
	HOLMES, Ms. Patricia Ann	Trade in Goods
	JENNINGS, Mr. Mark	Trade in Goods; TRIPS
	MITCHELL, Mr. Andrew	Trade in Goods and Services; TRIPS
	MORETTA, Mr. Remo	Trade in Goods and Services
	MULGREW, Mr. Michael	Trade in Goods
	MYLER, Mr. Paul	Trade in Goods and Services
	O'CONNOR, Mr. Paul Richard	Trade in Goods
	RAPER, Ms. Cathy	Trade in Goods and Services
	SIN FAR LEE, Ms. Stephanie	Trade in Goods
	SPENCER, Mr. David	Trade in Goods
	VOON, Ms. Tania Su Lien	Trade in Goods and Services; TRIPS
	WITBREUK, Ms. Trudy	Trade in Goods and Services
	YOUNG, Ms. Elizabeth	Trade in Goods
BOLIVARIAN REPUBLIC OF VENEZUELA	ESCOBAR, Mr. José Benjamín	Trade in Services
	MARQUEZ, Mr. Guillermo	Trade in Services
	ROJAS PENSO, Mr. Juan Francisco	Trade in Goods and Services
BOLIVIA, PLURINATIONAL STATE OF	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
BRAZIL	ABREU, Mr. Marcelo de Paiva	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
BRAZIL (cont'd)	BARRAL, Mr. Welber Oliveira	Trade in Goods
	BARTHEL-ROSA, Mr. Paulo	Trade in Goods
	BASSO, Ms. Maristela	Trade in Goods; TRIPS
	LEMME, Ms. Marta Calmon	Trade in Goods
	MAGALHÃES, Mr. José Carlos	Trade in Goods
	MARCONINI, Mr. Mario	Trade in Services
	MOURA ROCHA, Mr. Bolívar	Trade in Services
	NAIDIN, Ms. Leane Cornet	Trade in Goods
	RIOS, Ms. Sandra Polônia	Trade in Goods
	THORSTENSEN, Ms. Vera Helena	Trade in Goods
CAMEROON	NGANGJOH HODU, Mr. Yenkong	Trade in Goods and Services; TRIPS
CANADA	BERNIER, Mr. Ivan	Trade in Goods and Services
	BRADFORD, Mr. Meriel V. M.	Trade in Goods and Services
	BROWN, Ms. Catherine Anne	Trade in Goods and Services; TRIPS
	CLARK, Mr. Peter James	Trade in Goods and Services
	CLOSE, Ms. Patricia Margaret	Trade in Goods
	DE MESTRAL, Mr. Armand	Trade in Goods
	EYTON, Mr. Anthony T.	Trade in Goods
	GHERSON, Mr. Randolph	Trade in Goods
	GOODWIN, Ms. Kirsten M.	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
CANADA (cont'd)	HALLIDAY, Mr. Anthony L.	Trade in Goods and Services
	HERMAN, Mr. Lawrence L.	Trade in Goods
	HINES, Mr. Wilfred Roy	Trade in Goods
	MACMILLAN, Ms. Kathleen E.	Trade in Goods
	MCRAE, Mr. Donald Malcolm	Trade in Goods
	OSTRY, Ms. Sylvia	Trade in Goods
	RITCHIE, Mr. Gordon	Trade in Goods
	THOMAS, Mr. Christopher	Trade in Goods and Services
	WINHAM, Mr. Gilbert R.	Trade in Goods
CHILE	BIGGS, Mr. Gonzalo	Trade in Goods
	ERNST, Mr. Felipe	Trade in Goods and Services
	ESPINOZA, Mr. Alvaro	Trade in Goods
	MATUS, Mr. Mario	Trade in Goods
	MLADINIC, Mr. Carlos	Trade in Goods
	PEÑA, Ms. Gloria	Trade in Goods
	SAEZ, Mr. Sebastián	Trade in Goods and Services
	SATELER, Mr. Ricardo	TRIPS
	SOSA, Ms. Luz	Trade in Goods and Services
	TIRONI, Mr. Ernesto	Trade in Goods
CHINA	CHEN, Mr. Yusong	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
CHINA (cont'd)	DONG, Mr. Shizhong	Trade in Goods and Services; TRIPS
	E, Mr. Defeng	Trade in Goods
	GONG, Mr. Baihua	Trade in Goods and Services; TRIPS
	HAN, Mr. Liyu	Trade in Goods; TRIPS
	HONG, Mr. Xiaodong	Trade in Services
	HUANG, Mr. Dongli	Trade in Goods; TRIPS
	LI, Mr. Enheng	Trade in Goods and Services
	LI, Ms. Yongjie	Trade in Goods and Services
	LI, Mr. Zhongzhou	Trade in Goods
	SHI, Ms. Xiaoli	Trade in Goods
	SUO, Mr. Bicheng	Trade in Goods
	YANG, Mr. Guohua	Trade in Goods; TRIPS
	ZENG, Mr. Lingliang	Trade in Goods
	ZHANG, Ms. Liping	Trade in Goods and Services
	ZHANG, Mr. Naigen	TRIPS
	ZHANG, Mr. Xiangchen	Trade in Goods and Services; TRIPS
	ZHANG, Mr. Yuqing	Trade in Goods and Services; TRIPS
	ZHU, Ms. Lanye	Trade in Services; TRIPS
COLOMBIA	IBARRA PARDO, Mr. Gabriel	Trade in Goods
	JARAMILLO, Mr. Felipe	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
COLOMBIA (cont'd)	LOZANO FERRO, Ms. Olga Lucia	Trade in Goods; TRIPS
	OROZCO GOMEZ, Ms. Angela María	Trade in Goods
	OROZCO, Ms. Claudia	Trade in Goods
	PRIETO, Mr. Diego	Trade in Goods and Services
	ROJAS ARROYO, Mr. Santiago	Trade in Goods; TRIPS
	TANGARIFE, Mr. Marcel	Trade in Goods; TRIPS
CÔTE D'IVOIRE	GOSSET, Ms. Marie	Trade in Goods; TRIPS
CUBA	CABALLERO RODRÍGUEZ, Mr. Eumelio	Trade in Goods and Services
	HERNÁNDEZ, Mr. Arnaldo	Trade in Goods and Services
	MARZIOTA DELGADO, Mr. Ernesto Antonio	Trade in Goods and Services
DJIBOUTI	PIQUEMAL, Mr. Alain	Trade in Goods and Services; TRIPS
ECUADOR	ESPINOSA CAÑIZARES, Mr. Cristian	Trade in Goods and Services; TRIPS
	MONTAÑO HUERTA, Mr. César	Trade in Goods and Services; TRIPS
	PINOARGOTE CEVALLOS, Mr. Alfredo	Trade in Goods
EGYPT	FAWZY, Mr. Abdelrahman	Trade in Goods and Services
	HATEM, Mr. Samy Affify	Trade in Goods
	RIAD, Mr. Tarek Fouad	Trade in Goods and Services; TRIPS
	SHAHIN, Ms. Magda	Trade in Goods and Services; TRIPS
	SHARAF ELDIN, Mr. Ahmed	Trade in Goods; TRIPS
	ZAHRAN, Mr. Mohamed Mounir	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN UNION		
AUSTRIA	BENEDEK, Mr. Wolfgang	Trade in Goods
	REITERER, Mr. Michael G. K.	Trade in Goods and Services; TRIPS
	WAAS, Mr. Gerhard	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. Franz	Trade in Goods
BELGIUM	DIDIER, Mr. Pierre	Trade in Goods
	PAUWELYN, Mr. Joost	Trade in Goods and Services; TRIPS
	VAN DER BORGHT, Mr. Kim	Trade in Goods
	VANDER SCHUEREN, Ms. Paulette	Trade in Goods and Services
	WOUTERS, Mr. Jan	Trade in Goods and Services
	ZONNEKEYN, Mr. Geert A.	Trade in Goods
CZECH REP.	PALEČKA, Mr. Peter	Trade in Goods and Services
DENMARK	BRAKELAND, Mr. Jean-François	Trade in Goods and Services
	CARL, Mr. Mogens Peter	Trade in Goods and Services; TRIPS
	KUIJPER, Mr. Pieter Jan	Trade in Goods and Services; TRIPS
	WHITE, Mr. Eric	Trade in Goods and Services; TRIPS
FINLAND	LUOTONEN, Mr. Yrjö Kim David	Trade in Goods
FRANCE	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS
	BOISSON DE CHAZOURNES, Mrs. Laurence	Trade in Goods and Services
	JENNY, Mr. Frédéric Yves	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN UNION (cont'd)		
FRANCE (cont'd)	METZGER, Mr. Jean-Marie	Trade in Goods
	STERN, Ms. Brigitte	Trade in Goods
GERMANY	DELBRÜCK, Mr. Kilian	Trade in Goods
	HERRMANN, Mr. Christoph Walter	Trade in Goods; TRIPS
	HILF, Mr. Meinhard	Trade in Goods and Services
	MENG, Mr. Werner	Trade in Goods, TRIPS
	PETERSMANN, Mr. Ernst-Ulrich	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. Stefan	Trade in Goods
GREECE	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS
HUNGARY	HALGAND DANI, Ms. Virág	Trade in Goods and Services; TRIPS
	LAKATOS, Mr. Andrés	Trade in Goods and Services
IRELAND	LONG, Mr. Ronald	Trade in Goods; TRIPS
	MATTHEWS, Mr. Alan Henry	Trade in Goods
	MOCKLER, Mr. Thomas F.	Trade in Goods
ITALY	GIARDINA, Mr. Andrea	Trade in Goods and Services
	MALAGUTI, Ms. Maria Chiara	Trade in Goods and Services; TRIPS
	MENSI, Mr. Maurizio	Trade in Goods
MALTA	BONELLO, Mr. Michael C.	Trade in Services
NETHERLANDS	BRONCKERS, Mr. Marco	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN UNION (cont'd)		
NETHERLANDS (cont'd)	HOEKMAN, Mr. Bernard Marco	Trade in Goods and Services; TRIPS
POLAND	PIETRAS, Mr. Jaroslaw	Trade in Services
PORTUGAL	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS
ROMANIA	BERINDE, Mr. Mihai	Trade in Goods
	CAMPEANU, Ms. Victoria	Trade in Goods
	FRATIA, Ms. Carmen Florina	Trade in Goods
SPAIN	DÍAZ MIER, Mr. Miguel Ángel	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ Mr. Juan Pablo	Trade in Goods and Services
	PÉREZ SANCHEZ, Mr. José Luis	Trade in Goods and Services; TRIPS
	RIGO, Mr. Andrés	Trade in Services
SWEDEN	AHNLID, Mr. Anders Gustav Ragnar	Trade in Goods and Services; TRIPS
	ANELL, Mr. Lars	Trade in Goods; TRIPS
	KLEEN, Mr. Peter	Trade in Goods
	TAURIAINEN, Mr. Teppo Markus	Trade in Goods and Services; TRIPS
UNITED KINGDOM	BETHLEHEM, Mr. Daniel	Trade in Goods and Services; TRIPS
	JOHNSON, Mr. Michael David Clarke	Trade in Goods
	MUIR, Mr. Tom	Trade in Goods and Services; TRIPS
	PLENDER, Mr. Richard	Trade in Goods
	QURESHI, Mr. Asif Hasan	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN UNION (cont'd)		
UNITED KINGDOM (cont'd)	ROBERTS, Mr. Christopher William	Trade in Goods and Services
	ROBERTS, Mr. David F.	Trade in Goods
	SAROOSHI, Mr. Dan	Trade in Services
	TOULMIN, Mr. John Kelvin	Trade in Services
GHANA	NIMAKO-BOATENG, Ms. Gertrude	Trade in Goods and Services
	OPOKU AWUKU, Mr. Emmanuel	Trade in Goods and Services; TRIPS
HONG KONG, CHINA	CARTLAND, Mr. Michael David	Trade in Goods and Services
	CHEUNG, Mr. Peter Kam Fai	TRIPS
	LEUNG, Ms. Ada Ka Lai	TRIPS
	LITTLE, Mr. David	Trade in Goods and Services
	MILLER, Mr. Tony J.A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANNSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
INDIA	AGARWAL, Mr. Vinod Kumar	Trade in Goods; TRIPS
	AGRAWAL, Mr. Rameshwar Pal	Trade in Goods and Services; TRIPS
	BHANSALI, Mr. Sharad	Trade in Goods
	BHATNAGAR, Mr. Mukesh	Trade in Goods
	BHATTACHARYA, Mr. G. C.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
INDIA (cont'd)	CHANDRASEKHAR, Mr. Kesava Menon	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. Sumanta	Trade in Goods and Services; TRIPS
	DAS, Mr. Abhijit	Trade in Goods
	DAS, Mr. Bhagirath Lal	Trade in Goods
	DASGUPTA, Mr. Jayant	Trade in Goods
	GOPALAN, Mr. Rajarangamani	Trade in Goods
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KHER, Mr. Rajeev	Trade in Goods and Services; TRIPS
	KHULLAR, Mr. Rahul	Trade in Goods and Services; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services
	MOHANTY, Mr. Prasant Kumar	Trade in Goods
	MUKERJI, Mr. Asoke Kumar	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. Srinivasan	Trade in Goods; TRIPS
	PARTHASARATHY, Mr. R.	Trade in Goods; TRIPS
	PRABHU, Mr. Pandurang Palimar	Trade in Goods; TRIPS
	PRASAD, Ms. Anjali	Trade in Goods and Services; TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. Pemmaraju Sreenivasa	Trade in Goods
	REGE, Mr. Narayan Vinod	Trade in Goods
	SABHARWAL, Mr. Narendra	TRIPS
	SAJJANHAR, Mr. Ashok	Trade in Goods
	SESHADRI, Mr. V.S.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
INDIA (cont'd)	SHARMA, Mr. Lalit	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. Krishnan	Trade in Goods; TRIPS
	YADAV, Mr. Amit	Trade in Services
	ZUTSHI, Mr. B. K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. Magen	Trade in Goods
	BROUDE, Mr. Tomer	Trade in Goods and Services; TRIPS
	GABAY, Mr. Mayer	TRIPS
	HARAN, Mr. Ephraim F.	Trade in Services
	HARPAZ, Mr. Guy	Trade in Goods and Services; TRIPS
	HOROVITZ, Mr. Dan	Trade in Goods and Services
	POLINER, Mr. Howard Zvi	TRIPS
	REICH, Mr. Arie	Trade in Goods and Services; TRIPS
	SEMADAR, Mr. Moshe	Trade in Goods
	SHATON, Mr. Michael Marcel	Trade in Goods and Services
	TALBAR, Mr. Michael Adin	Trade in Goods
	WEILER, Mr. Joseph H.H.	Trade in Goods
JAMAICA	ROBINSON, Mr. Patrick L.	Trade in Goods and Services; TRIPS
JAPAN	ARAKI, Mr. Ichiro	Trade in Goods and Services; TRIPS
	ASAKAI, Mr. Kazuo	Trade in Goods
	ASAKURA, Mr. Hironori	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
JAPAN (cont'd)	HASEBE, Mr. Masamichi	Trade in Goods and Services
	ISHIGURO, Mr. Kazunori	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Yuji	Trade in Goods
	KANDA, Mr. Hideki	Trade in Services
	KAZEKI, Mr. Jun	Trade in Goods and Services
	KEMMOCHI, Mr. Nobuaki	Trade in Goods and Services
	KOTERA, Mr. Akira	Trade in Goods and Services
	OHARA, Mr. Yoshio	Trade in Goods; TRIPS
	SANO, Mr. Tadakatsu	Trade in Goods
	SHIMIZU, Mr. Akio	Trade in Goods
	SUZUKI, Mr. Masabumi	Trade in Goods; TRIPS
	TAKAHASHI, Ms. Misako	Trade in Services
	TSURUOKA, Mr. Koji	Trade in Services
	YAMANE, Ms. Hiroko	Trade in Goods; TRIPS
KOREA	AHN, Mr. Dukgeun	Trade in Goods
	AHN, Mr. Ho-Young	Trade in Goods
	AHN, Mr. Myung-soo	Trade in Goods
	CHO, Mr. Tae-Yul	Trade in Goods
	CHOI, Mr. Byung-il	Trade in Services
	CHOI, Mr. Won-Mog	Trade in Goods and Services; TRIPS
	KIM, Mr. Jong Bum	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
KOREA (cont'd)	LEE, Mr. Jaemin	Trade in Goods
	PARK, Mr. Nohyoung	Trade in Goods
	WOO, Mr. Jooha	Trade in Goods and Services
LIECHTENSTEIN	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS
MADAGASCAR	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
MAURITIUS	BEEKARRY, Mr. Navin	Trade in Goods and Services
	BHUGLAH, Mr. Achad	Trade in Goods and Services
MEXICO	AGUILAR ÁLVAREZ, Mr. Guillermo	Trade in Goods and Services; TRIPS
	DE LA PEÑA, Mr. Alejandro	Trade in Goods and Services; TRIPS
	DE MATEO VENTURINI, Mr. Fernando	Trade in Services
	DE ROSENZWEIG, Mr. Francisco	Trade in Goods and Services; TRIPS
	FERRARI, Mr. Bruno	Trade in Goods and Services; TRIPS
	JASSO TORRES, Mr. Humberto	Trade in Goods
	LEYCEGUI, Ms. Beatriz	Trade in Goods and Services; TRIPS
	PEREZCANO DÍAZ, Mr. Hugo Manuel	Trade in Goods and Services; TRIPS
	POBLANO, Mr. José F.	Trade in Services; TRIPS
	REYES, Ms. Luz Elena	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo	Trade in Goods and Services; TRIPS
	VÉJAR, Mr. Carlos	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
NEPAL	PANDEY, Mr. Posh Raj	Trade in Goods and Services
	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS
NEW ZEALAND	ARMSTRONG, Mr. Wade Mowatt Valentine	Trade in Goods; TRIPS
	CARSON, Mr. Christopher Barr	Trade in Goods
	FALCONER, Mr. Crawford Dunlop	Trade in Goods
	FALCONER, Mr. William John	Trade in Goods and Services; TRIPS
	GROSER, Mr. Tim	Trade in Goods
	HAMILTON, Mr. Peter William	Trade in Goods
	HARVEY, Mr. Martin Wilfred	Trade in Goods
	HIGGIE, Ms. Dell Clark	Trade in Goods
	KENNEDY, Mr. Peter Douglas	Trade in Goods
	MACEY, Mr. Adrian	Trade in Goods; TRIPS
	MCPHAIL, Mr. Alexander Hugh	Trade in Goods
	NOTTAGE, Mr. Richard Frederick	Trade in Goods
	SLADE, Ms. Michelle	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. Mark Julian	Trade in Goods; TRIPS
	WALKER, Mr. David John	Trade in Goods and Services
	WOODFIELD, Mr. Edward A	Trade in Goods
NIGER	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
NIGERIA	AGAH, Mr. Yonov Frederick	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
NIGERIA (cont'd)	NNONA, Mr. George C.	Trade in Goods and Services; TRIPS
NORWAY	BRYN, Mr. Kåre	Trade in Goods and Services; TRIPS
	GLENNE, Mr. Eirik	Trade in Goods and Services
	HOLTEN, Ms. Inger	Trade in Goods; TRIPS
	LILLERUD, Mr. Kjell	Trade in Goods and Services
	SELAND, Mr. Helge A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. Didrik	Trade in Goods and Services; TRIPS
PAKISTAN	ARIF, Mr. Muhammad Ikram	Trade in Goods
	BASHIR, Mr. Shahid	Trade in Goods
	HAMID ALI, Mr. Muhammad	Trade in Goods; TRIPS
	HUSAIN, Mr. Ishrat	Trade in Services
	KHAN, Mr. Mujeeb Ahmed	Trade in Goods; TRIPS
	MALIK, Mr. Riaz Ahmad	Trade in Goods
	MUKHTAR, Mr. Ahmad	Trade in Goods and Services; TRIPS
PANAMA	FERRER, Mr. Alejandro	Trade in Goods and Services
	FRANCIS LANUZA, Ms. Yavel Mireya	Trade in Goods and Services
	GONZALEZ, Mr. Carlos Ernesto	Trade in Goods and Services
	HARRIS ROTKIN, Mr. Norman	Trade in Goods and Services
	SALAZAR FONG, Ms. Diana Alejandrina	Trade in Goods
	SHEFFER MONTES, Mr. Leroy Jhon	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
PERU	BELAÚNDE G., Mr. Victor Andres	TRIPS
	DE LA PUENTE LEON, Mr. Jose A.	Trade in Goods and Services
	DIEZ LIZARDO, Mr. Juan	Trade in Goods
	LEÓN-THORNE, Mr. Raúl	Trade in Goods and Services
QATAR	MAKKI, Mr. Fadi	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS
SWITZERLAND	ADDOR, Mr. Felix	TRIPS
	BREINING, Ms. Christine	Trade in Services
	CHAMBOVEY, Mr. Didier	Trade in Goods
	COTTIER, Mr. Thomas	Trade in Goods and Services; TRIPS
	GETAZ, Mr. Henri Alexandre	Trade in Services
	HÄBERLI, Mr. Christian	Trade in Goods
	HOLZER, Mr. Patrick Edgar	Trade in Goods; TRIPS
	INEICHEN-FLEISCH, Ms. Marie-Gabrielle	Trade in Goods and Services
	KRAFFT, Mr. Mathias-Charles	Trade in Goods
	LEGLER, Mr. Thomas	TRIPS
	MEYER, Mr. Matthias	Trade in Goods and Services; TRIPS
	PANNATIER, Mr. Serge Nicolas	Trade in Goods
	TSCHÄENI, Mr. Hanspeter	Trade in Goods
	WASESCHA, Mr. Luzius	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
SWITZERLAND (cont'd)	WEBER, Mr. Rolf H.	Trade in Services
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	CHANG, Ms. Yie-Yun	TRIPS
	KAO, Mr. Pei-Huan	Trade in Goods and Services; TRIPS
	LI, Ms. Catherine	Trade in Goods
	LIN, Ms. Tsai-Yu	Trade in Goods
	LO, Mr. Chang-Fa	Trade in Goods and Services
	NI, Mr. Kuei-Jung	Trade in Goods; TRIPS
	PENG, Ms. Shin-Yi	Trade in Goods and Services
	YANG, Ms. Guang-Hwa	Trade in Goods and Services
	YANG, Ms. Jen-Ni	Trade in Goods and Services
TURKEY	DILEMRE, Mr. Hüsnü	Trade in Goods
	GÜRAKAN, Ms. Tulû	Trade in Goods
	KABAALİOĞLU, Mr. A. Haluk	Trade in Goods and Services
	KAÇAR, Mr. Bayram	Trade in Goods
	MOLLASALIHOĞLU, Mr. Yavuz	Trade in Goods
	YAMAN, Mr. Şahin	Trade in Goods
	YAPICI, Mr. Murat	Trade in Goods
	YENAL, Mr. Aytaç	Trade in Goods
UNITED STATES	BIRENBAUM, Mr. David E.	Trade in Goods
	BROWN-WEISS, Ms. Edith	Trade in Goods and Services
	CONNELLY, Mr. Warren	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
UNITED STATES (cont'd)	GANTZ, Mr. David A.	Trade in Goods
	GORDON, Mr. Michael Wallace	Trade in Goods
	HODGSON, Ms. Mélida	Trade in Goods and Services
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	KHO, Mr. Stephen	Trade in Goods and Services; TRIPS
	KIRK, Mr. Michael K.	TRIPS
	LAYTON, Mr. Duane	Trade in Goods
	LICHTENSTEIN, Ms. Cynthia Crawford	Trade in Services
	McGINNIS, Mr. John Oldham	Trade in Goods; TRIPS
	PARTAN, Mr. Daniel G.	Trade in Goods
	POWELL, Mr. Stephen J.	Trade in Goods
	REYNA, Mr. Jimmie V.	Trade in Goods and Services
	SANDSTROM, Mr. Mark R.	Trade in Goods and Services
	THOMPSON, Mr. George W.	Trade in Goods
	TROSSEVIN, Ms. Marguerite	Trade in Goods
	VERRILL, Jr. Mr. Charles Owen	Trade in Goods
URUGUAY	AMORÍN, Mr. Carlos	Trade in Goods; TRIPS
	CAYRÚS, Mr. Hugo	Trade in Goods and Services
	EHLERS, Mr. William	Trade in Goods
	ROSSELLI, Mr. Elbio	Trade in Goods
	VANERIO, Mr. Gustavo	Trade in Goods and Services
	WHITELAW, Mr. James A.	Trade in Goods

ANNEX

Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements". The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns". It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council". A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU". The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached.

Summary Curriculum Vitae
for Persons Proposed for the Indicative List[1]

1.	**Name:**	full name
2.	**Sectoral Experience** List here any particular sectors of expertise: (e.g. technical barriers, dumping, financial services, intellectual property, etc.)	
3.	**Nationality(ies)**	all citizenships
4.	**Nominating Member:**	the nominating Member
5.	**Date of birth:**	full date of birth
6.	**Current occupations:**	year beginning, employer, title, responsibilities
7.	**Post-secondary education**	year, degree, name of institution
8.	**Professional qualifications**	year, title
9.	**Trade-related experience in Geneva in the WTO/GATT system**	
	a. Served as a panelist	year, dispute name, role as chairperson/member
	b. Presented a case to a panel	year, dispute name, representing which party
	c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof	year, body, role
	d. Worked for the WTO or GATT Secretariat	year, title, activity
10.	**Other trade-related experience**	
	a. Government trade work	year, employer, activity
	b. Private sector trade work	year, employer, activity
11.	**Teaching and publications**	
	a. Teaching in trade law and policy	year, institution, course title

[1] Members putting forward an individual for inclusion on the indicative list are requested to provide full contact details for this individual separately. The Summary Curriculum Vitae and the contact details should be sent electronically to the Secretariat.

	b. Publications in trade law and policy	year, title, name of periodical/book, author/editor (if book)
12.	**Language capabilities**	ability to work as a panelist in WTO-official languages and any other language capability
	a. English	
	b. French	
	c. Spanish	
	d. Other language(s)	

MEMBERSHIP OF THE WTO APPELLATE BODY
To December 31, 2012

Mr. Ujal Singh Bhatia (India),
Mr. Seung Wha Chang (Korea)[1]
Mr. David Unterhalter (South Africa),
Ms. Yuejiao Zhang (China)
Mr. Thomas R. Graham (United States),
Mr. Ricardo Ramírez Hernández (Mexico),
Mr. Peter Van den Bossche (Belgium),

BIOGRAPHICAL NOTES:

Ujal Singh Bhatia

Born in India on 15 April 1950, Ujal Singh Bhatia is currently an independent consultant and academic engaged in developing a policy framework for Indian agricultural investments overseas, while at the same time working with the Commonwealth Secretariat on multilateral trade issues.

From 2004 to 2010, Mr. Bhatia was India's Permanent Representative to the WTO. During his tenure as Permanent Representative, he was an active participant in the dispute settlement process, representing India in a number of dispute settlement cases both as a complainant and respondent in disputes relating to anti-dumping, as well as taxation and import duty issues. He also has adjudicatory experience having served as a WTO dispute settlement panelist.

Mr. Bhatia previously served as Joint Secretary in the Indian Ministry of Commerce, where he focused on the legal aspects of international trade. During this period, he was also a Member of the Appellate Committee under the Foreign Trade (Development and Regulation) Act. The Committee heard appeals of

[1] Mr. Chang replaced Mr. Oshima who resigned from the Appellate Body on 7 January 2012.

exporters and importers against the orders of the Director General Foreign Trade. Mr. Bhatia was also Joint Secretary of the Ministry of Information and Broadcasting and held various positions in the public and private sectors of the Indian state of Orissa.

Mr. Bhatia's legal and adjudicatory experience spans three decades. He has focused on addressing domestic and international legal/jurisprudence issues, negotiating trade agreements and policy issues at the bilateral, regional and multilateral levels, and formulating and implementing trade and development policies for a range of agriculture, industry and service sector activities.

Mr. Bhatia is a frequent lecturer on international trade issues, and has published numerous papers and articles in Indian and foreign journals on a wide range of trade and economic issues.

Mr. Bhatia holds an M.A. in Economics from the University of Manchester and from Delhi University, as well as a B.A. (Hons.) in Economics, also from Delhi University.

Seung Wha Chang

Born in Korea on 1 March 1963, Seung Wha Chang is currently Professor of Law at Seoul National University where he teaches International Trade Law and International Arbitration.

He has served on several WTO dispute settlement panels, including US — FSC, Canada — Aircraft Credits and Guarantees, and EC — Trademarks and Geographical Indications. He has also served as Chairman or Member of several arbitral tribunals dealing with commercial matters. In 2009, he was appointed by the International Chamber of Commerce (ICC) as a Member of the International Court of Arbitration.

Professor Chang began his professional academic career at the Seoul National University School of Law in 1995, and was awarded professorial tenure in 2002. He has taught international trade law and, in particular WTO dispute settlement, at more than ten foreign law schools, including Harvard Law School, Yale Law School, Stanford Law School, New York University, Duke Law School, and Georgetown University. In 2007, Harvard Law School granted him an endowed visiting professorial chair title, Nomura Visiting Professor of International Financial Systems.

In addition, Professor Chang previously served as a Seoul District Court judge, handling many cases involving international trade disciplines. He also practised as a foreign attorney at an international law firm in Washington D.C., handling international trade matters, including trade remedies and WTO-related disputes.

Professor Chang has published many books and articles in the field of International Trade Law in internationally-recognized journals. In addition, he serves as an Editorial or Advisory Board Member of the Journal of International Economic Law (Oxford University Press) and the Journal of International Dispute Settlement (Oxford University Press).

Professor Chang holds a Bachelor of Laws degree (LL.B.) and a Master of Laws degree (LL.M.) from Seoul National University School of Law; and a Master of Laws degree (LL.M.) as well as a Doctorate in International Trade Law (S.J.D.) from Harvard Law School.

Thomas R. Graham

Born in the United States on 23 November 1942, Thomas R. Graham is Senior Counsel in the International Trade Group of the King & Spalding law firm where he represents respondents in non-U.S.

trade remedy cases, negotiates the settlement of disputes, assists in WTO dispute settlement proceedings, and heads the practice's committee on long-term planning and development.

Prior to joining King & Spalding, Mr. Graham served for several years as the deputy head of the International Group of Skadden, Arps, Slate, Meagher & Flom, and participated in the firm's transition from a U.S. law firm to a global one.

In private law practice, Mr. Graham has participated in trade remedy proceedings, often collaborating with local counsel and national authorities in various countries to develop legal interpretations of laws and regulations consistent with GATT/WTO agreements, and negotiating the resolution of international trade disputes.

Mr. Graham served as Deputy General Counsel in the Office of the U.S. Trade Representative where he was instrumental in the negotiation of the Tokyo Round Agreement on Technical Barriers to Trade and where he represented the U.S. Government in dispute settlement proceedings under the GATT.

Earlier in his career, Mr. Graham spent three years in Geneva as a Legal Officer at the United Nations.

Mr. Graham taught for many years at the Georgetown Law Center as an adjunct professor. He has written several articles and monographs on international trade law and policy as a Guest Scholar at the Brookings Institution, and as a Senior Associate at the Carnegie Endowment for International Peace.

Mr. Graham holds a BA in International Relations and Economics from Indiana University and a J.D. from Harvard Law School.

Shotaro Oshima

Born in Japan on 20 September 1943, Mr. Shotaro Oshima is a law graduate from the University of Tokyo, with almost 40 years experience as a diplomat in Japan's Foreign Service, most recently as Ambassador to the Republic of Korea.

From 2002 to 2005, Mr. Oshima was Japan's Permanent Representative to the WTO, during which time he served as Chair of the General Council and the Dispute Settlement Body.

Prior to his time in Geneva, Mr. Oshima served as Deputy Foreign Minister responsible for economic matters and was designated as Prime Minister Koizumi's Personal Representative to the G8 Summit in Canada in June 2002. In the same year he served as the Prime Minister's Personal Representative to the UN World Summit on Sustainable Development in South Africa.

Ricardo Ramírez Hernández

Born in Mexico on 17 October 1968, Ricardo Ramírez is Counsel and Head of the International Trade Practice for Latin America at the law firm of Chadbourne & Parke in Mexico City. His practice has focused on issues related to NAFTA and trade across Latin America, including international trade dispute resolution. He holds the Chair of International Trade Law at the Mexican National University (UNAM) in Mexico City.

Prior to practicing with a law firm, Mr. Ramírez was Deputy General Counsel for Trade Negotiations of the Ministry of Economy in Mexico for more than a decade. In this capacity, he provided advice on trade and competition policy matters related to 11 Free Trade Agreements signed by Mexico, as well as with

respect to multilateral agreements, including those related to the WTO, the Free Trade Area of the Americas (FTAA), and the Latin American Integration Association (ALADI).

Mr. Ramírez also represented Mexico in complex international trade litigation and investment arbitration proceedings. He acted as lead counsel to the Mexican government in several WTO disputes. He has also served on NAFTA panels.

Mr. Ramírez holds an LL.M. degree in International Business Law from the Washington College of Law of the American University, and a law degree from the Universidad Autónoma Metropolitana.

David Unterhalter

Born in South Africa on 18 November 1958, David Unterhalter holds degrees from Trinity College, Cambridge, the University of the Witwatersrand, and University College Oxford. David Unterhalter has been a Professor of Law at the University of the Witwatersrand in South Africa since 1998, and from 2000 – 2006, he was the Director of the Mandela Institute, University of the Witwatersrand, an institute focusing upon global law.

Mr. Unterhalter is a member of the Johannesburg Bar; as a practicing advocate he has appeared in a large number of cases in the fields of trade law, competition law, constitutional law, and commercial law. His experience includes representing different parties in anti-dumping and countervailing duty cases. He has acted as an advisor to the South African Department of Trade and Industry. In addition, he has served on a number of WTO dispute settlement panels.

Mr. Unterhalter has published widely in the fields of public law and competition law.

Peter Van den Bossche

Born in Belgium on 31 March 1959, Peter Van den Bossche is currently Professor of International Economic Law and Head of the Department of International and European Law at Maastricht University, the Netherlands. He also serves as the Academic Director of Maastricht University's Institute for Globalization and International Regulation and is on the faculty of the World Trade Institute in Berne, and the Institute of European Studies of Macau.

Mr. Van den Bossche has extensive experience in academia and has published extensively in the field of international economic law. The second edition of his textbook The Law and Policy of the World Trade Organization was published by Cambridge University Press in 2008. Mr. Van den Bossche is a Member of the Board of Editors of the Journal of International Economic Law. He has also acted as a consultant to many developing countries.

From 1997 to 2001, Mr. Van den Bossche was Counsellor and subsequently Acting Director of the WTO Appellate Body Secretariat. From 1990 to 1992, he served as a Référendaire of Advocate General W. van Gerven at the European Court of Justice in Luxembourg.

Mr. Van den Bossche holds a Doctorate in Law from the European University Institute, Florence, an LL.M. from the University of Michigan Law School, and a Licentiaat in de Rechten magna cum laude from the University of Antwerp.

Yuejiao Zhang

Born in China on 25 October 1944, Ms. Yuejiao Zhang is Professor of Law at Shantou University in China. She is an Arbitrator on China’s International Trade and Economic Arbitration Commission and

practices law as a private attorney. Ms. Zhang also serves as Vice President of China's International Economic Law Society.

Between 1998 and 2004, Ms. Zhang held various positions at the Asian Development Bank. Prior to this, Ms. Zhang held several positions in government and academia in China, including as Director-General of Law and Treaties at the Ministry of Foreign Trade and Economic Cooperation (1984-1997) where she was involved in drafting many of China's trade laws, such as the Foreign Trade Law, the Anti-Dumping Regulation and the Anti-Subsidy Regulation.

From 1987 to 1996, Ms. Zhang was one of China's chief negotiators on intellectual property and was involved in the preparation of China's patent law, trade mark law, and copyright law. She also served as the chief legal counsel for China's GATT resumption and WTO accession. Between 1982 and 1985, Ms. Zhang worked as legal counsel at the World Bank.

Ms. Zhang was a Member of UNIDROIT from 1987-1999. She has a Bachelor of Arts from China High Education College and a Master of Laws from Georgetown University Law

Source: http://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm

Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following websites:

The USTR home page: http://www.ustr.gov

The WTO home page: http://www.wto.org

U.S. submissions are available electronically on the WTO website using Documents Online, which can retrieve an electronic copy by the "document symbol". Electronic copies of U.S. submissions are also available at the USTR website.

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- WTO Organizational Chart
- Biographic backgrounds
- Membership
- General Council activities

WTO News, such as:

- Status of dispute settlement cases
- Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others
- Schedules of future WTO meetings
- Trade Policy Review Mechanism reports on individual Members' trade practices

Resources including Official Documents, such as:

- Notifications required by the Uruguay Round Agreements
- Working Procedures for Appellate Review
- Special Studies on key WTO issues
- On-line document database where one can find and download official documents
- Legal Texts of the W TO agreements
- WTO Annual Reports

Community/Fora, such as:

- Media and NGOs
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Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, other topics
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WTO publications may be ordered directly from the following sources:

1. The World Trade Organization
   Publications Services
   Centre William Rappard
   154 rue de Lausanne 154
   Geneva,Switzerland

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ANNEX III

U.S. TRADE-RELATED AGREEMENTS AND DECLARATIONS

I. Agreements that have been Entered into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral and Plurilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (WTO) (signed April 15, 1994), the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993, and subsequent WTO agreements.

    a. Multilateral Agreements on Trade in Goods

        i. General Agreement on Tariffs and Trade 1994
        ii. Agreement on Agriculture
        iii. Agreement on the Application of Sanitary and Phytosanitary Measures
        iv. Agreement on Technical Barriers to Trade
        v. Agreement on Trade-Related Investment Measures
        vi. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
        vii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
        viii. Agreement on Preshipment Inspection
        ix. Agreement on Rules of Origin
        x. Agreement on Import Licensing Procedures
        xi. Agreement on Subsidies and Countervailing Measures
        xii. Agreement on Safeguards

    b. General Agreement on Trade in Services (GATS)

        i. Fourth Protocol to the GATS (Basic Telecommunication Services) (February 5, 1998)
        ii. Fifth Protocol to the GATS (Financial Services) (March 1, 1999)

    c. Agreement on Trade-Related Aspects of Intellectual Property Rights

    d. Plurilateral Trade Agreements

        i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended in 1986)
        ii. Agreement on Government Procurement (April 15, 1994)

- WTO Ministerial Declaration on Trade in Information Technology Products (Information Technology Agreement (ITA)) (March 26, 1997)

- International Tropical Timber Agreement (successor to the 1994 International Tropical Timber Agreement, December 7, 2011)

- International Coffee Agreement 2007 (successor to the 2001 International Coffee Agreement; entered into force February 2, 2011)

- North American Free Trade Agreement (January 1, 1994)

    i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)
    ii. Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)
    iii. Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)
    iv. Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)
    v. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (November 27, 2002)
    vi. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 8, 2004)
    vii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (March 8, 2006)
    viii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 11, 2008)
    ix. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 9, 2009)

- North American Agreement on Environmental Cooperation (January 1, 1994)

- North American Agreement on Labor Cooperation (January 1, 1994)

- Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea (June 10, 1999)

- Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)

- The Dominican Republic-Central America-United States Free Trade Agreement (Costa Rica (January 1, 2009); the Dominican Republic (March 1, 2007); El Salvador (March 1, 2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006))

    i. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Article 22.5 (March 29, 2006)
    ii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Textiles Matters (August 15, 2008)
    iii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Guatemala Tariffs on Beer (February 4, 2009)

- Agreement Establishing a Secretariat for Environmental Matters Under the Dominican Republic-Central America-United States Free Trade Agreement (August 25, 2006)

- Agreement on Duty-Free Treatment of Multi-Chips Integrated Circuits (MCPs) (January 18, 2006) (Korea, Taiwan, Japan, European Union, and the United States)

- Agreement on Requirements for Wine Labeling (January 23, 2007) (Australia, Argentina, Canada, Chile, New Zealand, and the United States)

Bilateral Agreements

Albania

- Agreement on Bilateral Trade Relations (May 14, 1992)
- Bilateral Investment Treaty (January 4, 1998)

Argentina

- Private Courier Mail Agreement (May 25, 1989)
- Bilateral Investment Treaty (October 20, 1994)

Armenia

- Agreement on Bilateral Trade Relations (April 7, 1992)
- Bilateral Investment Treaty (March 29, 1996)

Australia

- Settlement on Leather Products Trade (November 25, 1996)
- Understanding on Automotive Leather Subsidies (June 20, 2000)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 19, 2002)
- United States-Australia Free Trade Agreement (January 1, 2005)

Azerbaijan

- Agreement on Bilateral Trade Relations (April 21, 1995)
- Bilateral Investment Treaty (August 2, 2001)

Bahrain

- Bilateral Investment Treaty (May 30, 2001)
- United States-Bahrain Free Trade Agreement (August 1, 2006)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)

Bolivia

- Bilateral Investment Treaty (June 6, 2001)

Brazil

- Memorandum of Understanding Between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)
- Memorandum of Understanding Between the Government of the United States of America and the Government of the Federative Republic of Brazil Regarding a Fund for Technical Assistance and Capacity Building with Respect to the Cotton Dispute (WT/DS267) in the World Trade Organization (April 20, 2010)
- Framework for Mutually Agreed Solution to the Cotton Dispute in the World Trade Organization (WT/DS267) (June 25, 2010)
- Exchange of Letters between the United States and Brazil Regarding Certain Distinctive Products (April 9, 2012)

Bulgaria

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994; amended January 1, 2007)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- Agreement between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)

Cameroon

- Bilateral Investment Treaty (April 6, 1989)

Canada

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)

- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)
- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 17, 2002)
- Agreement to Implement Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 28, 2003)
- United States-Canada Understanding on Implementation of the Decision of the WTO General Council of August 30, 2003, on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" as Interpreted by the Accompanying Statement of the Chairman of the General Council of the Same Date (July 16, 2004)
- Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada (SLA 2006) (October 12, 2006)
- Technical Arrangement between the United States and Canada concerning Trade in Potatoes (November 1, 2007)
- Agreement Between the Government of the United States and the Government of Canada on Government Procurement (February 16, 2010)

Chile

- United States-Chile Free Trade Agreement (January 1, 2004)
- United States-Chile Agreement on Accelerated Tariff Elimination (November 14, 2008)
- United States-Chile Agreement on Trade in Table Grapes (November 21, 2008)
- United States-Chile Agreement on Beef Grade Labeling (March 26, 2009)

China

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Agreement on Trade Relations between the United States of America and the People's Republic of China (February 1, 1980)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)

- Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- Bilateral Agriculture Agreement (April 10, 1999)
- Memorandum of Understanding between China and the United States Regarding China's Value-Added Tax on Integrated Circuits (July 14, 2004)
- Memorandum of Understanding between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products (November 8, 2005)
- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Granting Refunds, Reductions, or Exemptions from Taxes or Other Payments (November 29, 2007)
- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Affecting Foreign Suppliers of Financial Information Services (November 13, 2008)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)
- Exchange of Letters between the United States and Colombia on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (February 27, 2006)
- Exchange of Letters between the United States and Colombia on Beef Sanitary and Phyto-sanitary Issues (August 21, 2006)
- Exchange of Letters between United States and Colombia on Control Measures on Avian Influenza (April 15, 2012)
- Exchange of Letters between United States and Colombia on Control Measures on Salmonella in Poultry and Poultry Products (April 15, 2012)
- Exchange of Letters between United States and Colombia on Phytosanitary Measures for Paddy Rice (April 15, 2012)
- United States-Colombia Trade Promotion Agreement (May 15, 2012)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)
- Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Dominican Republic

- Exchange of Letters on Trade in Textile and Apparel Goods (October 21, 2006)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997; amended May 1, 2004)

European Economic Area – European Free Trade Association (EEA EFTA States – Norway, Iceland, and Liechtenstein)

- Agreement on Mutual Recognition between the United States of America and the EEA EFTA States (March 1, 2006)
- Agreement between the United States of America and the EEA EFTA States on the Mutual Recognition of Certificates of Conformity for Marine Equipment (March 1, 2006)

European Union

- Wine Accord (July 1983)
- Agreement for the Conclusion of Negotiations between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)

- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whiskey as Distinctive U.S. Products (March 28, 1994)
- Memorandum of Understanding on Government Procurement (April 15, 1994)
- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)
- Agreement on Mutual Recognition between the United States of America and the European Community (December 1, 1998)
- Agreement between the United States and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- Understanding on Bananas (April 11, 2001)
- Agreement between the United States of America and the European Community on the Mutual Recognition of Certificates of Conformity for Marine Equipment (July 1, 2004)
- Agreement in the Form of an Exchange of Letters between the United States and the European Community Relating to the Method of Calculation of Applied Duties for Husked Rice (June 30, 2005; retroactively effective March 1, 2005)
- Agreement between the United States and European Community on Trade in Wine (March 10, 2006)
- Agreement in the Form of an Exchange of Letters between the United States and the European Union pursuant to Art. XXIV:6 and Art. XXVIII of the GATT 1994 Relating to the Modification of Concessions in the Schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the Course of their Accession to the European Union (March 22, 2006)

- Joint Letter from the United States and the European Communities on implementation of GATS Article XXI procedures relating to the accession to the European Communities of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, the Slovak Republic, Finland, and Sweden (August 7, 2006)
- Memorandum of Understanding Between the United States and European Commission Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied to Certain Products of the European Communities (May 13, 2009)

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Haiti

- Exchange of Letters on Trade in Textile and Apparel Goods (September 18, 2008)

Hong Kong

- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)
- Memorandum of Understanding between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)
- Bilateral Investment Treaty (July 11, 2001)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- Agreement on Intellectual Property Rights Protections (March 1993)

- Agreement on Import Restrictions (December 28, 1999)
- Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- Conditions for Market Access for Films and Videos into Indonesia (April 19, 1992)
- Memorandum of Understanding with Indonesia Concerning Cooperation in Trade in Textile and Apparel Goods (September 26, 2006)

Israel

- United States-Israel Free Trade Agreement (August 19, 1985)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters December 10, 2008)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 10, 2008; December 6, 2009; December 12, 2010; December 6, 2011; and November 19, 2012)

Jamaica

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

Japan

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Foreign Lawyers Agreement (February 27, 1987)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)
- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)

- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- United States-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)
- United States-Japan Framework for a New Economic Partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)
- United States-Japan Public Works Agreement (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)
- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- United States-Japan Insurance Agreement (December 24, 1996)
- Japan's Recognition of U.S.-Grade marked Lumber (January 13, 1997)
- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- United States-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)

- United States-Japan Agreement on Distilled Spirits (December 17, 1997)
- First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- United States-Japan Joint Report on Investment (April 28, 1999)
- Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- United States-Japan Agreement on NTT Procurement Procedures (July 1, 1999)
- Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- United States-Japan Economic Partnership for Growth (June 30, 2001)
- First Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)
- Second Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (May 23, 2003)
- Third Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 8, 2004)
- Fourth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (November 2, 2005)
- Fifth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 29, 2006)
- Sixth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 6, 2007)
- Agreement on Mutual Recognition of Results of Conformity Assessment Procedures between the United States of America and Japan (U.S.-Japan Telecom MRA) (January 1, 2008)
- Seventh Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 5, 2008)
- Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 6, 2009)
- Memorandum Between the Relevant Authorities of the United States and the Ministry of Health, Labour and Welfare of Japan Concerning Enforcement of Japan's Pesticide Maximum Residue Levels (July 28, 2009)
- Record of Discussion, U.S.-Japan Economic Harmonization Initiative (January 27, 2012)

Jordan

- Agreement between the United States and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- Bilateral Investment Treaty (June 12, 2003)

Kazakhstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)
- United States-Kazakhstan Agreement Related to Certain Investment and Services Requirements (September 21, 2011)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)

- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)
- Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- Exchange of Letters on Data Protection (March 12, 2002)
- Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)
- Agreed Minutes on Fuel Economy and Greenhouse Gas Emissions Regulations (February 10, 2011)
- Agreed Minutes on Visa Validity Period (February 10, 2011)
- Exchange of Letters between the United States and Korea related to the United States-Korea Free Trade Agreement (February 10, 2011)
- United States-Korea Free Trade Agreement (March 15, 2012)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (May 8, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Latvia

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (November 26, 1996; amended May 1, 2004)
- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)

Lithuania

- Bilateral Investment Treaty (November 22, 2001; amended May 1, 2004)

Laos

- Bilateral Trade Agreement (February 4, 2005)

Macao

- Memorandum of Understanding with Macao Concerning Cooperation in Trade in Textile and Apparel Goods (August 8, 2005)

Mexico

- Agreement with Mexico on Tire Certification (March 8, 1996)
- Memorandum of Understanding between the United States and Mexico Regarding Areas of Food and Agriculture Trade (April 4, 2002)
- United States-Mexico Exchange of Letters Regarding Mexico's NAFTA Safeguard on Certain Poultry Products (July 24-25, 2003)
- Understanding Regarding the Implementation of the WTO Decision on Mexico's Telecommunications Services (June 1, 2004)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Tequila (January 17, 2006)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Cement (April 3, 2006)
- United States-Mexico Exchange of Letters Regarding Trade in Sweetener Goods (July 27, 2006)
- Bilateral Agreement on Customs Cooperation regarding Claims of Origin Under FTA Cumulation Provisions (January 26, 2007)
- Customs Cooperation Agreement with Mexico relating to Textiles Matters (August 15, 2008)
- Mutual Recognition Agreement between the Government of the United States of America and the Government of the United Mexican States for Conformity Assessment of Telecommunications Equipment (June 10, 2011)

Moldova

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

Mongolia

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)

Morocco

- Bilateral Investment Treaty (May 29, 1991)
- United States-Morocco Free Trade Agreement (January 1, 2006)

Mozambique

- Bilateral Investment Treaty (March 2, 2005)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- Exchange of Letters on Trade in Textile and Apparel Goods (March 24, 2006)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Oman

- United States-Oman Free Trade Agreement (January 1, 2009)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)
- Agreement on Cooperation in Agricultural Trade (December 20, 2006)
- Agreement regarding Certain Sanitary and Phytosanitary Measures and Technical Standards Affecting Agricultural Products (December 20, 2006)
- United States-Panama Trade Promotion Agreement (October 31, 2012)

Peru

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)
- Exchange of Letters on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (January 5, 2006)
- Additional Letter Exchange on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (April 10, 2006)
- United States-Peru Trade Promotion Agreement (February 1, 2009)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)
- Memorandum of Understanding with the Philippines Concerning Cooperation in Trade in Textile and Apparel Goods (August 23, 2006)

Poland

- Business and Economic Relations Treaty (August 6, 1994; amended May 1, 2004)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Bilateral Investment Treaty (January 15, 1994; amended January 1, 2007)

Russia

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- Agreement on Russian Firearms & Ammunition (April 3, 1996; amended 2003)
- Protocol of the Negotiations between the Experts of Russia and the United States of America on the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Certain Types of Poultry, Beef and Pork (June 15, 2005; amended December 29, 2008)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Market Access for Beef and Beef By-Products (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Importation of Pork and Pork By-Products into the Russian Federation (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Inspection of Facilities for Exporting Pork and Poultry to the Russian Federation (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Agricultural Biotechnology (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Establishment of Import licensing Procedures for Imports of Goods Containing Encryption Technology (November 19, 2006)
- Exchange of Letters between the Government of the United States of America and the Government of the Russian Federation on Tariff Treatment of Certain Aircraft Imported Under Operational Lease (November 19, 2006)

- Exchange of Letters between the Ministry of Economic Development and Trade of the Russian Federation and the Office of the U.S. Trade Representative on Tariff Treatment of Certain Combine Harvester-Threshers and Self-Propelled Forage Harvesters (November 19, 2006)

- Letter on Market Access between the United States and the Russian Federation for Service Suppliers in Certain Energy Related Sectors (November 19, 2006)

- Letter on Market Access between the United States and the Russian Federation for Certain Insurance Firms (November 19, 2006)

- Bilateral Agreement on Verification of Pathogen Reduction Treatments and Resumption of Trade in Poultry (July 14, 2010)

- Bilateral Agreement on Pre-Notification Requirements Applied to Certain Imports of Meat Products from the United States (applied provisionally as of December 14, 2011)

Rwanda

- Bilateral Investment Treaty (January 1, 2012)

Senegal

- Bilateral Investment Treaty (October 25, 1990)

Singapore

- Agreement on Intellectual Property Rights Protection (April 27, 1987)

- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 8, 2003)

- United States-Singapore Free Trade Agreement (January 1, 2004)

Slovakia

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Sri Lanka

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)

- Bilateral Investment Treaty (May 1, 1993)

Suriname

- Agreement on Bilateral Trade Relations (1993)

Switzerland

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- Agreement on Customs Valuation (August 22, 1986)

- Agreement on Export Performance Requirements (August 1986)
- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)
- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- United States-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Market Access (February 20, 1998)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (March 16, 1999)
- Understanding on Government Procurement (August 23, 2001)
- Protocol of Bovine Spongiform Encephalopathy (BSE)-Related Measures for the Importation of Beef and Beef Products for Human Consumption from the Territory of the Authorities Represented by the American Institute in Taiwan (November 2, 2009)

Tajikistan

- Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)

Trinidad and Tobago

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

Tunisia

- Bilateral Investment Treaty (February 7, 1993)

Turkey

- Bilateral Investment Treaty (May 18, 1990)

- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- Agreement on Bilateral Trade Relations (June 23, 1992)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement between the Government of the United States of America and the Government of the Republic of Ukraine on Sanitary and Phytosanitary Measures (February 21, 2007)
- Agreement between the U.S. and the Ukraine on Export Duties on Ferrous and Non-Ferrous Scrap Metal (February 22, 2007)

Uruguay

- Bilateral Investment Treaty (November 1, 2006)

Uzbekistan

- Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)
- Copyright Agreement (June 27, 1997)
- Exchange of Letters on Equivalence of Food Safety Inspection Systems (May 31, 2006)
- Exchange of Letters on Beef (May 31, 2006)
- Exchange of Letters on Biotechnology (May 31, 2006)
- Exchange of Letters on Energy Services (May 31, 2006)
- Exchange of Letters on Elimination of Prohibited Subsidies to Textile and Garment Sector (May 31, 2006)
- Bilateral Agreement on Export Duties on Ferrous and Nonferrous Scrap Metals (May 31, 2006)
- Exchange of Letters on Shelf Life (May 31, 2006)
- Acceptance of U.S. Certificates for Exports of Poultry Meat and Meat Products (May 31, 2006)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (June 19, 2008)

II. Agreements that have been Negotiated but have not yet Entered into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- Anti Counterfeiting Trade Agreement (signed by the United States on October 1, 2011)

Bilateral Agreements

Belarus

- Bilateral Investment Treaty (signed January 15, 1994)

El Salvador

- Bilateral Investment Treaty (signed March 10, 1999)

European Union

- Agreement on Trade in Bananas Between the United States of America and the European Union (signed June 8, 2010)
- Agreement in the Form of an Exchange of Letters between the United States and the European Union pursuant to Art. XXIV:6 and Art. XXVIII of the GATT 1994 Relating to the Modification of Concessions in the Schedules of the Republic of Bulgaria and Romania in the Course of their Accession to the European Union (signed December 7, 2012)

Estonia

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Israel

- Mutual Recognition Agreement between the Government of the United States of America and the Government of the State of Israel for Conformity Assessment of Telecommunications Equipment (signed October 15, 2012)

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Libya

- United States-Libya Trade and Investment Agreement (signed May 20, 2010)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995)

Russia

- Bilateral Investment Treaty (signed June 17, 1992)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through December 2012. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Asia Pacific Economic Cooperation
  - 1st Joint Ministerial Statement (November 6-7, 1989)
  - 2nd Joint Ministerial Statement (July 29-31, 1990)
  - 3rd Joint Ministerial Statement (November 12-14, 1991)
  - 4th Joint Ministerial Statement (September 10-11, 1992)
  - 5th Joint Ministerial Statement (November 17-19, 1993)
  - Leaders' Economic Vision Statement (November 20, 1993)
  - Ministers Responsible for Trade Statement (October 6, 1994)
  - 6th Joint Ministerial Statement (November 11-12, 199)
  - Leaders' Declaration of Common Resolve (November 15, 1994)
  - 7th Joint Ministerial Statement (November 16-17, 1995)
  - Leaders' Declaration for Action (November 19, 1995)
  - Ministers Responsible for Trade Statement (July 15-16, 1996)
  - 8th Joint Ministerial Statement (November 22-23, 1996)
  - Leaders' Declaration: From Vision to Action (November 25, 1996)
  - Ministers Responsible for Trade Statement (May 8-10, 1997)
  - 9th Joint Ministerial Statement (November 21-22, 1997)
  - Leaders' Declaration on Connecting the APEC Community (November 25, 1997)

- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- Ministers Responsible for Trade Statement (June 22-23, 1998)
- 10th Joint Ministerial Statement (November 14-15, 1998)
- Leaders' Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Ministers Responsible for Trade Statement (June 29-30, 1999)
- 11th Joint Ministerial Statement (September 9-10, 1999)
- Leaders' Declaration: The Auckland Challenge (September 13, 1999)
- Ministers Responsible for Trade Statement (June 6-7, 2000)
- 12th Joint Ministerial Statement (November 12-13, 2000)
- Leaders' Declaration: Delivering to the Community (November 16, 2000)
- Ministers Responsible for Trade Statement (June 6-7,2001)
- 13th Joint Ministerial Statement (October 17-18, 2001)
- Leaders' Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- Ministers Responsible for Trade Statement (May 29-30, 2002)
- 14th Joint Ministerial Statement (October 23-24, 2002)
- Leaders' Declaration: Expanding the Benefits of Cooperation for Economic Growth and Development - Implementing the Vision (October 27, 2002)
- Ministers Responsible for Trade Statement (June 2-3, 2003)
- 15th Joint Ministerial Statement (October 17-18, 2003)
- Declaration: A World of Differences - Partnership for the Future (October 21, 2003)
- Ministers Responsible for Trade Statement (June 4-5, 2004)
- 16th Joint Ministerial Statement (November 17-18, 2004)
- Leaders' Declaration: One Community, Our Future (November 20-21, 2004)
- Ministers Responsible for Trade Statement (June 2-3, 2005)
- 17th Joint Ministerial Statement (November 15-16, 2005)
- Leaders' Declaration: Towards One Community: Meet the Challenge, Make the Change (November 18-19, 2005)

- Ministers Responsible for Trade Statement (June 1-2, 2006)
- 18th Joint Ministerial Statement (November 15-16, 2006)
- Leaders' Declaration: Towards a Dynamic Community for Sustainable Development and Prosperity (November 18-19, 2006)
- Ministers Responsible for Trade Statement (July 5-6, 2007)
- 19th Joint Ministerial Statement (September 5-6, 2007)
- Leaders' Declaration: Strengthening our Community, Building a Sustainable Future (September 9, 2007)
- Ministers Responsible for Trade Statement (May 31-June 1, 2008)
- 20th Joint Ministerial Statement (November 19-20, 2008)
- Leaders' Declaration: A New Commitment to Asia-Pacific Development (November 22-23, 2008)
- Ministers Responsible for Trade Statement (July 21-22, 2009)
- 21st Joint Ministerial Statement (November 11-12, 2009)
- Leaders' Declaration: Sustaining Growth, Connecting The Region (November 14-15, 2009)
- Ministers Responsible for Trade Statement (June 5-6, 2010)
- 22nd Joint Ministerial Statement (November 10-11, 2010)
- Leaders' Declaration: The Yokohama Vision - Bogor and Beyond (November 13-14, 2010)
- Ministers' Responsible for Trade Statement (May 19-20, 2011)
- 23rd Joint Ministerial Statement (November 11, 2011)
- Leaders' Declaration: Toward a Seamless Regional Economy (November 12-13, 2011)
- Ministers' Responsible for Trade Statement (June 4-5, 2012)
- 24th Joint Ministerial Statement (September 5-6, 2012)
- Leaders' Declaration: Integrate to Grow, Innovate to Prosper (September 8-9, 2012)

- Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)

- United States-Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)

- World Wine Trade Group Memorandum of Understanding on Certification Requirements (October 20, 2011)

Bilateral Documents and Declarations

Afghanistan
- United States-Afghanistan Trade and Investment Framework Agreement (September 21, 2004)

Algeria
- United States-Algeria Trade and Investment Framework Agreement (July 13, 2001)

Angola
- United States-Angola Trade and Investment Framework Agreement (May 19, 2009)

Argentina
- Bilateral Council on Trade and Investment (February 2002)

Association of Southeast Asian Nations (ASEAN)
- United States-ASEAN Trade and Investment Framework Agreement (August 5, 2006)

Bolivia
- Agreement between the Government of the United States of America and the Government of the Republic of Bolivia concerning a United States-Bolivia Council on Trade and Investment (May 8, 1990)

Brazil
- United States-Brazil Agreement on Trade and Economic Cooperation (March 19, 2011)

Brunei Darussalam
- United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

Cambodia
- United States-Cambodia Trade and Investment Framework Agreement (July 14, 2006)

Canada
- The Canada-U.S. Organic Equivalence Arrangement (June 17, 2009)

Caribbean Common Market
- United States-Caribbean Common Market Trade and Investment Framework Agreement (1991)

Central Asian Economies
- United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

China
- United States-China Joint Commission on Commerce and Trade Agreements (April 21, 2004)

- United States-China Joint Commission on Commerce and Trade Agreements (July 11, 2005)

- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (May 5, 2008)

Common Market for Eastern and Southern Africa

- United States-Common Market for Eastern and Southern Africa Trade and Investment Framework Agreement (October 2001)

East African Community

- United States-East African Community Trade and Investment Framework Agreement (July 16, 2008)

Ecuador

- Agreement between the Government of the United States of America and the Government of the Republic of Ecuador concerning a United States-Ecuador Council on Trade and Investment (July 23, 1990)

Egypt

- United States-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- United States-EU Transatlantic Economic Partnership (May 18, 1998)

- United States-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

- Decision to Establish the U.S.-EU High Level Working Group on Jobs and Growth, Joint Statement of the U.S.-EU Summit (November 28, 2010)

- The EU - U.S. Organic Equivalence Cooperation Arrangement (February 15, 2012)

Georgia

- United States-Georgia Trade and Investment Framework Agreement (June 20, 2007)

Ghana

- United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Gulf Cooperation Council

- Framework Agreement for Trade, Economic, Investment and Technical Cooperation (signed September 25, 2012)

Iceland

- United States-Iceland Trade and Investment Cooperation Forum Agreement (January 15, 2009)

India

- United States-India Trade Policy Forum , Framework for Cooperation on Trade and Investment (March 17, 2010)

Indonesia

- United States-Indonesia Understanding on a Trade and Investment Council (July 16, 1996)

- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 16, 2006)

Israel
- Understanding regarding Israel's intellectual property regime for pharmaceutical products (February 18, 2010)

Iraq
- United States-Iraq Trade and Investment Framework Agreement (July 11, 2005)

Japan
- United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)

- Exchange of Letters between the United States and Japan—Letters Regarding Electro-Magnetic Compatibility (EMC) Testing of Unintentional Radiators and Industrial Scientific and Medical (ISM) Equipment (February 26, 2007)

Kuwait
- United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

Lebanon
- United States-Lebanon Trade and Investment Framework Agreement (November 30, 2006)

Liberia
- United States-Liberia Trade and Investment Framework Agreement (February 15, 2007)

Malaysia
- United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)

Maldives
- United States-Maldives Trade and Investment Framework Agreement (October 17, 2009)

Mauritius
- United States-Mauritius Trade and Investment Framework Agreement (September 18, 2006)

- United States-Mauritius Trade Principles for Information and Communication Technology Services (June 18, 2012)

Mongolia
- United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

Morocco
- Kingdom of Morocco-United States Trade Principles for Information and Communication Technology Services (December 5, 2012)

- Statement of Principles for International Investment (December 5, 2012)

Mozambique
- United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

Nepal
- United States-Nepal Trade and Investment Framework Agreement (April 15, 2011)

New Zealand
- United States-New Zealand Trade and Investment Framework Agreement (October 2, 1992)

Nigeria
- United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Oman
- United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

Pakistan
- United States-Pakistan Trade and Investment Framework Agreement (June 25, 2003)

Paraguay
- Joint Commission on Trade and Investment (September 26, 2003)

Philippines
- United States-Philippines Trade and Investment Framework Agreement (1989)

- United States-Philippines Trade and Investment Framework Agreement Protocol Concerning Customs Administration and Trade Facilitation (November 13, 2011)

Qatar
- United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

Rwanda
- United States-Rwanda Trade and Investment Framework Agreement (June 7, 2006)

Saudi Arabia
- United States-Saudi Arabia Trade and Investment Framework Ag**r**eement (July 31, 2003)

South Africa
- United States-South Africa Agreement Concerning the Development of Trade and Investment (June 18, 2012)

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)

Uruguay

- United States-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)

- Joint Commission on Trade and Investment (January 25, 2007)

- United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)

    i United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade and Environment Public Participation (October 2, 2008)
    ii United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade Facilitation (October 2, 2008)

Vietnam

- United States-Vietnam Trade and Investment Framework Agreement (June 21, 2007)

West African Economic and Monetary Union

- United States-West African Economic and Monetary Union Trade and Investment Framework Agreement (April 24, 2002)

Yemen

- United States-Yemen Trade and Investment Framework Agreement (February 6, 2004)