2015 National Trade Estimate Report on FOREIGN TRADE BARRIERS

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LIST OF FREQUENTLY USED ACRONYMS AND ABBREVIATIONS

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
TPP	Trans-Pacific Partnership
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Intellectual Property Rights
T-TIP	Transatlantic Trade and Investment Partnership
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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FOREWORD

SCOPE AND COVERAGE

The 2015 National Trade Estimate Report on Foreign Trade Barriers (NTE) is the 30th in an annual series that highlights significant foreign barriers to U.S. exports. This document is a companion piece to the President's Trade Policy Agenda published by USTR in March.

In accordance with section 181 of the Trade Act of 1974, as added by section 303 of the Trade and Tariff Act of 1984 and amended by section 1304 of the Omnibus Trade and Competitiveness Act of 1988, section 311 of the Uruguay Round Trade Agreements Act, and section 1202 of the Internet Tax Freedom Act, the Office of the U.S. Trade Representative is required to submit to the President, the Senate Finance Committee, and appropriate committees in the House of Representatives, an annual report on significant foreign trade barriers. The statute requires an inventory of the most important foreign barriers affecting U.S. exports of goods and services, foreign direct investment by U.S. persons, and protection of intellectual property rights. Such an inventory enhances awareness of these trade restrictions and facilitates negotiations aimed at reducing or eliminating these barriers.

This report is based upon information compiled within USTR, the Departments of Commerce and Agriculture, and other U.S. Government agencies, and supplemented with information provided in response to a notice published in the *Federal Register,* and by members of the private sector trade advisory committees and U.S. Embassies abroad.

Trade barriers elude fixed definitions, but may be broadly defined as government laws, regulations, policies, or practices that either protect domestic goods and services from foreign competition, artificially stimulate exports of particular domestic goods and services, or fail to provide adequate and effective protection of intellectual property rights.

This report classifies foreign trade barriers into ten different categories. These categories cover government-imposed measures and policies that restrict, prevent, or impede the international exchange of goods and services. The categories covered include:

- Import policies (*e.g.*, tariffs and other import charges, quantitative restrictions, import licensing, customs barriers, and other market access barriers);
- Sanitary and phytosanitary measures and technical barriers to trade;
- Government procurement (*e.g.*, "buy national" policies and closed bidding);
- Export subsidies (*e.g.*, export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);
- Lack of intellectual property protection (*e.g.*, inadequate patent, copyright, and trademark regimes and enforcement of intellectual property rights);
- Services barriers (*e.g.*, limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of foreign data processing, and barriers to the provision of services by foreign professionals);

- Investment barriers (*e.g.*, limitations on foreign equity participation and on access to foreign government-funded research and development programs, local content requirements, technology transfer requirements and export performance requirements, and restrictions on repatriation of earnings, capital, fees and royalties);

- Government-tolerated anticompetitive conduct of state-owned or private firms that restricts the sale or purchase of U.S. goods or services in the foreign country's markets;

- Trade restrictions affecting electronic commerce (*e.g.*, tariff and nontariff measures, burdensome and discriminatory regulations and standards, and discriminatory taxation); and

- Other barriers (barriers that encompass more than one category, *e.g.*, bribery and corruption,[i] or that affect a single sector).

From 2010 to 2014, significant foreign government barriers to U.S. exports that took the form of standard-related measures (including testing, labeling, and certification requirements) and sanitary and phytosanitary (SPS) measures were treated separately in two specialized reports. This year, USTR has streamlined reporting by integrating information about these types of measures back into the NTE. The NTE will continue to highlight the increasingly critical nature of these issues to U.S. trade policy, to identify and call attention to problems and efforts to resolve them during the past year and to signal new or existing areas in which more progress needs to be made. Standards-related and SPS measures serve an important function in facilitating international trade, including by enabling small and medium sized enterprises (SMEs) to obtain greater access to foreign markets. Standards-related and SPS measures also enable governments to pursue legitimate objectives such as protecting human, plant, and animal health, the environment, and preventing deceptive practices. But standards-related and SPS measures that are nontransparent and discriminatory can act as significant barriers to U.S. trade. Such measures can pose a particular problem for SMEs, which often do not have the resources to address these problems on their own.

USTR will continue to identify, review, analyze, and address foreign government standards-related and SPS measures that affect U.S. trade. USTR coordinates rigorous interagency processes and mechanisms, through the Trade Policy Staff Committee and, more specifically, through specialized TBT and SPS subcommittees. These TPSC subcommittees, which include representatives from agencies with an interest in foreign standards-related and SPS measures, maintain an ongoing process of informal consultation and coordination on standards-related and SPS issues as they arise.

The United States actively engages with foreign governments to prevent unwarranted standards-related and SPS measures, and works to resolve specific trade concerns arising from standards-related and SPS measures. The WTO TBT Committee and the WTO SPS Committee are the principal multilateral fora for engagement on trade issues relating to standards-related and SPS measures. The mechanisms for cooperation on these measures in U.S. FTAs and Trade and Investment Framework Agreements (TIFAs) also play a vital role in facilitating U.S. efforts to prevent and resolve standards-related and SPS trade concerns. In addition, U.S. agencies seek to prevent potential standards-related and SPS trade barriers from emerging by engaging in multilateral, regional, and bilateral cooperative activities, information exchanges, technical assistance, and negotiations on specific arrangements. These efforts are aimed at helping other governments design effective and well-conceived standards-related and SPS measures, with the goal of producing better regulatory outcomes and facilitating trade.

In recent years, the United States has observed a growing trend among our trading partners to impose localization barriers to trade – measures designed to protect, favor, or stimulate domestic industries, service providers, or intellectual property at the expense of imported goods, services or foreign-owned or developed

intellectual property. These measures may operate as disguised barriers to trade and unreasonably differentiate between domestic and foreign products, services, intellectual property, or suppliers. They can distort trade, discourage foreign direct investment and lead other trading partners to impose similarly detrimental measures. For these reasons, it has been longstanding U.S. trade policy to advocate strongly against localization barriers and encourage trading partners to pursue policy approaches that help their economic growth and competitiveness without discriminating against imported goods and services. USTR is chairing an interagency effort to develop and execute a more strategic and coordinated approach to address localization barriers. This year's NTE continues the practice of identifying localization barriers to trade in the relevant barrier category in the report's individual sections to assist these efforts and to inform the public on the scope and diversity of these practices.

USTR continues to vigorously scrutinize foreign labor practices and to redress substandard practices that impinge on labor obligations in U.S. free trade agreements (FTAs) and deny foreign workers their internationally recognized labor rights. USTR has also introduced new mechanisms to enhance its monitoring of the steps that U.S. FTA partners have taken to implement and comply with their obligations under the environment chapters of those agreements. To further these initiatives, USTR has implemented interagency processes for systematic information gathering and review of labor rights practices and environmental enforcement measures in FTA countries, and USTR staff regularly works with FTA countries to monitor practices and directly engages governments and other actors. The Administration has reported on these activities in the 2015 Trade Policy Agenda and 2014 Annual Report of the President on the Trade Agreements Program.

The NTE covers significant barriers, whether they are consistent or inconsistent with international trading rules. Many barriers to U.S. exports are consistent with existing international trade agreements. Tariffs, for example, are an accepted method of protection under the General Agreement on Tariffs and Trade 1994 (GATT 1994). Even a very high tariff does not violate international rules unless a country has made a commitment not to exceed a specified rate, *i.e.,* a tariff binding. On the other hand, where measures are not consistent with U.S. rights international trade agreements, they are actionable under U.S. trade law, including through the World Trade Organization (WTO).

This report discusses the largest export markets for the United States, including 58 countries, the European Union, Taiwan, Hong Kong, and one regional body. The discussion of Chinese trade barriers is structured and focused to align more closely with other Congressional reports prepared by USTR on U.S.-China trade issues. The China section includes cross-references to other USTR reports where appropriate. Some countries were excluded from this report due primarily to the relatively small size of their markets or the absence of major trade complaints from representatives of U.S. goods and services sectors. However, the omission of particular countries and barriers does not imply that they are not of concern to the United States.

NTE sections report the most recent data on U.S. bilateral trade in goods and services and compare the data to the preceding period. This information is reported to provide context for the reader. In more than half of the specified cases, U.S. bilateral goods trade continued to increase in 2014 compared to the preceding period. The merchandise trade data contained in the NTE are based on total U.S. exports, free alongside (f.a.s.)[ii] value, and general U.S. imports, customs value, as reported by the Bureau of the Census, Department of Commerce (NOTE: These data are ranked in an Appendix according to the size of the export market). The services data are drawn from the October 2013 Survey of Current Business, compiled by the Bureau of Economic Analysis in the Department of Commerce (BEA). The direct investment data are drawn from the September 2013 Survey of Current Business, also from BEA.

TRADE IMPACT ESTIMATES AND FOREIGN BARRIERS

Wherever possible, this report presents estimates of the impact on U.S. exports of specific foreign trade barriers and other trade distorting practices. Where consultations related to specific foreign practices were proceeding at the time this report was published, estimates were excluded, in order to avoid prejudice to those consultations.

The estimates included in this report constitute an attempt to assess quantitatively the potential effect of removing certain foreign trade barriers on particular U.S. exports. However, the estimates cannot be used to determine the total effect on U.S. exports either to the country in which a barrier has been identified or to the world in general. In other words, the estimates contained in this report cannot be aggregated in order to derive a total estimate of gain in U.S. exports to a given country or the world.

Trade barriers or other trade distorting practices affect U.S. exports to another country because these measures effectively impose costs on such exports that are not imposed on goods produced in the importing country. In theory, estimating the impact of a foreign trade measure on U.S. exports of goods requires knowledge of the (extra) cost the measure imposes on them, as well as knowledge of market conditions in the United States, in the country imposing the measure, and in third countries. In practice, such information often is not available.

Where sufficient data exist, an approximate impact of tariffs on U.S. exports can be derived by obtaining estimates of supply and demand price elasticities in the importing country and in the United States. Typically, the U.S. share of imports is assumed to be constant. When no calculated price elasticities are available, reasonable postulated values are used. The resulting estimate of lost U.S. exports is approximate, depends on the assumed elasticities, and does not necessarily reflect changes in trade patterns with third countries. Similar procedures are followed to estimate the impact of subsidies that displace U.S. exports in third country markets.

The task of estimating the impact of nontariff measures on U.S. exports is far more difficult, since there is no readily available estimate of the additional cost these restrictions impose. Quantitative restrictions or import licenses limit (or discourage) imports and thus raise domestic prices, much as a tariff does. However, without detailed information on price differences between countries and on relevant supply and demand conditions, it is difficult to derive the estimated effects of these measures on U.S. exports. Similarly, it is difficult to quantify the impact on U.S. exports (or commerce) of other foreign practices, such as government procurement policies, nontransparent standards, or inadequate intellectual property rights protection.

In some cases, particular U.S. exports are restricted by both foreign tariff and nontariff barriers. For the reasons stated above, it may be difficult to estimate the impact of such nontariff barriers on U.S. exports. When the value of actual U.S. exports is reduced to an unknown extent by one or more than one nontariff measure, it then becomes derivatively difficult to estimate the effect of even the overlapping tariff barriers on U.S. exports.

The same limitations that affect the ability to estimate the impact of foreign barriers on U.S. goods exports apply to U.S. services exports. Furthermore, the trade data on services exports are extremely limited in detail. For these reasons, estimates of the impact of foreign barriers on trade in services also are difficult to compute.

With respect to investment barriers, there are no accepted techniques for estimating the impact of such barriers on U.S. investment flows. For this reason, no such estimates are given in this report. The NTE

includes generic government regulations and practices which are not product specific. These are among the most difficult types of foreign practices for which to estimate trade effects.

In the context of trade actions brought under U.S. law, estimates of the impact of foreign practices on U.S. commerce are substantially more feasible. Trade actions under U.S. law are generally product specific and therefore more tractable for estimating trade effects. In addition, the process used when a specific trade action is brought will frequently make available non-U.S. Government data (from U.S. companies or foreign sources) otherwise not available in the preparation of a broad survey such as this report.

In some cases, industry valuations estimating the financial effects of barriers are contained in the report. The methods for computing these valuations are sometimes uncertain. Hence, their inclusion in the NTE report should not be construed as a U.S. Government endorsement of the estimates they reflect.

March 2015

Endnotes

[i] Corruption is an impediment to trade, a serious barrier to development, and a direct threat to our collective security. Corruption takes many forms and affects trade and development in different ways. In many countries, it affects customs practices, licensing decisions, and the awarding of government procurement contracts. If left unchecked, bribery and corruption can negate market access gained through trade negotiations, undermine the foundations of the international trading system, and frustrate broader reforms and economic stabilization programs. Corruption also hinders development and contributes to the cycle of poverty.

Information on specific problems associated with bribery and corruption is difficult to obtain, particularly since perpetrators go to great lengths to conceal their activities. Nevertheless, a consistent complaint from U.S. firms is that they have experienced situations that suggest corruption has played a role in the award of billions of dollars of foreign contracts and delayed or prevented the efficient movement of goods. Since the United States enacted the Foreign Corrupt Practices Act (FCPA) in 1977, U.S. companies have been prohibited from bribing foreign public officials, and numerous other domestic laws discipline corruption of public officials at the State and Federal levels. The United States is committed to the active enforcement of the FCPA.

The United States has taken a leading role in addressing bribery and corruption in international business transactions and has made real progress over the past quarter century building international coalitions to fight bribery and corruption. Bribery and corruption are now being addressed in a number of fora. Some of these initiatives are now yielding positive results.

The United States led efforts to launch the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Antibribery Convention). In November 1997, the United States and 33 other nations adopted the Antibribery Convention, which currently is in force for 40 countries, including the United States. The Antibribery Convention obligates its parties to criminalize the bribery of foreign public officials in the conduct of international business. It is aimed at proscribing the activities of those who offer, promise, or pay a bribe (for additional information, see http://www.export.gov/tcc and http://www.oecd.org).

The United States also played a critical role in the successful conclusion of negotiations that produced the United Nations Convention Against Corruption, the first global anticorruption instrument. The Convention was opened for signature in December 2003, and entered into force December 14, 2005. The Convention contains many provisions on preventive measures countries can take to stop corruption, and requires countries to adopt additional measures as may be necessary to criminalize fundamental anticorruption offenses, including bribery of domestic as well as foreign public officials. As of November 2014, there were 174 parties, including the United States.

In March 1996, countries in the Western Hemisphere concluded negotiation of the Inter-American Convention Against Corruption (Inter-American Convention). The Inter-American Convention, a direct result of the Summit of the Americas Plan of Action, requires that parties criminalize bribery and corruption. The Inter-American Convention entered into force in March 1997. The United States signed the Inter-American Convention on June 2, 1996 and deposited its instrument of ratification with the Organization of American States (OAS) on September 29, 2000. Thirty-one of the thirty-three parties to the Inter-American Convention, including the United States, participate in a Follow-up Mechanism conducted under the auspices of the OAS to monitor implementation of the Convention. The Inter-American Convention addresses a broad range of corrupt acts including domestic corruption and trans-national bribery. Signatories agree to enact legislation making it a crime for individuals to offer bribes to public officials and for public officials to solicit and accept bribes, and to implement various preventive measures.

The United States continues to push its anticorruption agenda forward. The United States seeks binding commitments in FTAs that promote transparency and that specifically address corruption of public officials. The United States also led other countries in concluding multilateral negotiations on the World Trade Organization (WTO) Trade Facilitation Agreement which contains provisions on transparency in customs operations and avoiding conflicts of interest in customs penalties. The United States has also advocated for transparency of government procurement regimes in FTA

negotiations. In the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership negotiations, the United States is seeking expanded transparency and anticorruption disciplines. The United States is also playing a leadership role on these issues in APEC and other fora.

[ii] Free alongside (f.a.s.): Under this term, the seller quotes a price, including delivery of the goods alongside and within the reach of the loading tackle (hoist) of the vessel bound overseas.

ANGOLA

TRADE SUMMARY

U.S. goods exports in 2014 were $2.0 billion, up 41.4 percent from the previous year. Angola is currently the 65th largest export market for U.S. goods. Corresponding U.S. imports from Angola were $5.7 billion, down 34.6 percent. The U.S. goods trade deficit with Angola was $3.7 billion in 2014, a decrease of $3.6 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Angola was $1.3 billion in 2013 (latest data available), up from $846 million in 2012.

IMPORT POLICIES

Tariffs and Nontariff Measures

Angola is a member of the World Trade Organization and the Southern African Development Community (SADC). However, Angola has delayed implementation of the 2003 SADC Protocol on Trade (which seeks to reduce tariffs). The Angolan government is concerned that implementation of the SADC Protocol on Trade would lead to a large increase in imports, particularly from South Africa.

The Angolan government published a new tariff schedule in November 2013 that became effective in January 2014. Through the new schedule, the government aims to protect and stimulate national industry by raising import and consumption duties on items that Angolan companies already produce, even if domestic production cannot meet domestic demand. Notable changes include a 20 percent increase on the import tax of beer, resulting in an import tax of 50 percent; a 50 percent import duty (35 percent increase) on fruit juices; and a 50 percent import tax (35 percent increase) on certain vegetables, including tomatoes, onions, garlic, beans, and potatoes. The import taxes for roofing materials and bricks have also increased by 20 percent to 50 percent. The import tax for chicken products, which make up the bulk of U.S. food exports, is unchanged but remains high. Cement is also a focus of the Angolan government's efforts to protect and promote local production. Angola seeks to increase output for both domestic consumption and exports through Executive Decree No. 15/14 which sets limits on cement importation, regulates prices, and specifies ports through which cement can be imported.

Under the 2013 tariff schedule, rates on a few products like palm oil, railway materials, and wheat flour had small decreases. Another prominent feature of the new tariff schedule is a policy that allows Angolan industry to enjoy import tax exemptions on inputs that are used to manufacture Angolan made products.

Tariffs for the oil industry are largely determined by individually negotiated contracts between international oil companies and the Angolan government. As most U.S. exports to Angola consist of specialized oil industry equipment, which is largely exempt from tariffs, the annual impact of tariffs on U.S. exports is relatively low. If companies operating in the oil and mining industries present a letter from the Minister of Petroleum or the Minister of Geology and Mines, they may import without duty equipment to be used exclusively for oil and mineral exploration.

Customs Barriers

Administration of Angola's customs service has improved in the last few years but remains a barrier to market access.

Under the Presidential Decree No. 63/13, pre-shipment inspections are no longer mandatory as of June 12, 2013, but traders may continue to contract for pre-shipment inspection services from private inspection agencies if they wish to benefit from faster "green channel" access, or if pre-shipment inspection is required by their letter of credit agreement. Some importers find that the fees charged by Bromangol, a private laboratory which dominates the inspection market, are excessive, and they also question whether the testing is actually completed.

Any shipment of goods equal to or exceeding $1,000 requires use of a clearing agent. While the number of clearing agents increased from 55 in 2006 to 223 in 2013, competition among clearing agents has not reduced fees, which typically range from one percent to two percent of the value of the declaration.

The importation of certain goods may require specific authorization from various government ministries. This often leads to bureaucratic bottlenecks that can result in delays and extra costs. Goods that require ministerial authorization include the following: pharmaceutical substances and saccharine and derived products (Ministry of Health); fiscal or postal stamps, radios, transmitters, receivers, and other devices (Ministry of Post and Telecommunications); weapons, ammunition, fireworks, and explosives (Ministry of Interior); plants, roots, bulbs, microbial cultures, buds, fruits, seeds, and crates and other packages containing these products (Ministry of Agriculture); poisonous and toxic substances and drugs (Ministries of Agriculture, Industry, and Health); and samples or other goods imported to be given away (Customs).

GOVERNMENT PROCUREMENT

Angola's government procurement process lacks transparency and competition among suppliers. Information about government projects and procurements is often not readily available from the appropriate authorities, and interested parties must spend considerable time to obtain the necessary information. Although calls for bids for government procurements are sometimes published in the government newspaper "*Jornal de Angola*," many contracting agencies may already have a preference for a specific business before receiving all the bids. The Promotion of Angolan Private Entrepreneurs Law provides Angolan companies preferential treatment in the government's procurement of goods, services and public works contracts. Angolan companies often then deliver these goods and services by subcontracting with foreign companies.

Angola is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Angola was not listed on the 2014 Special 301 Report. Angola is a party to the World Intellectual Property Organization (WIPO) Convention, the Paris Convention for the Protection of Industrial Property, and the WIPO Patent Cooperation Treaty. Intellectual property rights (IPR) are administered by the Ministry of Industry (trademarks, patents, and designs) and by the Ministry of Culture (authorship, literary, and artistic rights).

Although Angolan law provides basic protection for IPR and the National Assembly continues to work to strengthen existing legislation, IPR protection remains weak in practice due to a lack of enforcement capacity.

INVESTMENT BARRIERS

Angola is open to foreign investment, but it can be a difficult environment for foreign investors. A private investment law passed in May 2011 altered benefits and incentives for investors and spelled out distinctions between domestic and foreign investors. For example, the minimum investment required to "repatriate

profits, dividends, and similar returns" was increased from $100,000 to $1 million. Investors must enter into an investment contract with the Angolan state, represented by the National Agency for Private Investment (ANIP), which establishes the conditions for the investment as well as the applicable incentives. ANIP offices are located in Luanda and Washington, D.C.

In addition to the process described above, investments with a value between $10 million and $50 million must be approved by the Council of Ministers, and investments above $50 million require the approval of an *ad hoc* presidential committee. By law, the Council of Ministers has 30 days to review an application, although in practice decisions are often subject to lengthy delays.

The Angolan justice system can be slow and arduous. The World Bank's "Doing Business in 2015" report estimates that "Enforcing Contracts" as measured by the amount of time elapsed between the filing of a complaint and the receipt of restitution, generally takes 1,296 days in Angola, whereas the average period in sub-Saharan Africa is 650 days. While existing law contemplates domestic and international arbitration, arbitration law is not widely practiced.

Angola's private investment law expressly prohibits private investment in the areas of defense, internal public order, and state security; in banking activities relating to the operations of the Central Bank and the Mint; in the administration of ports and airports; and in other areas where the law gives the state exclusive responsibility.

Investment in the petroleum, diamond, and financial sectors continues to be governed by sector-specific legislation. Foreign investors can establish fully-owned subsidiaries in many sectors, but frequently are strongly encouraged (though not formally required) to take on a local partner.

Obtaining the proper permits and business licenses to operate in Angola is time-consuming and adds to the cost of investment. The World Bank's "Doing Business in 2015" report noted that it takes an average of 66 days to start a business in Angola compared to a regional average of 29.7 days.

The Angolan government is gradually implementing legislation for the petroleum sector originally enacted in November 2003 (Order 127/03 of the Ministry of Petroleum). The legislation requires many foreign oil services companies currently supplying the petroleum sector to form joint-venture partnerships with local companies on any new ventures. For the provision of goods and services not requiring heavy capital investment or specialized expertise, foreign companies may only participate as a contractor or sell manufactured products to Angolan companies for later resale. Foreign petroleum companies face local content requirements forcing them to acquire low capital investment goods and services from Angolan-owned companies. For activities requiring a medium level of capital investment and a higher level of expertise (not necessarily specialized), foreign companies may only participate in association with Angolan companies.

The Foreign Exchange Law for the Petroleum Sector requires that all petroleum, oil, and gas companies use Angolan-domiciled banks to make all payments, including payments to suppliers and contractors located outside of Angola. Furthermore, payments for goods and services provided by foreign exchange resident service providers must be made in local currency.

A handful of American businesses have reported difficulties repatriating profits out of Angola. Transfers above a certain amount require Central Bank approval, and commercial banks are sometimes reluctant to meet the bureaucratic requirements necessary to repatriate profits.

OTHER BARRIERS

Corruption

Corruption is prevalent in Angola for many reasons, including an inadequately trained civil service, a highly-centralized bureaucracy, antiquated regulations, and a lack of implementation of anti-corruption laws. "Gratuities" and other facilitation fees are sometimes requested in order to secure quicker service and approval. It is common for Angolan government officials to have substantial private business interests. These interests are not necessarily publicly disclosed, and it is difficult to determine the ownership of some Angolan companies. The business climate continues to favor those connected to the government. There are laws and regulations regarding conflict of interest, but they are not widely enforced. Some investors report pressure to form joint ventures with specific Angolan companies believed to have connections to political figures.

ARAB LEAGUE

The Arab League's boycott of Israeli companies and Israeli-made goods, and its effect on U.S. trade and investment in the Middle East and North Africa, varies from country to country. While the boycott still on occasion can pose a barrier (because of associated compliance costs and potential legal restrictions) for individual U.S. companies and their subsidiaries doing business in certain parts of the region, it has for many years had an extremely limited practical effect overall on U.S. trade and investment ties with many key Arab League countries. The 22 Arab League members are the Palestinian Authority and the following countries: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Kuwait, Jordan, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Yemen, and the United Arab Emirates. About half of the Arab League members are also Members of the World Trade Organization (WTO) and are thus obligated to apply WTO commitments to all current WTO Members, including Israel. To date, no Arab League member, upon joining the WTO, has invoked the right of non-application of WTO rights and obligations with respect to Israel.

The United States has long opposed the Arab League boycott, and U.S. Government officials from a variety of agencies frequently have urged Arab League member states to end it. The U.S. Department of State and U.S. embassies in relevant host countries take the lead in raising U.S. concerns related to the boycott with political leaders in Arab League member states. The U.S. Departments of Commerce and Treasury, and the Office of the United States Trade Representative monitor boycott policies and practices of Arab League member states and, aided by U.S. embassies, lend advocacy support to firms facing boycott-related pressures from host country officials.

U.S. antiboycott laws (the 1976 Tax Reform Act (TRA) and the 1977 amendments to the Export Administration Act (EAA)) were adopted to require U.S. firms to refuse to participate in foreign boycotts that the United States does not sanction. The Arab League boycott of Israel was the impetus for this legislation and continues to be the principal boycott with which U.S. companies must be concerned. The EAA's antiboycott provisions, implementation of which is overseen by the U.S. Department of Commerce's Office of Antiboycott Compliance (OAC), prohibit certain types of conduct undertaken in support of the Arab League boycott of Israel. These types of prohibited activity include, inter alia, agreements by companies to refuse to do business with Israel, furnishing by companies of information about business relationships with Israel, and implementation of letters of credit that include prohibited boycott terms. The TRA's antiboycott provisions, administered by the Department of the Treasury and the Internal Revenue Service, deny certain foreign tax benefits to companies that agree to requests from boycotting countries to participate in certain types of boycotts.

The U.S. Government's efforts to oppose the Arab League boycott include alerting host country officials to the presence of prohibited boycott requests and those requests' adverse impact on both U.S. firms and on countries' ability to expand trade and investment ties with the United States. In this regard, U.S. Department of Commerce/OAC officials periodically visit Arab League members to consult with appropriate counterparts on antiboycott compliance issues. These consultations provide technical assistance to host governments to identify language in commercial documents with which U.S. businesses may or may not comply.

Boycott activity can be classified according to three categories. The primary boycott prohibits the importation of goods and services from Israel into the territory of Arab League members. This prohibition may conflict with the obligation of Arab League members that are also Members of the WTO to treat products of Israel on a most favored nation basis. The secondary boycott prohibits individuals, companies (both private and public sector), and organizations in Arab League members from engaging in business with U.S. firms and firms from other countries that contribute to Israel's military or economic development.

Such firms may be placed on a blacklist maintained by the Central Boycott Office (CBO), a specialized bureau of the Arab League; the CBO often provides this list to other Arab League member governments, which decide whether or to what extent to follow it in implementing any national boycotts. The tertiary boycott prohibits business dealings with U.S. and other firms that do business with blacklisted companies.

Individual Arab League member governments are responsible for enforcing the boycott, and enforcement efforts vary widely from country to country. Some Arab League member governments have consistently maintained that only the Arab League as a whole can entirely revoke the boycott. Other member governments support the view that adherence to the boycott is a matter of national discretion; thus, a number of governments have taken steps to dismantle various aspects of their national boycotts. The U.S. Government has on numerous occasions indicated to Arab League member governments that their officials' attendance at periodic CBO meetings is not conducive to improving trade and investment ties, either with the United States or within the region. Attendance of Arab League member government officials at CBO meetings varies; a number of governments have responded to U.S. officials that they only send representatives to CBO meetings in an observer capacity, or to push for additional discretion in national enforcement of the CBO-drafted company blacklist. Ongoing political upheaval in Syria in recent years has prevented the CBO from convening meetings on a regular basis.

EGYPT: Egypt has not enforced any aspect of the boycott since 1980, pursuant to its peace treaty with Israel. However, U.S. firms occasionally have found that some government agencies use outdated forms containing boycott language. In past years, Egypt has included boycott language drafted by the Arab League in documentation related to tenders funded by the Arab League. The revolution and resultant political uncertainty in Egypt since early 2011 introduced some uncertainty with respect to future Egyptian approaches to boycott-related issues, but thus far the Egyptian government has affirmed its continued commitment to the peace treaty.

JORDAN: Jordan formally ended its enforcement of any aspect of the boycott when it signed the Jordanian-Israeli peace treaty in 1994. Jordan signed a trade agreement with Israel in 1995, and later an expanded trade agreement in 2004 (essentially Israel's first free trade agreement with an Arab country). While some elements of Jordanian society continue to oppose improving political and commercial ties with Israel, government policy does not condone such positions.

LIBYA: Libya does not maintain diplomatic relations with Israel and has a law in place mandating application of the Arab League boycott. The Qaddafi regime enforced the boycott and routinely inserted boycott language in contracts with foreign companies. Bills of lading and customs declarations for imports could not indicate trade with Israel, and shippers were legally required to certify that no goods they were handling were of Israeli origin. Foreign ships were prohibited from calling at Libyan ports if they had called at an Israeli port within the preceding year. Ongoing political upheaval in Libya has made it impossible to determine the current attitude of Libyan authorities toward boycott issues. The Administration will continue to monitor closely Libya's treatment of the boycott.

IRAQ: Despite antiboycott guidance given on two occasions from the Iraqi Council of Ministers to all ministries, the number of boycott-related requests from Iraqi entities has been increasing in recent years. In 2014, there were 70 prohibited requests from Iraqi entities reported to the U.S. Department of Commerce. Requests emanated from the Ministry of Health (MOH) and its procurement arm, the Iraqi State Company for Importation of Drugs and Medical Appliances (Kimadia); the Ministry of Planning; the South Oil Company; the General Directorate of Electrical Energy Production; and the Ministry of Electricity.

This continued high number of boycott requests occurred despite promises made by Iraqi entities. The MOH committed to the United States in June 2013 that it would stop issuing the requests. Since that time,

however, the MOH has issued several prohibited requests that negatively affected U.S. suppliers of medical and pharmaceutical products. In January 2014, the head of Kimadia informed the United States that the MOH and Kimadia would move to end the practice of including Arab League boycott-related requirements in tender packages for new procurements. The South Oil Company, which had stopped issuing tenders with boycott language several years ago, recently resumed issuing tenders containing boycott-related language. Increased boycott-related requests from the Ministry of Electricity are also very troubling, since Iraq is seeking investment and procurement of key power sector technologies from foreign companies and critical procurement projects currently are underway.

U.S. companies and investors consider the existence of boycott-related requirements in procurement contracts and tenders as additional disincentives for doing business in Iraq. It is estimated that since 2010, U.S. companies have lost more than $1 billion in sales opportunities in Iraq due to these Arab League boycott-related requests.

YEMEN: Yemen has not put a law in place regarding the boycott, though it continues to enforce the primary aspect of the boycott and does not trade with Israel. Yemen in the past has stated that, absent an Arab League consensus to end the boycott, it will continue to enforce the primary boycott. However, Yemen also continues to adhere to its 1995 governmental decision to renounce observance of the secondary and tertiary aspects of the boycott and does not maintain an official boycott enforcement office. Continuing serious political unrest within the country makes it difficult to predict Yemen's future posture toward boycott-related issues.

LEBANON: Since June 1955, Lebanese law has prohibited all individuals, companies, and organizations from directly or indirectly contracting with Israeli companies and individuals or buying, selling, or acquiring in any way products produced in Israel. This prohibition is reportedly widely adhered to in Lebanon. Ministry of Economy officials have reaffirmed the importance of the boycott in preventing Israeli economic penetration of Lebanese markets.

PALESTINIAN AUTHORITY: The Palestinian Authority (PA) agreed not to enforce the boycott in a 1995 letter to the U.S. Government; and the PA has kept to this commitment since. Though some Palestinians continue on occasion to call for *ad hoc* boycotts of goods produced in Israeli West Bank settlements, foreign trade involving Palestinian producers and importers must be managed through Israeli authorities.

ALGERIA: Algeria does not maintain diplomatic, cultural, or direct trade relations with Israel, though indirect trade reportedly does take place. The country has legislation in place that in general supports the Arab League boycott, but domestic law contains no specific provisions relating to the boycott and government enforcement of the primary aspect of the boycott reportedly is sporadic. Algeria appears not to enforce any element of the secondary or tertiary aspects of the boycott.

MOROCCO: Moroccan law contains no specific references to the Arab League boycott. The government informally recognizes the primary aspect of the boycott due to Morocco's membership in the Arab League, but does not enforce any aspect of it. According to Israeli statistics, Morocco is Israel's seventh largest trading partner in Africa and third largest in the Arab world, after Jordan and Egypt. Trade with Israel increased 94 percent between 2012 and 2013, resulting in imports from Israel of $53.7 million and exports from Morocco of $6.2 million. U.S. firms have not reported boycott-related obstacles to doing business in Morocco. Moroccan officials do not appear to attend CBO meetings.

TUNISIA: Upon the establishment of limited diplomatic relations with Israel, Tunisia terminated its observance of the Arab League boycott. In the wake of the 2011 revolution, there has been no indication that Tunisian government policy with respect to the boycott has changed.

SUDAN: The government of Sudan supports the Arab League boycott and has enacted legislation requiring adherence to it. However, there appear to be no regulations in place to enforce the secondary and tertiary aspects of the boycott.

COMOROS, DJIBOUTI, AND SOMALIA: None of these countries have officially participated in the Arab League boycott. Djibouti generally supports Palestinian causes in international organizations and there is little direct trade between Djibouti and Israel; however, the government currently does not enforce any aspects of the boycott.

SYRIA: Syria diligently implements laws enforcing the Arab League boycott. Syria maintains its own boycott-related blacklist of firms, separate from the CBO list, which it regards as outdated. Syria's boycott practices have not had a substantive impact on U.S. businesses due to U.S. economic sanctions imposed on the country since 2004; the ongoing and serious political unrest within the country has further reduced U.S. commercial interaction with Syria.

MAURITANIA: Though Mauritania "froze" its diplomatic relations with Israel in March 2009 (in response to Israeli military engagement in Gaza), Mauritania has continued to refrain from enforcing any aspect of the boycott.

GULF COOPERATION COUNCIL (GCC): In September 1994, the GCC member countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) announced an end to their enforcement of the secondary and tertiary aspects of the boycott, eliminating a significant trade barrier to U.S. firms. In December 1996, the GCC countries recognized the total dismantling of the boycott as a necessary step to advance peace and promote regional cooperation in the Middle East and North Africa. Although all GCC states are complying with these stated plans, some commercial documentation containing boycott-related language continues to surface on occasion and impact individual business transactions.

The situation in individual GCC member countries is as follows:

Bahrain: The U.S. Government has received assurances from the government of Bahrain that it has no restrictions on U.S. companies trading with Israel or doing business in Israel, regardless of their ownership or other relations with Israeli companies. Bahrain abolished its boycott law and enforcement office in September 2005 while preparing to sign its Free Trade Agreement with the United States. Tender documents from Bahrain have occasionally referred to the secondary and tertiary aspects of the boycott, but such instances have been remedied when brought to authorities' attention. The government has stated publicly that it recognizes the need to abandon formally the primary aspect of the boycott. There are no laws prohibiting bilateral trade and investment between Bahrain and Israel. No entities exist in Bahrain that promote trade with Israel; however, Israeli-labeled products reportedly can occasionally be found in Bahraini markets.

Kuwait: Kuwait continues to recognize the 1994 GCC decision and has not applied secondary or tertiary aspects of the boycott since 1991. Kuwait claims to have eliminated all direct references to the boycott in procurement documentation as of 2000. Kuwait has a three-person boycott office, which is part of the General Administration for Customs. Although Kuwaiti officials reportedly regularly attend Arab League boycott meetings, it is unclear whether they are active participants.

Oman: Oman does not apply any aspect of the boycott and has no laws providing for boycott enforcement. Although boycott-related language occasionally appears in tender documents, Omani officials are committed to ensure that such language is not included in new tender documents and have removed boycott-related language when brought to their attention. Omani customs processes Israeli-origin shipments

entering with Israeli customs documentation, although Omani firms typically avoid marketing any identifiably Israeli consumer products. Telecommunications and mail flow normally between the two countries. Omani diplomatic missions are prohibited from taking part in Arab League boycott meetings.

Qatar: Qatar has a boycott law but the extent to which the government enforces it is unclear. Although Qatar renounced implementation of the boycott of U.S. firms that do business in Israel (the secondary and tertiary boycott) in 1994, U.S. firms and their subsidiaries continue to report receiving boycott-related requests from public Qatari companies; in those instances, companies have made an effort to substitute alternative language. An Israeli trade office opened in Qatar in May 1996, but Qatar ordered that office closed in January 2009 in protest against the Israeli military action in Gaza. Despite this closure, Qatar continues to allow trade with Israel and allows Israelis to visit the country. Official data from the Qatari government indicated that there was approximately $3 million in trade between Qatar and Israel in 2009. Actual trade, including Israeli exports of agricultural and other goods shipped via third countries, is likely higher than the official figures. Qatar permits the entry of Israeli business travelers who obtain a visa in advance. The chief executive of Qatar's successful 2022 World Cup bid indicated that Israeli citizens would be welcome to attend the World Cup.

Saudi Arabia: Saudi Arabia, in accordance with the 1994 GCC decision, modified its 1962 law, resulting in the termination of the secondary and tertiary boycott. Senior Saudi government officials from relevant ministries have requested that U.S. officials keep them informed of any allegations that Saudi entities are seeking to enforce these aspects of the boycott. Saudi companies have usually been willing to void or revise boycott-related language in commercial documents when they are notified of its use.

The United Arab Emirates (UAE): The UAE complies with the 1994 GCC decision and does not implement the secondary and tertiary aspects of the boycott. The UAE has not renounced the primary aspect of the boycott, but the degree to which it is enforced is unclear. The United States has had some success in working with the UAE to resolve specific boycott-related cases. The U.S. Department of Commerce OAC and Emirati Ministry of Economy officials have held periodic meetings aimed at encouraging the removal of boycott-related terms and conditions from commercial documents. The Emirati government has taken a number of steps to eliminate prohibited boycott requests, including the issuance of a series of circulars to public and private companies explaining that enforcement of the secondary and tertiary aspects of the boycott is a violation of Emirati policy.

Non-Arab League Countries

In recent years, press reports occasionally have surfaced regarding the implementation of officially sanctioned boycotts of trade with Israel by governments of non-Arab League countries, particularly some member states of the 57 member Organization of the Islamic Conference (OIC), headquartered in Saudi Arabia (Arab League and OIC membership overlaps to a considerable degree). Information gathered by U.S. embassies in various non-Arab League OIC member states does not paint a clear picture of whether the OIC enforces its own boycott of Israel (as opposed perhaps to simply lending support to Arab League positions). The degree to which non-Arab League OIC member states enforce any aspect of a boycott against Israel also appears to vary widely. Bangladesh, for example, does impose a primary boycott on trade with Israel. By contrast, OIC members Tajikistan, Turkmenistan, and Kazakhstan impose no boycotts on trade with Israel and in some cases have actively encouraged such trade

ARGENTINA

TRADE SUMMARY

U.S. goods exports in 2014 were $10.8 billion, up 4.6 percent from the previous year. Argentina is currently the 28th largest export market for U.S. goods. Corresponding U.S. imports from Argentina were $4.2 billion, down 8.6 percent. The U.S. goods trade surplus with Argentina was $6.6 billion in 2014, an increase of $874 million from 2013.

U.S. exports of services to Argentina were $6.7 billion in 2013 (latest data available), and U.S. imports were $1.8 billion. Sales of services in Argentina by majority U.S.-owned affiliates were $8.9 billion in 2012 (latest data available), while sales of services in the United States by majority Argentina-owned firms were $43 million.

The stock of U.S. foreign direct investment (FDI) in Argentina was $15.2 billion in 2013 (latest data available), up from $14.6 billion in 2012. U.S. FDI in Argentina is led by the manufacturing, finance/insurance, and information sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Food Safety and Animal Health

Live Cattle, Beef, and Beef Products

Argentina bans imports of all U.S. live cattle, beef, and beef products due to concerns following the positive detection of bovine spongiform encephalopathy (BSE) in an animal in the United States in 2003. In November 2010, Argentina issued a final regulation regarding BSE and the importation of bovine products, but the new regulation did not correct many of the unwarranted restrictions in force previously, nor did it allow for the import of U.S. live cattle, beef, and beef products. The United States will continue to urge Argentina to open its market fully to U.S. beef and beef products and live cattle based on science, the guidelines established by the World Organization for Animal Health (OIE), and the United States' BSE negligible risk status.

Animal Health

Pork

Argentina does not currently allow the import of U.S. pork. Argentina has indicated that for the United States to be approved to export pork to Argentina, U.S. pork must either be shipped frozen or tested for trichinosis. The United States does not consider these requirements to be necessary because U.S. producers maintain stringent biosecurity protocols that serve to limit the appearance of trichinae in the United States to extremely low levels. Discussions between the United States and Argentina on market access for U.S. pork began in 2011, after years of impasse. In October 2012, the United States provided the necessary information to the Argentine authorities to complete a risk assessment process. The Argentine Food Safety and Quality Agency (SENASA) responded on July 31, 2014. SENASA's response provided a risk assessment with requirements for pH mitigation for trichinella testing, as well as a zonal approach for Porcine Reproductive and Respiratory System and Transmissible Gastroenteritis Virus, neither of which

are consistent with OIE guidelines. The United States will continue to engage with SENASA in the coming months to resolve this issue.

Poultry

Approved poultry and poultry product imports from the United States have been suspended due to detections of Highly Pathogenic Avian Influenza (HPAI) in backyard and commercial poultry flocks in several states beginning in December 2014. Argentina does not allow imports of fresh, frozen, and chilled poultry from the United States due to concerns over Avian Influenza and Exotic Newcastle Disease (END). There have been no incidents of END in the United States for many years. USDA is working to resolve trade-related issues associated with HPAI.

Argentina issued new rules in 2012 that reaffirm the current import restrictions when there are findings of these diseases in the exporting country. Argentina has indicated that it would accept cooked poultry products from the United States, but there is no agreement yet on what the U.S. sanitary certificate will state, as Argentina has determined that the U.S. poultry inspection system is not "equivalent" to the Argentine system.

Plant Health

Apples and Pears

Since 2009, Argentina has blocked imports of U.S. apples and pears due to concerns about the efficacy of post-harvest treatments for *Erwinia Amylovora* (the bacterium that causes fire blight). The United States has submitted technical information to Argentine plant health officials documenting that there is no evidence that mature, symptomless apple and pear fruit transmit fire blight. The United States will continue to work with Argentine officials to address the issue and reinstate the issuance of permits for importation.

IMPORT POLICIES

Tariffs

Argentina is a member of the MERCOSUR common market, formed in 1991 and composed of Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR maintains a Common External Tariff (CET) schedule with a limited number of country-specific exceptions, with most favored nation (MFN) applied rates ranging from zero percent to 35 percent *ad valorem*. Argentina's import tariffs follow the MERCOSUR CET with some exceptions. Argentina's MFN applied rate averaged 13.4 percent in 2013. Argentina's average bound tariff rate in the WTO is significantly higher at 31.9 percent. According to current MERCOSUR procedures, any good introduced into any member country must pay the CET to that country's customs authorities. If the product is then re-exported to any other MERCOSUR country, the CET must be paid again to the second country.

At the MERCOSUR Common Market Council (CMC) ministerial meeting in December 2011, MERCOSUR members agreed to increase import duty rates temporarily to a maximum rate of 35 percent on 100 tariff items per member country. Although authorized to implement the decision as early as January 2012, Argentina implemented the tariff increases in Decree 25/2013, published in January 2013. These tariff increases were valid for one year, with the option to extend them for an additional year. Argentina extended these tariff increases through December 2014. In October 2014, in Decree 1676/2014, Argentina modified the list of products subject to tariff increases. The list of products subject to the tariff increases as of October 2014 can be viewed at: http://www.infoleg.gob.ar/infolegInternet/anexos/235000-239999/235857/norma.htm. These tariff increases are still in force.

MERCOSUR member countries are also currently allowed to set import tariffs independently for some types of goods, including computer and telecommunications equipment, sugar, and some capital goods. Argentina currently imposes a 14 percent tariff on imports of capital goods that are also produced domestically; imports of certain other capital goods that are not produced domestically are subject to a reduced *ad valorem* tariff of 2 percent. A list of the goods affected and their respective tariff rates can be found at http://infoleg.gov.ar/infolegInternet/anexos/195000-199999/199256/norma.htm.

Argentina has bilateral arrangements with Brazil and Uruguay on automobiles and automotive parts intended to provide preferential access among the three countries. Mexico and Argentina also have a separate bilateral trade agreement regarding automobiles and automotive parts.

Several U.S. industries have raised concerns about prohibitively high tariffs and other taxes in Argentina on certain products, including distilled spirits, restaurant equipment, motorcycles, and cars.

Nontariff Barriers

Argentina imposes a growing number of customs and licensing procedures and requirements, which make importing U.S. products difficult. The measures include additional inspections, restrictions on entry ports, expanded use of reference prices, import license requirements, and other requirements, such as a requirement that importer invoices be notarized by the nearest Argentine diplomatic mission when imported goods are valued below reference prices. Many U.S. companies with operations in Argentina have expressed concerns that the measures have delayed exports of U.S. goods to Argentina and, in some cases, stopped exports of certain U.S. goods to Argentina altogether.

Argentina's increased use of nontariff barriers is a function of the government of Argentina's increasing reliance on a growth strategy that is based heavily on import substitution. Argentina's import restrictions also appear intended to address concerns about declining currency reserves.

Argentina requires importers to obtain a "certificate of free circulation" from the National Food Institute (Instituto Nacional de Alimentos) prior to importing food products. This requirement affects all exporters of food products to Argentina and appears to serve as an import licensing requirement. U.S. companies report that this requirement is used to delay or deny the importation of food products, and the issuance of such certificates is often contingent upon the importer undertaking a plan to export goods of an equivalent value.

Argentina prohibits the import of many used capital goods. Domestic legislation requires compliance with strict conditions on the entry of those used capital goods that may be imported, and such goods are also subject to import taxes. Pursuant to Decree 2646/2012, capital goods that may be imported are subject to 28 percent tax if there is existing local production of the good, a 14 percent tax in the absence of existing local production, and a 6 percent tax for used capital goods for the aircraft industry. The conditions for importing used capital goods are as follows:

- Used capital goods can only be imported directly by the end user;
- Overseas reconditioning of the goods is allowed only if performed by the original manufacturer. Third-party technical appraisals are not permitted;
- Local reconditioning of the good is subject to technical appraisal only to be performed by INTI (state-run Institute of Industrial Technology), except for aircraft related items;
- Regardless of where the reconditioning takes place, the Argentine Customs Authority requires at the time of import the presentation of a "Certificate of Import of Used Capital Goods." This

certificate is issued by the Secretariat of Foreign Trade and after the approval by the Secretariat of Industry; and
- The time period during which the imported used capital good cannot be transferred (sold or donated) is four years.

There are exceptions for some industries (*e.g.*, graphics, printing, machine tools, textiles, and mining), enabling importation of used capital goods at a zero percent import tax. In September 2013, some types of aircraft were added to the list of exceptions. In January 2014, the Secretary of Commerce and the Minister of Industry issued resolutions (Resolutions 12/2014 and 4/2014) providing that the import certificate for used capital goods would have a duration of 60 working days from the issuing date. In October 2014, the Secretary of Commerce and the Minister of Industry issued Resolutions 184/2014 and 294/2014 to allow temporarily the importation of used capital goods by the hydrocarbon industry.

Under the Argentina-Brazil Bilateral Automobile Pact, Argentina bans the import of used self-propelled agricultural machinery unless it is imported to be rebuilt in country. Argentina also prohibits the importation and sale of used or retreaded tires (but in some cases allows remolded tires); used or refurbished medical equipment, including imaging equipment; and used automotive parts. Argentina generally restricts or prohibits the importation of any remanufactured goods, such as remanufactured automotive parts, earthmoving equipment, medical equipment, and information and communications technology products. In the case of remanufactured medical goods, imports are further restricted by the requirement that the importer of record must be the end user, such as a hospital, doctor, or clinic. Such parties are generally not accustomed to importing and are not typically registered as importers.

Argentina maintains an import prohibition on used clothing, which is due to expire in December 2015.

In August 2012, the Argentine Tax Authority (Administración Federal de Ingresos Públicos or AFIP) issued Resolution 3373, which raised the rate of certain taxes that are charged after import duties are levied, thereby increasing the tax burden for importers. The value-added tax (VAT) advance rate rose from 10 percent to 20 percent on imports of consumer goods, and from 5 percent to 10 percent on imports of capital goods. The income tax advance rate on imports of all goods increased from 3 percent to 6 percent, except when the goods are intended for consumption or for use by the importer, in which case an 11 percent income tax rate applies.

In January 2014, the Argentine government introduced a sliding scale tax on vehicles (Decree 2/2014), which was modified in December 2014 to reflect inflation (Decree 2578/2014). From January 2015 through June 30, 2015, cars priced above 195,500 pesos (approximately $24,135, based on the 2014 average official exchange rate of 8.1 pesos to the U.S. dollar) are subject to a 30 percent tax, while vehicles priced above 241,500 pesos (approximately $29,815) are subject to a 50 percent tax. Motorbikes priced above 34,500 pesos (approximately $4,260) are taxed at 30 percent, and motorbikes priced above 61,500 pesos (approximately $7,592) are taxed at 50 percent. The tax is applied on top of the normal import duty. The government plans to review the tax program to determine whether to continue it after June 30.

On September 18, 2014, Argentina amended the 1974 National Supply Law to expand the ability of the government to regulate private enterprises by setting minimum and maximum prices and profit margins for goods and services of private enterprises. The law covers all economic processes related to such goods and services at any stage of economic activity. Private companies determined by the government to be making "artificial" or "unjustified" profits may be subject to fines of up to 10 million pesos (approximately $1.2 million) and a potential 90-day closure of their business. In June 2014, under the authority of the amended Supply Law, Argentina required pharmaceutical companies, including some U.S. companies, to lower their prices of certain medicines. In October 2014, the government imposed hefty fines on automakers Peugeot

and Renault for failing to meet mandated delivery schedules and to provide an adequate supply of cars at a specified price for the government's auto stimulus program, Pro.Cre.Auto.

In January 2014, the government launched a consumer goods price control program that established price caps on nearly 200 hundred basic consumer goods. Although the government claims that participation in the program is voluntary, several supermarkets have reportedly been subject to steep fines for failing to stock all of the products subject to price caps. Since the program was first launched in January 2014, the number of products subject to price caps has increased substantially, and the maximum prices have been revised several times. The most recent changes occurred on January 12, 2015, when the government announced the addition of 58 new products covered by the program and an average maximum price increase of 3.8 percent. More than 450 products are currently subject to price caps. The list of goods and their maximum prices can be found at:
http://www.precioscuidados.com/static/files/canastasAsu/2015_nuevos/amba.pdf?PuyFC

Import Licenses

Argentina requires companies to file an online affidavit, known as the Advanced Sworn Statement on Imports (DJAI), and wait for government review and approval before importing goods. All goods imported for consumption are subject to the DJAI requirement. This requirement creates additional delays and is used to restrict imports. Following the implementation of the DJAI measure in September 2012, Argentina eliminated the automatic import licensing requirements it previously administered on 2,100 tariff lines, mainly involving consumer products. Argentina also repealed its use of product-specific nonautomatic import licenses in January 2013 via Resolution 11/2013. Prior to that, Argentina had used product-specific non-automatic licenses to restrict imports and provide protection in sectors that the Argentine government deemed sensitive. Argentina uses the DJAI requirement and other licensing requirements to extract commitments from importers to export goods from Argentina, increase investments in Argentina, increase the use of local content, refrain from repatriating profits, and limit the volume or value of imports.

On August 21, 2012, the United States requested consultations with Argentina under the dispute settlement provisions of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes concerning the DJAI requirement, the product-specific import licenses (which were subsequently repealed), and the commitments Argentina requires importers to comply with in order to receive import approvals. After consultations failed to resolve the issue, the United States requested the establishment of a dispute settlement panel in December 2012. The European Union and Japan joined the United States in its panel request. In August 2014, the panel ruled in favor of the United States, the EU, and Japan, finding that Argentina's import licensing requirement and other import restrictions breach international trade rules. In September 2014, Argentina appealed the panel decision, and on January 15, 2015, the Appellate Body affirmed the earlier findings of the WTO panel.

In September 2014, the Central Bank of Argentina lowered the permitted amount for payments abroad from $300,000 to $150,000. For payments over $150,000, Central Bank authorization is required. Many U.S. companies have reported that this lowered threshold has increased delays in their ability to import goods. Some companies also have expressed concerns because this new regulation has not been published.

In November 2014, in Decree 2103/2014, the Argentine government established the Unit of Monitoring and Traceability of Foreign Trade Operations. This Unit will be coordinated jointly by the Chief of Cabinet and involves participation from the Ministry of Economy, the Customs Office, the AFIP, the National Securities and Exchange Commission, Financial Information Unit, and the Central Bank, among other financial regulatory agencies. The cited objective of this Joint Unit is to track all international trade operations to ensure transparency and accuracy and to prevent over- and under-invoicing by commercial

entities. Many enterprises, especially multinationals, have expressed concerns that this Joint Unit will further increase controls over international trade.

Customs Valuation

Argentina continues to apply reference values to several thousand products. The stated purpose of reference pricing is to prevent under-invoicing, and authorities establish benchmark unit prices for customs valuation purposes for certain goods that originate in, or are imported from, specified countries. These benchmarks establish a minimum price for market entry and dutiable value. Importers of affected goods must pay duties calculated on the reference value, unless they can prove that the transaction was conducted at arm's length.

Argentina also requires importers of any goods from designated countries, including the United States, that are invoiced below the reference prices to have the invoice validated by both the exporting country's customs agency and the appropriate Argentine embassy or consulate in that country. The government of Argentina publishes an updated list of reference prices and applicable countries, which is available at: http://www.afip.gov.ar/aduana/valoracion/valores.criterios.pdf.

Argentina maintains administrative mechanisms that restrict the entry of products deemed sensitive, such as textiles, apparel, footwear, toys, electronic products, and leather goods. While the restrictions are not country specific, they are to be applied more stringently to goods from countries considered "high risk" for under-invoicing, and to products considered at risk for under-invoicing or trademark fraud.

Ports of Entry

Argentina restricts entry points for several classes of goods, including sensitive goods classified in 20 Harmonized Tariff Schedule chapters (*e.g.,* textiles; shoes; electrical machinery; iron, steel, metal, and other manufactured goods; and watches), through specialized customs procedures for these goods. A list of products affected and the ports of entry applicable to those products is available at: http://www.infoleg.gov.ar/infolegInternet/anexos/130000-134999/131847/norma.htm.

Customs Procedures

Certificates of origin have become a key element in Argentine import procedures in order to enforce antidumping measures, reference prices (referred to as "criterion values"), and certain geographical restrictions. Argentina requires certificates of origin for certain categories of products, including certain organic chemicals, tires, bicycle parts, flat-rolled iron and steel, certain iron and steel tubes, air conditioning equipment, wood fiberboard, most fabrics (*e.g.,* wool, cotton, other vegetable), carpets, most textiles (*e.g.,* knitted, crocheted), apparel, footwear, metal screws and bolts, furniture, toys and games, brooms, and brushes. To receive the MFN tariff rate, a product's certificate of origin must be certified by an Argentine embassy or consulate, or carry a "U.S. Chamber of Commerce" seal. For products with many internal components, such as machinery, each individual part is often required to be notarized in its country of origin, which can be very burdensome. Importers have stated that the rules governing these procedures are unclear and can be arbitrarily enforced.

Simplified customs clearance procedures on express delivery shipments are only available for shipments valued at US $1,000 or less. Couriers are now considered importers and exporters of goods, rather than transporters, and also must declare the tax identification codes of the sender and addressee, both of which render the process more time consuming and costly. These regulations increase the cost not only for the courier, but also for users of courier services.

EXPORT POLICIES

Argentina imposes export taxes on all but a few exports, including significant export taxes on key hydrocarbon and agricultural commodities. In many cases, the export tax for raw materials is set higher than the sale price of the processed product to encourage development of domestic value-added production. Crude hydrocarbon export taxes are indexed to world commodity benchmarks.

In October 2014, the Argentine government issued Resolution 803/2014, which reduces export taxes from previous levels for hydrocarbon goods and their derivatives (crude oil or bituminous mineral). The resolution provides that the export duty will be 13 percent if the international barrel price is lower than the established reference price or $503 per cubic meter; 11.50 percent if the price is lower than $75 per barrel or $472 per cubic meter, and 10 percent if the price is lower than $70 per barrel or $440 per cubic meter. In response to falling international oil prices, in December 2014, the government issued Resolution 1077/2014, which established that beginning in January 2015 the export duty will be one percent whenever the international Brent crude reference price is below $70 per barrel.

Despite proposals from within and outside the Argentine Congress to reduce or eliminate some export taxes, the government continues to support and manage those taxes. Agricultural export taxes are a major source of fiscal revenue for the government, providing $12.5 billion for government coffers in 2013. Argentina applies export taxes in the form of differential export tariffs with rates for processed goods reduced to incentivize value-added processes. Differential taxes are applied to the soy and grain sectors as follows: soybeans at 35 percent; soybean oil and soybean meal at 32 percent; biodiesel mainly from soy oil currently at 14 percent to 15 percent, although that rate fluctuates; sunflower seed at 32 percent; sunflower seed meal and sunflower seed oil at 30 percent; wheat at 23 percent; wheat flour at 13 percent; and corn at 20 percent with corn flour at 15 percent. Other export taxes include beef at 15 percent; poultry, pork, apples, pears, and wine at 5 percent; and lemons, sweet citrus, at 2.5 percent. On December 3, 2013, in Decree 2014/2013, Argentina increased the export taxes on soybean pellets and animal food that contains soybean hulls and waste from 5 percent to 32 percent.

In April 2014, Argentina issued Decree 374/2014 banning exports of iron and steel scrap for 360 days in an attempt to ensure domestic supply. The export tax for iron ore is 10 percent.

The MERCOSUR Common Customs Code (CCC) restricts future export taxes and anticipates a transition to a common export tax policy. In November 2012, Argentina became the first MERCOSUR member to ratify the CCC, but all MERCOSUR member countries must ratify the CCC before it goes into effect.

Export Registrations and Permits

Argentina requires major agricultural commodities to be registered for export before they can be shipped out of the country. Part of the administration of the Registry of Export Operations resides in the Ministry of Agriculture (related to dairy and meat exports), and the balance resides in the Ministry of Economy (related to grain exports). Other measures directly targeted at keeping domestic prices down include suspending or limiting issuance of export permits for corn, wheat, and beef, as well as implementing price controls on some retail beef, poultry, and dairy products. In 2012, the government modified its export quota scheme for wheat and corn in an attempt to make exports more responsive to market signals. While the government still requires a certain amount of each crop to be held for domestic consumption and stocks, the remaining production may be exported.

Argentina continues to impose restrictions on the time period for which grain and oilseed export permits are valid depending on when the export tax is paid. Under applicable regulations, export permits are valid for 45 days after registration is approved, if the export tax is paid at the time of export. Export permits may

be valid for up to 365 days for corn and wheat and 180 days for soybean and sunflowers products if the exporter pays 90 percent of the export tax at the time the export license is approved.

SUBSIDIES

On June 24, 2014, Argentina announced an auto stimulus package known as Pro.Cre.Auto I, which provides consumers with subsidized financing for purchases of new domestically-produced autos. Under this program, the government-owned Argentine National Bank (Banco La Nación Argentina), financed up to 90 percent of the value of a vehicle up to 120,000 pesos (approximately $14,815) at an interest rate of 17 percent per annum, as compared to 19 percent for customers of other financial institutions. The preferential financing term was five years, and monthly payments could not exceed 30 percent of one-month's salary of the consumer. The Pro.Cre.Auto I program expired on September 24, 2014 and was replaced by Pro.Cre.Auto II, which had essentially the same terms but covered a larger number of car models and allowed the automakers to increase prices by five percent to seven percent. Pro.Cre.Auto II expired on January 10, 2015.

In October 2014, Argentina launched the "Ahora 12" program, which allows individuals to finance the purchase of certain domestically-manufactured goods, ranging from clothing to home appliances, in 12 monthly installments without interest. The program is effective through March 1, 2015, but Argentina announced in February 2015 that it would extend the program past the expiration date. The list of qualifying goods for the Ahora 12 program can be found at http://www.ahora12.gob.ar/. Argentina claims the program has been very successful in increasing the consumption of locally-produced goods and has stated that more than four million transactions have transpired since the program's inception.

GOVERNMENT PROCUREMENT

Argentine law establishes a national preference for local industry for most government procurement if the domestic supplier's tender, depending on the size of the company, is no more than five percent to seven percent higher than the foreign tender. The preference applies to procurement by all government agencies, public utilities, and concessionaires. There is similar legislation at the sub-national (state) level. These preferences serve as barriers to participation by foreign firms.

Argentina is not a signatory to the WTO Agreement on Government Procurement, but it is an observer to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Argentina remained on the Priority Watch List in the 2014 Special 301 Report. Significant enforcement and other challenges continue to diminish market access for U.S. IP-intensive industries. The lack of meaningful and sustained enforcement, including under the criminal laws, coupled with judicial inefficiency and unwillingness to impose deterrent penalties, have continued unabated at South America's largest black market for counterfeit and pirated goods, La Salada, located in Buenos Aires, which has been named repeatedly in USTR's Notorious Markets List.

The situation for innovators in pharmaceutical and agricultural chemical sectors is also troublesome. The scope of patentable subject matter is extremely restricted under Argentine law; patent pendency continues to be excessive; and there remains no adequate protection against unfair commercial use and unauthorized disclosure of undisclosed test and other data submitted to the government in conjunction with its excessively lengthy marketing approval process.

SERVICES BARRIERS

Argentina requires individuals and companies to file an online affidavit known as the Advance Sworn Statement on Services (or by its Spanish acronym "DJAS") and obtain approval prior to offering or purchasing offshore services if the value of the services to be provided exceeds $100,000. U.S. companies note that the DJAS requirement creates delays and is used to restrict the purchase of foreign services and to restrict dollar-denominated payments abroad. The DJAS requirement applies to a wide range of services including professional and technical services, royalties, and personal, cultural and recreational services. This requirement has reportedly resulted in significant delays in purchasing services from U.S. services providers and has hindered the ability of Argentine purchasers to promptly transfer payment to the United States. During 2014, DJAS authorization has been subject to tighter controls especially in the case of royalty payments.

Audiovisual Services

The Argentine government imposes restrictions on the showing, printing, and dubbing of foreign films in Argentina. Argentina also charges *ad valorem* customs duties on U.S. film exports based on the estimated value of the potential royalty generated from the film in Argentina rather than on the value of the physical materials being imported.

The National Institute of Cinema and Audiovisual Arts taxes foreign films screened in local movie theaters. Distributors of foreign films in Argentina must pay screening fees that are calculated based on the number and geographical locations of theaters at which the films will be screened within Argentina. Films that are screened in 15 or fewer movie theaters are exempted.

Insurance Services

The Argentine insurance regulator (SSN) prohibits cross-border reinsurance. As a result, Argentine insurers are able to purchase reinsurance only from locally based reinsurers. Foreign companies without local operations are not allowed to enter into reinsurance contracts except when the SSN determines there is no local reinsurance capacity. SSN requires that all investments and cash equivalents held by locally registered insurance companies be located in Argentina.

These regulations do not formally require the exchange of dollars into pesos; companies can convert their holdings to dollar-denominated assets based in Argentina and still be in compliance. Nevertheless, non-Argentine insurance firms – whose liabilities are often denominated in U.S. dollars – have reported pressure by the Argentine government to sell their dollars for pesos. U.S. insurance firms also have reported that complying with the Argentine government's requests would force them to take losses due to what they believe is an official exchange rate that overvalues the peso. The Argentine government has also blocked payments by subsidiaries of dividends and royalties to parent companies and shareholders abroad.

INVESTMENT BARRIERS

Pension System

In 2008, the Argentine Parliament approved a bill to nationalize Argentina's private pension system and transfer pension assets to the government social security agency. Compensation to investors in the privatized pension system, including to U.S. investors, is still pending and under negotiation.

Foreign Exchange and Capital Controls

Hard currency earnings on exports of both goods and services must be converted to pesos in the local official foreign exchange market. Time limits on fulfilling the requirement to convert foreign currency to pesos range from 60 days to 360 days for goods (depending on the goods involved) and 15 days for services. The time periods for fulfilling these requirements change frequently, which can significantly impede trade.

The Ministry of Economy maintains restrictive controls on certain classes of inbound investments, including foreign funds from private sector debt, inflows for most fiduciary funds, inflows of nonresident funds that are destined for the holding of Argentine pesos or the purchase of private sector financial instruments, and investments in public sector securities purchased in the secondary market. These inflows may not be transferred out of the country for 365 days. Proceeds from foreign exchange transactions involving these investments must be paid into an account in the local financial system and are subject to a 30 percent unremunerated reserve requirement, requiring, in effect, that 30 percent of the value of such transactions be deposited in a local financial entity for 365 days in an account that is denominated in dollars and pays no interest.

In October 2011, Argentina increased controls on retail foreign exchange. Buyers are required to be approved by AFIP, which evaluates each request based on the individual or company's revenue stream. Local business representatives have reported receiving approvals for amounts much lower than requested and after much delay. This policy has hampered the ability of Argentine importers to buy U.S. exports. In July 2012, Argentina also banned retail foreign exchange purchases for purposes of savings and only allows such purchases, though with significant restrictions, for purposes of payment for tourism services abroad. This limited access to foreign exchange has contributed to the existence of a parallel exchange rate. The withholding tax on foreign purchases by Argentines (be it overseas or via the Internet) with debit and credit cards reduces U.S. services exports as purchases on credit cards remain the only direct access to foreign exchange for Argentines traveling abroad.

U.S. investors have reported that since 2012 the Argentine government has limited their ability to make payments in foreign currency outside of Argentina. This situation has been aggravated in 2014 due to a shortage of U.S. currency in the Central Bank's international reserves. This restriction is often communicated informally by the Argentine government and may extend to profit remittances, royalty payments, technical assistance fees, and payments for expenses incurred outside of Argentina. Hard currency earnings on exports, both from goods and services, must be converted to pesos in the local official foreign exchange market.

Localization Measures

Argentina maintains certain localization measures aimed at encouraging domestic production. For example, the Argentine National Mining Agency (Agencia Nacional de Minería) requires mining companies registered in Argentina to use Argentine flagged vessels to transport minerals and their industrial derivatives for export from Argentina. Argentina requires that mining companies registered in Argentina purchase domestic capital goods, spare parts, inputs and services. Argentina also requires that radio and TV (via airwaves and cable) advertisements have a minimum of 60 percent local content.

ELECTRONIC COMMERCE

In January 2014, Argentina modified its retail mail order import licensing system through AFIP General Resolution 3579. Online purchases of foreign products valued up to $3,000 and delivered through Argentina's official postal service are assessed a charge of 50 percent of the value of the goods. Goods in excess of $3,000 may not be sent via the Argentine postal service. In addition, individuals may import by

mail up to $25 in duty free goods per year in up to two mail order transactions. Transactions above $25 are subject to the import tax of 50 percent. The resolution also requires goods delivered by official mail to be retrieved in person at the post office or customs authority.

Argentina does not allow the use of electronically produced airway bills that would accelerate customs processing and the growth of electronic commerce transactions.

AUSTRALIA

TRADE SUMMARY

U.S. goods exports in 2014 were $26.7 billion, up 2.1 percent from the previous year. Australia is currently the 15th largest export market for U.S. goods. Corresponding U.S. imports from Australia were $10.7 billion, up 15.1 percent. The U.S. goods trade surplus with Australia was $16.0 billion in 2014, a decrease of $860 million from 2013.

U.S. exports of services to Australia were $19.1 billion in 2013 (latest data available), and U.S. imports were $6.9 billion. Sales of services in Australia by majority U.S.-owned affiliates were $54.3 billion in 2012 (latest data available), while sales of services in the United States by majority Australia-owned firms were $17.9 billion.

The stock of U.S. foreign direct investment (FDI) in Australia was $159.0 billion in 2013 (latest data available), up from $143.3 billion in 2012. U.S. FDI in Australia is led by the nonbank holding companies, mining, and finance/insurance sectors.

TRADE AGREEMENTS

The United States-Australia Free Trade Agreement (AUSFTA) entered into force on January 1, 2005. Since then the U.S. Government and Australian governments have continued to monitor closely FTA implementation. Under the AUSFTA, trade in goods and services and foreign direct investment have continued to expand. Between the entry into force of the agreement in 2005 and 2014, U.S. goods exports to Australia increased by 91 percent, and two-way goods trade increased by 74 percent. Between the entry into force of the agreement and 2013 (the last year for which data is available), U.S. services exports to Australia increased by 179 percent, and two-way services trade increased by 48 percent. Over 99 percent of U.S. exports of consumer and industrial goods now enter Australia duty-free.

Australia is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Australia, the TPP negotiating partners currently include Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

On April 8, 2014, Australia signed an FTA with the Republic of Korea, its fourth largest trading partner, which entered into force on December 12, 2014. Under this agreement, tariffs on 84 percent of Australia's current exports to Korea will be eliminated upon entry into force of the agreement; tariffs on 96 percent of current exports will be eliminated within ten years; and by the time the agreement is fully implemented, tariffs on 99.8 percent of Australia's current exports to Korea will be eliminated. Products representing about 0.2 percent of Australia's current exports to Korea will be excluded from the agreement: rice; milk powder; honey; abalone; ginger; apples; pears; and walnuts.

On July 8, 2014, Australia signed an FTA with Japan, its second largest trading partner, which entered into force on January 14, 2015. Under the agreement, tariffs will eventually be eliminated on over 97 percent of Australia's current exports to Japan. Products representing about 2.5 percent of Australia's current exports to Japan are excluded from the agreement: rice; milk powder; butter; shiitake mushrooms; sake; "low polarity' raw sugar; and certain fur skin products. Some tariffs and other restrictions will remain on a number of other Australian products, including beef, pork and some dairy products.

On November 14, 2014, Australia announced the conclusion of FTA negotiations with China, its largest trading partner. The agreement has not yet been signed nor its text made public. According to official statements, the agreement will eliminate tariffs on 85 percent of Australia's current exports to China upon entry into force, with that figure climbing to 93 percent after four years and 95 percent upon full implementation of the agreement. Some Australian agricultural exports to China, including sugar and rice, are excluded from the agreement.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Food Safety

Beef and Beef Products

Australia requires a complex approval process before permitting importation of bovine products from countries that have reported any indigenous cases of bovine spongiform encephalopathy (BSE). Under Australia's requirements, Food Standards Australia New Zealand (FSANZ), a regional food safety agency, conducts an individual country risk assessment. In August 2013, an audit team from FSANZ conducted an inspection of U.S. production and processing facilities. The final report from that inspection is currently being completed by FSANZ. In addition to this review, the Australian Department of Agriculture conducts a separate import risk assessment for each exporting country to address animal quarantine issues. It has not yet concluded its risk assessment for U.S. beef and beef products. The United States will continue to urge Australia to open its market fully to U.S. beef and beef products based on science, the OIE guidelines, and the United States' negligible risk status for BSE.

Animal Health

Pork

Access for U.S. pork to Australia's market is limited to U.S. origin, heat-treated and deboned pork meat. U.S.-origin fresh pork meat also can be shipped to Australia; however, the meat must be heat-treated upon arrival before entering domestic marketing channels in Australia. The import restrictions are due to concerns about the introduction of porcine reproductive and respiratory syndrome (PRRS) and post-weaning multi-systemic wasting syndrome (PMWS).

The United States has requested that Australia remove unwarranted PRRS- and PMWS-related restrictions to allow importation of all U.S. pork products. Citing these diseases, Australia also requires that all solid waste from pork imports, regardless of whether the pork is cooked or uncooked, be treated as a quarantine waste product, which has unnecessarily raised the costs of handling imported pork.

Poultry

Australia bans imports of fresh, frozen, and cooked poultry meat, including turkey meat from the United States due to concerns about infectious bursal disease. In 2012, Australia initiated an evaluation of whether it would grant access for U.S. cooked turkey meat to the Australian market. The United States will continue to work with Australia and press for resolution of this issue.

Plant Health

Plums, Apricots, and Stone Fruit

Australia currently prohibits importation of U.S. apricots and hybrids of apricots and other stone fruits due to concerns about certain plant pests. In July 2010, Australia issued a final policy to allow market access for all U.S. stone fruit from California, Idaho, Oregon and Washington, but Australia subsequently prohibited access until a mitigation could be found for spotted wing drosophila (SWD). In July 2013, Australia opened its market to peaches and nectarines fumigated with methyl bromide before being shipped to Australia. In December 2014, Australia also agreed to accept a treatment proposed by the United States for SWD in plums. The Australian and U.S. plant protection organizations will consult to implement the new treatment for plums for the 2015 export season. The United States will continue to work with Australia to resolve access for U.S. apricots.

Apples

Australia currently prohibits the importation of apples from the United States based on concerns about fire blight and other pests. The U.S. Government and U.S. stakeholders have engaged with Australian officials to demonstrate that U.S. mature, symptomless apples pose no risk of transmission of fire blight. In October 2009, Australia published a pest risk analysis for apples from the United States and identified three additional fungal pathogens of concern to Australian regulatory authorities. The United States continues to work with Australia to re-open the Australian market to U.S. apples.

Table Grapes

In 2010, Australia raised concerns regarding spotted wing drosophila (SWD) *Drosophila suzukii,* a species of fruit fly on table grapes from California. Australia requires a carbon dioxide/sulfur dioxide treatment plus a cold treatment to address SWD, despite the fact that SWD has never been found on California table grapes either before or since 2010. In October 2013, USDA submitted new research to Australia on a revised cold treatment protocol for California table grapes that would allow the grapes to be treated in transit to Australia. In November 2014, Australia approved the research to support the new treatment for SWD in California table grapes and other market access improvements. Australian and U.S. plant health regulators will have initiated consultations on the implementation of these revisions and plan to complete them prior to the opening of the 2015 export season in June 2015.

GOVERNMENT PROCUREMENT

Under the AUSFTA, the Australian government opened its market for covered government procurement to U.S. suppliers, eliminating preferences for domestic suppliers, and it also committed to use fair and transparent procurement procedures. Australia is not a signatory to the WTO Agreement on Government Procurement (GPA), but it is an observer. On November 14, 2014, Trade and Investment Minister Andrew Robb announced that Australia would work toward joining the GPA.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Australia generally provides strong IPR protection and enforcement through legislation that, among other things, criminalizes copyright piracy and trademark counterfeiting. Under the AUSFTA, Australia must provide that a pharmaceutical product patent owner be notified of a request for marketing approval by a third party for a product claimed by that patent. U.S. and Australian pharmaceutical companies have raised concerns about delays in this notification process.

SERVICES BARRIERS

Audiovisual Services

The Australian Content Standard of 2005 requires commercial TV broadcasters to produce and screen Australian content, including 55 percent of transmissions between 6:00 a.m. and midnight. In addition, it requires minimum annual sub-quotas for Australian (adult) drama, documentary, and children's programs. A broadcaster must ensure that Australian-produced advertisements occupy at least 80 percent of the total advertising time screened in a year between the hours of 6:00 a.m. and midnight, other than the time occupied by exempt advertisements, which include advertisements for imported cinema films, videos, recordings and live appearances by overseas entertainers, and community service announcements. This local content requirement does not apply to cable or online programming.

Australia's Broadcasting Services Amendment Act requires subscription TV channels with significant drama programming to spend 10 percent of their programming budgets on new Australian drama programs. This local content requirement applies to cable and satellite services but does not apply to new digital multi-channels or to online programming.

The Australian commercial radio industry Code of Practice sets quotas for the broadcast of Australian music on commercial radio. The code requires that up to 25 percent of all music broadcast between 6:00 a.m. and midnight must be performed by Australians. Since January 2008, all recipients of regional commercial radio broadcasting licenses have been required to broadcast minimum levels of local content. In July 2010, the Australian Communications and Media Authority (ACMA) announced a temporary exemption from the Australian music quota for digital-only commercial radio stations (*i.e.*, stations not also simulcast in analog). That exemption was renewed in 2014.

INVESTMENT BARRIERS

Foreign direct investment into Australia is regulated by the Foreign Acquisitions and Takeovers Act 1975 and Australia's Foreign Investment Policy. The Foreign Investment Review Board (FIRB), a division of Australia's Treasury, screens potential foreign investments in Australia above a certain threshold value. In 2014, the FIRB screened investments greater than A$248 million ($189.6 million). The threshold increased to A$252 million ($192.6 million) on January 1, 2015. Based on advice from the FIRB, Australia's Treasurer may deny or place conditions on the approval of particular investments above the threshold on national interest grounds.

Under the AUSFTA, all U.S. greenfield investments are exempt from FIRB screening. The AUSFTA also raised the threshold for screening of most U.S. investments in Australia, which stood at A$1,078 million ($824 million) in 2014, and through annual indexation was increased to A$1,094 million ($836 million) on January 1, 2015. All foreign persons, including U.S. investors, must notify the Australian government and get prior approval to make investments of 5 percent or more in enterprises in the media sector, regardless of the value of the investment.

While the FIRB generally approves U.S. investment, in November 2013, based on advice from the FIRB, Australia's Treasurer blocked a U.S. company's proposed A$3.4 billion acquisition of a publicly-listed Australian agri-business.

ELECTRONIC COMMERCE

The AUSFTA recognizes the importance of avoiding erecting barriers to trade conducted electronically and commits Parties not to impose tariffs or otherwise discriminate against digital products distributed electronically (*e.g.*, books, films, and music). Since July 2012, the Personally Controlled Electronic Health Records Act has prohibited the overseas storage of any Australian electronic health records. The U.S. Government continue to advocate for a risk-based approach to ensuring the security of sensitive data as opposed to a geographic one.

BAHRAIN

TRADE SUMMARY

U.S. goods exports in 2014 were $1.1 billion, up 4.2 percent from the previous year. Bahrain is currently the 80th largest export market for U.S. goods. Corresponding U.S. imports from Bahrain were $965 million, up 51.9 percent. The U.S. goods trade surplus with Bahrain was $95 million in 2014, a decrease of $287 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Bahrain was $635 million in 2013 (latest data available), down from $715 million in 2012.

The United States-Bahrain Free Trade Agreement

Upon entry into force of the United States-Bahrain Free Trade Agreement (FTA) in August 2006, 100 percent of bilateral trade in consumer and industrial products and most agricultural products became duty-free immediately. Bahrain is scheduled to phase out tariffs on the few remaining agricultural product lines by 2015. Textiles and apparel are duty free, providing opportunities for U.S. and Bahraini fiber, yarn, fabric and apparel manufacturing. Generally, to benefit from preferential tariffs under the FTA, textiles and apparel must be made from either U.S. or Bahraini yarn and fabric. The FTA provides a 10-year transitional period for textiles and apparel that do not meet these requirements in order to assist U.S. and Bahraini producers in developing and expanding business contacts. This provision will expire on July 31, 2016.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization, issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials are discussing concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States have notified the WTO Committee on Sanitary and Phytosanitary (SPS) Measures of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. As currently drafted, stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also will impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States has raised specific concerns about the Guide and has requested that GCC Member States delay entry into force of the Guide until food safety experts have an opportunity to discuss these concerns.

GOVERNMENT PROCUREMENT

Chaired by the Minister of Housing, the Tender Board oversees all tenders and purchases with a value of BD 10,000 ($26,525) or more. The Tender Board plays an important role in ensuring a transparent bidding process, which Bahrain recognizes is vital to attracting foreign investment. The FTA requires covered entities in Bahrain to conduct procurements covered by the agreement in a fair, transparent and nondiscriminatory manner.

In 2011, four other GCC Member States announced they would establish a $10 billion fund over a 10 year period to promote development in Bahrain. This fund is geared toward infrastructure projects in Bahrain, with donor countries overseeing use of the fund. In 2013, a U.S. company faced prolonged and detrimental issues with the tendering process related to a GCC-funded project.

Bahrain is an observer to the WTO Committee on Government Procurement, but it is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Bahrain was not listed in the 2014 Special 301 Report. As part of its FTA obligations, Bahrain passed several key laws to improve protection and enforcement for copyrights, trademarks and patents. Bahrain's record on IPR protection and enforcement continues to be mixed. Over the past several years, Bahrain has launched several campaigns to combat piracy of cable and satellite TV by blocking illegal signals and prohibiting the sale of decoding devices, and has launched several public awareness campaigns regarding IPR piracy. However, many counterfeit consumer goods continue to be sold openly.

In 2014, Saudi Arabia, Bahrain, and Qatar approved the GCC Trademark Law. Kuwait, Oman, and the United Arab Emirates are expected to approve the law in 2015, after which implementing regulations will be issued. As the six GCC Member States explore further harmonization of their intellectual property rights (IPR) regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

BRAZIL

TRADE SUMMARY

U.S. goods exports in 2014 were $42.4 billion, down 3.9 percent from the previous year. Brazil is currently the ninth largest export market for U.S. goods. Corresponding U.S. imports from Brazil were $30.3 billion, up 9.8 percent. The U.S. goods trade surplus with Brazil was $12.1 billion in 2014, a decrease of $4.4 billion from 2013.

U.S. exports of services to Brazil were $26.6 billion in 2013 (latest data available), and U.S. imports were $7.3 billion. Sales of services in Brazil by majority U.S.-owned affiliates were $38.7 billion in 2012 (latest data available), while sales of services in the United States by majority Brazil-owned firms were $1.6 billion.

The stock of U.S. foreign direct investment (FDI) in Brazil was $78.1 billion in 2013 (latest data available), down from $79.1 billion in 2012. U.S. FDI in Brazil is led by the manufacturing, nonbank holding companies, and finance/insurance sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Telecommunications – Acceptance of Test Results

Pursuant to Resolution 323 of November 2002, the Brazilian National Telecommunications Agency (ANATEL) requires testing of telecommunications products and equipment by designated testing facilities in Brazil, rather than allowing testing by a facility certified by an independent certification body. The only exception is in cases where the equipment is too large or too costly to transport. As a result of these requirements, U.S. manufacturers and exporters must present virtually all of their information technology and telecommunications equipment for testing at laboratories located in Brazil before that equipment can be placed on the Brazilian market, which causes redundant testing, reduced product choice, higher costs and delayed time to market.

The United States has urged Brazil to implement the Inter-American Telecommunication Commission (CITEL) Mutual Recognition Agreement (MRA) with respect to the United States. Under the CITEL MRA, two or more CITEL participants may agree to provide for the mutual recognition of conformity assessment bodies and mutual acceptance of the results of testing and equipment certification procedures undertaken by those bodies in assessing the conformity of telecommunications equipment to the importing country's technical regulations. The United States and Brazil are both participants in CITEL. If Brazil implemented the CITEL MRA with respect to the United States, it would benefit U.S. suppliers seeking to sell telecommunications equipment in the Brazilian market by accepting product testing and certification conducted in the United States to meet Brazil's technical requirements. The United States will continue to encourage Brazil to implement the CITEL MRA with respect to the United States.

Sanitary and Phytosanitary Barriers

Live Cattle, Beef, and Beef Products

Brazil imposed a ban on imports of U.S. live cattle, beef, and beef products following the detection of an animal that tested positive for Bovine Spongiform Encephalopathy (BSE) in the United States in 2003. In early 2013, Brazil modified its import regulations establishing a new regulatory pathway for all imports of U.S. beef and beef products. This new pathway will require a bilateral agreement establishing conditions for import. In December 2013, Brazil issued final sanitary import requirements for beef and beef products. The United States continues to work with Brazil to negotiate the necessary bilateral agreements that will allow Brazil to open its market fully to U.S. live cattle, beef, and beef products based on science, the World Organization for Animal Health guidelines, and the U.S. negligible risk status for BSE. The U.S. Department of Agriculture also is working with Brazil to adopt a systems-based approach for facility inspection and oversight.

Pork

Brazil allows imports of U.S. pork products only from manufacturing plants that its inspectors have individually inspected and approved. This approach is burdensome to U.S. exporters and significantly impedes market access for U.S. pork in Brazil. Currently, fresh U.S. pork can be imported into Brazil only if the product tests free of trichinae. The United States does not consider these requirements for trichinosis to be necessary as U.S. pork producers maintain stringent biosecurity protocols that serve to limit the incidence of trichinosis in the United States to extremely low levels in commercial swine.

Planting Seeds

In December 2010, Brazil's Ministry of Agriculture, Livestock and Food Supply (MAPA) published Normative Instruction 36 (Norma 36), a regulation establishing burdensome and extensive treatments as well as seed testing requirements for the import of 118 seed species from the United States. Following engagement with the United States, U.S. stakeholders, and other trading partners, Brazil amended Norma 36 in February 2011, allowing for inspection of seed fields instead of laboratory testing, but postponed the implementation of additional amendments. A new version of Norma 36, which associates seed species from each exporting country with pests of concern to Brazil, was announced in October 2013. This latest version includes new crops (seed species) and pest associations that are of concern to the United States, but the revised instruction has yet to be implemented. In December 2014, MAPA announced a further delay in implementation until May 30, 2015. The United States has conveyed its concerns and will continue to engage with Brazil on this issue.

IMPORT POLICIES

Tariffs

Brazil is a member of the Southern Common Market (MERCOSUR) customs union, formed in 1991 and comprised of Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR maintains a Common External Tariff (CET) schedule with a limited number of country-specific exceptions, with most favored nation (MFN) applied rates ranging from 0 percent to 35 percent *ad valorem*. Brazil's import tariffs follow the MERCOSUR CET, with few exceptions. Brazil's MFN applied tariff rate averaged 13.5 percent in 2013. Brazil's average bound tariff rate in the WTO is significantly higher at 31.4 percent. Brazil's maximum bound tariff rate for industrial products is 35 percent, while its maximum bound tariff rate for agricultural products is 55 percent. Given the large disparities between bound and applied rates, U.S.

exporters face significant uncertainty in the Brazilian market because the government frequently increases and decreases tariffs to protect domestic industries from import competition and to manage prices and supply. The lack of predictability with regard to tariff rates makes it difficult for U.S. exporters to forecast the costs of doing business in Brazil.

Brazil imposes relatively high tariffs on imports across a wide spread of sectors, including automobiles, automotive parts, information technology and electronics, chemicals, plastics, industrial machinery, steel, and textiles and apparel. Under MERCOSUR, Brazil is permitted to maintain 100 exceptions to the CET until December 31, 2015. Using these exceptions, Brazil maintains higher tariffs than its MERCOSUR partners on certain goods, including cellular phones, telecommunications equipment, computers and computer printers, wind turbines, certain chemicals and pharmaceuticals, sardines, mushrooms, joint cement, hydrogenated castor oil, white mineral oils, hydrogen carbonate, machining centers, speed changers, and certain instruments and models designed for demonstration purposes.

In August 2010, MERCOSUR's Common Market Council (CMC) advanced toward the establishment of a Customs Union with its approval of a Common Customs Code (CCC) and Decision 5610 (December 2010) to implement a plan to eliminate the double application of the CET within MERCOSUR. The plan was to take effect in three stages with the first phase to have been implemented no later than January 1, 2012, but the deadline was not met. In November 2012, Argentina became the first MERCOSUR member to ratify the CCC. The CCC still must be ratified by the other four MERCOSUR member countries to come into effect.

As part of its Uruguay Round commitments, Brazil agreed to establish a 750,000 metric ton (MT) duty-free tariff-rate quota (TRQ) for wheat. Brazil has never opened the TRQ, and therefore no wheat has been shipped under it. In an April 1996 notification to the WTO, Brazil indicated its intent to withdraw the wheat TRQ in accordance with the process established in Article XXVIII of the GATT 1994. Brazil considers the Article XXVIII process to be ongoing. The Brazilian government considers the current MFN applied tariff rate for wheat of 10 percent, along with *ad hoc* duty-free MFN quotas established to bridge supply gaps, to confer benefits that are commensurate with, or in excess of, the 750,000 MT TRQ. However, because Brazil could increase the 10 percent applied tariff at any time and the *ad hoc* quotas are unpredictable, these arrangements do not offer U.S. wheat exporters the same certainty that a 750,000 MT TRQ would provide. The United States will continue to engage Brazil on this issue.

Nontariff Barriers

Brazil applies federal and state taxes and charges to imports that can effectively double the actual cost of imported products in Brazil. The complexities of the domestic tax system, including multiple cascading taxes and tax disputes among the various states, pose numerous challenges for all companies operating in and exporting to Brazil, including U.S. firms. For example, effective January 1, 2013, Brazil instituted a "temporary" regime for a reduction in the Industrial Product Tax (IPI) that made preferential tax rates to locally produced vehicles, provided that manufacturers comply with a series of local content and other requirements. This program will remain in effect until 2017. As part of the program, the baseline IPI on all vehicles will be revised upward by 30 percentage points, which is equivalent to the level applied to imported vehicles under the prior regime. However, those vehicles meeting certain levels of local content, fuel efficiency and emissions standards, and required levels of local engineering, research and development, or labeling standards receive tax breaks that may offset the full amount of the IPI. As a result, imported automobiles face a potential 30 percentage point price disadvantage compared to equivalent vehicles manufactured in Brazil even before import duties are levied.

Brazil prohibits imports of all used consumer goods, including automobiles, clothing, tires, medical equipment, and information and communications technology (ICT) products, as well as imports of certain

blood products. Brazil also restricts the entry of certain types of remanufactured goods (*e.g.*, earthmoving equipment, automotive parts, and medical equipment). In general, Brazil only allows the importation of such goods if an importer can provide evidence that the goods are not or cannot be produced domestically. A 25 percent merchant marine tax on ocean freight plus port handling charges at Brazilian ports puts U.S. products at a competitive disadvantage *vis-à-vis* MERCOSUR products.

Import Licenses/Customs Procedures

All importers in Brazil must register with the Secretariat of Foreign Trade (SECEX) to access the Brazilian Secretary of Foreign Trade's computerized documentation system (SISCOMEX). SISCOMEX registration requirements are onerous, including a minimum capital requirement.

Brazil has both automatic and non-automatic import license requirements. Brazil's non-automatic import licensing system covers imports of products that require authorization from specific ministries or agencies, such as agricultural commodities and beverages (Ministry of Agriculture), pharmaceuticals (Ministry of Health), and arms and munitions (Ministry of National Defense). Although a list of products subject to non-automatic import licensing procedures is available on the SISCOMEX system, specific information related to non-automatic import license requirements and explanations for rejections of non-automatic import license applications are lacking. The lack of transparency surrounding these procedures creates additional burdens for U.S. exporters.

U.S. footwear and apparel companies have expressed concern about the extension of non-automatic import licenses and certificate of origin requirements on non-MERCOSUR footwear, textiles and apparel. They also note the imposition of additional monitoring, enhanced inspection, and delayed release of certain goods, all of which negatively impact the ability to sell U.S.-made and U.S.-branded apparel, footwear, and textiles in the Brazilian market.

The Brazilian government imposes non-automatic import licensing requirements on imported automobiles and automotive parts, including those originating in MERCOSUR countries. Delays in issuing the non-automatic import licenses negatively affect U.S. automobile and automotive parts manufacturers that export vehicles to Brazil.

U.S. companies continue to complain of burdensome documentation requirements for the import of certain types of goods that apply even if imports are on a temporary basis. In addition, the Ministry of Health's regulatory agency, ANVISA, must approve product registrations for imported pharmaceuticals, medical devices, health and fitness equipment, cosmetics, and processed food products. Currently, the registration process at ANVISA takes from three months to six months for new versions of existing products and can take more than six months for new products.

SUBSIDIES

The Plano Brasil Maior (Greater Brazil Plan) industrial policy offers a variety of tax, tariff, and financing incentives to encourage local producers and production for export. The Reintegra program, launched in December 2011 as part of Plano Brasil Maior, exempted from certain taxes exports of goods covering 8,630 tariff lines, and allowed Brazilian exporters to receive up to three percent of their gross receipts from exports in tax refunds. The Reintegra program expired at the end of 2013 and was reintroduced in July 2014 through Provisional Measure 651. The program was amended in September 2014 through Decree 8.304 to, among other things, add sugar, ethanol, and cellulose to the list of eligible products. For the majority of products eligible for Reintegra benefits, the total cost of imported inputs cannot exceed 40 percent of the export price of the product; for a small number of eligible products, the total cost of imported inputs cannot exceed 65 percent of the export price.

Brazil's National Bank for Economic and Social Development (BNDES) provides long-term financing to Brazilian industries through several programs, such as the R$44 billion (approximately $19 billion) Investment Maintenance Program. At 3 percent to 5.5 percent, the interest rates charged on financing under this program are substantially lower than the prevailing market interest rates for commercial financing. One BNDES program, FINAME, provides preferential financing for the sale and export of Brazilian machinery and equipment, and provides financing for the purchase of imports of such goods provided that such goods are not produced domestically. These programs can be used for financing capacity expansions and equipment purchases in industries such as steel and agriculture. BNDES also provides preferential financing for wind and solar farm development, contingent upon progressively more stringent local content requirements. Currently, wind turbine suppliers of any nationality are eligible to receive preferential BNDES financing, provided the wind towers are built with at least 70 percent Brazilian steel by 2016, and photovoltaic suppliers must use 60 percent Brazilian made components by 2020.

Brazil's Special Regime for the Information Technology Exportation Platform (REPES) suspends Social Integration Program (PIS) and Contribution to Social Security Financing (COFINS) taxes on goods imported and information technology services provided by companies that commit to export software and information technology services to the extent that those exports account for more than 50 percent of the company's annual gross income. The Special Regime for the Acquisition of Capital Goods by Exporting Enterprises (RECAP) suspends these same taxes on new machines, instruments, and equipment imported by companies that commit for a period of at least two years to export goods and services such that they account for at least 50 percent of the company's overall gross income for the previous calendar year.

Brazil provides tax reductions and exemptions on many domestically-produced ICT and digital goods that qualify for status under the Basic Production Process (Processo Productivo Básico, or PPB). The PPB provides benefits on the production and development of goods that incorporate a certain minimum amount of local content. Tax exemptions are also provided for the development and build out of telecommunications broadband networks that utilize locally developed products and investments under the Special Taxation Regime for the National Broadband Installation Program for Telecommunication Networks (Regime Especial de Tributação do Programa de Banda Larga para Implantação de Redes de Telecomunicações, or REPNBL-Redes).

In April 2013, Brazil passed the Special Regime for the Development of the Fertilizer Industry (REIF). Under this program, fertilizer producers receive tax benefits, including an exemption for the IPI on imported inputs, provided they comply with minimum local content requirements and can demonstrate investment in local research and development projects.

Brazil also provides a broad range of assistance to its agricultural sector in the form of low interest financing, price support programs, tax exemptions, and tax credits. An example of such assistance is the Equalization Premium Payment to the Producer (Prêmio de Equalização Pago ao Produto or PEPRO), which offers a payment through an auctioning system to producers or cooperatives of certain agricultural commodities including, grapes, corn, and cotton based on the difference between the minimum price set by the government and the prevailing market price. Each PEPRO auction notice specifies the commodity to be tendered and the approved destinations for that product, including export destinations. From 2003 to 2014, approximately $1.8 billion was spent on PEPRO programs, mostly for cotton, corn, wheat, and rice.

Financing provided by BNDES is another form of assistance to Brazil's agricultural sector. Of the R$190 billion (approximately $80 billion) BNDES allocated to the various sectors of the Brazilian economy from January through December 2013, R$18.7 billion (approximately $8 billion) was set aside for the agriculture and livestock sectors, a 64 percent increase from 2012. In 2012, BNDES announced the *Prorenova* credit line of R$4 billion (approximately $1.75 billion) available for the calendar year to finance the renewal or

expansion of approximately 2.5 million acres (1 million hectares) of sugarcane fields. As of September 2014, a new credit line of R$3 billion ($1.3 billion) was announced to cover projects approved and to be implemented by March 2015. Under the BNDES PASS, a program designed to support ethanol mills and refineries, approximately R$245 million (approximately $104 million) was allocated to enable companies to build up their inventories of ethanol and sugar during the October 2014 – September 2015 marketing year.

GOVERNMENT PROCUREMENT

U.S. companies without a substantial in-country presence regularly face significant obstacles to winning government contracts and often are more successful in subcontracting with larger Brazilian firms. Regulations allow a Brazilian state enterprise to subcontract services to a foreign firm only if domestic expertise is unavailable. Additionally, U.S. and other foreign firms may only bid to provide technical services where there are no qualified Brazilian firms.

Brazil gives procurement preference to firms that produce in Brazil and that fulfill certain economic stimulus requirements such as generating employment or contributing to technological development, even if their bids are up to 25 percent more expensive than bids submitted by foreign firms not producing in Brazil. The law allows for "strategic" ICT goods and services procurements to be restricted to those with indigenously developed technology. Government procurement is just one of many measures under Plano Brasil Maior intended to promote and protect domestic producers, particularly the labor-intensive sectors facing import competition. The Ministry of Development, Industry, and Commerce maintains an 8 percent preference margin for domestic producers in the textile, clothing, and footwear industries when bidding on government contracts, and 5 percent to 25 percent preference margins for domestically produced backhoes, motor graders, and a variety of pharmaceuticals.

Brazil's regulations regarding the procurement of ICT goods and services require federal agencies and parastatal entities to give preferences to locally produced computer products based on a complicated price/technology matrix. In addition, Brazil has made several attempts over the past decade to enact preferences at the federal, state, and local government levels for the procurement of open-source software over commercial products. In December 2011, two Brazilian legislative committees approved draft Law PL 2269/1999, which would require all Brazilian federal government agencies and state-owned entities to favor open-source software in their procurement policies. If such legislation were enacted, U.S. software providers would be at a severe disadvantage compared to Brazilian companies. In addition, in August 2012, the Ministry of Science, Technology and Innovation released a "Bigger IT Plan" intended to bolster the growth and development of the domestic information technology industry. The program focuses heavily on software and related services and establishes a new process for the government to evaluate and certify that software products are locally developed in order to qualify for price preferences that may be as high as 25 percent.

In January and February 2014, pursuant to Decrees 8.184, 8.185, and 8.186, Brazil established price preference margins of up to 25 percent for government procurements of certain domestically produced high technology products such as printers and data processing machines, executive jets, certain ICT equipment, and local software services.

State-controlled oil company Petrobras' local content requirements are established and regulated by Brazil's National Petroleum Agency (ANP), which is gradually introducing higher local content requirements with each bidding round. In addition, local content requirements vary by block (the geographic area that is awarded by the Brazilian government to oil companies for oil exploration), and within that block the local content requirements differ for equipment, workforce, and services. In the first auctions in 1999, local content requirements were as low as five percent. Requirements have gradually

become more rigorous, and in the most recent auctions for exploratory blocks held in 2013, local content requirements for development ranged from 60 percent for offshore blocks to 85 percent for onshore projects. Technology intensive equipment and services will likely be subject to higher local content requirements than low technology equipment and services. Petrobras produces over 90 percent of Brazil's oil and gas, and is required by law to operate new projects in designated offshore areas with particularly high potential, known as the "pre-salt" region. Petrobras is responsible for ensuring that its workforce and its entire supply chain, which comprises the vast majority of the market, adhere to these increasingly high local content requirements.

The United States continues to urge Brazil to become a signatory to the WTO Agreement on Government Procurement in order to ensure that companies in both countries have access to each other's procurement markets.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Brazil remained on the Special 301 Watch List in 2014. Brazil could be a significant growth and export market for domestic and foreign IP intensive industries; however, certain administrative and enforcement challenges continue to act as market access barriers. In spite of continued enforcement efforts by some Brazilian agencies, significant piracy and counterfeiting continue at physical markets, and online piracy continues relatively unabated, limiting the number of legitimate online offerings of copyright-protected content. Brazil has taken steps to address a backlog of pending patent applications but considerable delays remain, hindering foreign investment and domestic development and licensing of new technologies. The restriction on university ownership and licensing of IP is hindering investment in and development of domestic high technology industries. A non-transparent regulation that gives the health regulatory agency, ANVISA, the ability to review pharmaceutical patent applications, creates further uncertainty for companies wishing to invest in Brazil. The Federal Attorney General has clarified that ANVISA does not have this authority under the law, yet the regulation remains in force. The United States will continue to engage Brazil on these and other issues, including through the 2015 Special 301 Review.

SERVICES BARRIERS

Audiovisual Services and Broadcasting

Brazil imposes a fixed tax on each foreign film released in theaters, on foreign home entertainment products, and on foreign programming for broadcast TV.

Remittances to foreign producers of audiovisual works are subject to a 25 percent income withholding tax. Brazilian distributors of foreign films are subject to a levy equal to 11 percent of their withholding taxes. This tax, called the CONDECINE (Contribution to the Development of a National Film Industry), is waived for the Brazilian distributor, if the producer of the foreign audiovisual work agrees to invest an amount equal to 70 percent of the income withholding tax on their remittances in co-productions with Brazilian film companies. The CONDECINE tax is also levied on any foreign video and audio advertising.

Brazil also requires that all films and TV shows be printed locally. Importation of color prints for the theatrical and TV markets is prohibited. Domestic film quotas also exist for theatrical screening and home video distribution.

In September 2011, Brazil enacted law 12.485, which covers the subscription TV market, including satellite and cable TV. The law permits telecommunications companies to offer TV packages with their services and removes the previous 49 percent limit on foreign ownership of cable TV companies. However, new content quotas also went into effect in September 2011, which require every channel to air at least three

and a half hours per week of Brazilian programming during prime time. Additionally, one-third of all channels included in any TV package must be Brazilian. The content quotas were phased in over a three year period, achieving full implementation in September 2013. As before, foreign cable and satellite TV programmers are subject to an 11 percent remittance tax, which does not need to be paid if the programmer invests 3 percent of its remittances in co-production of Brazilian audiovisual services. In addition, the law delegates significant programming and advertising regulatory authority to the national film industry development agency, ANCINE.

Cable and satellite operators are subject to a fixed levy on foreign content and foreign advertising released on their channels. Foreign ownership in media outlets is limited to 30 percent, including the print and "open broadcast" (non-cable) TV sectors. Eighty percent of the programming aired on "open broadcast" TV channels must be Brazilian.

Express Delivery Services

U.S. express delivery service companies face significant challenges in the Brazilian market due to numerous barriers, including high import taxes, an automated express delivery clearance system that is only partially functional, and levels for *de minimis* exception from tariffs that are too low to facilitate efficient import of goods.

The Brazilian government charges a flat 60 percent duty for all goods imported through the Simplified Customs Clearance process used for express delivery shipments. U.S. stakeholders contends that this flat rate is higher than duties normally levied on goods arriving through regular mail, putting express delivery companies at a competitive disadvantage. Moreover, Brazilian Customs has established maximum value limits of $5,000 for exports and $3,000 for imports sent using express services.

Financial Services

Through Resolutions 225 and 232, the Brazilian National Council on Private Insurance (CNSP) restricts foreign insurers' participation in the Brazilian market. Brasil Resseguros SA, a state-controlled company, monopolized the provision of reinsurance in Brazil until the enactment of Complementary Law 126 in 2007, which allowed private reinsurers to operate in the Brazilian market. The Superintendent Office of Private Insurance (SUSEP) keeps and discloses a list of reinsurance companies authorized to function in Brazil. For a foreign company to qualify as an admitted reinsurer, it must have a representation office in Brazil, meet the requirements of Complementary Law 126/2007, keep an active registration with SUSEP, and maintain a minimum solvency classification issued by a risk classification agency equal to Standard & Poor's or Fitch ratings of at least BBB.

Telecommunications

As a condition of the June 2012 auction for the 2.5 GHz radio spectrum, ANATEL required wireless carriers to meet specific milestones over time to ensure local content for the infrastructure, including software, was installed to supply the licensed service and to ensure 60 percent local content in 2012, 65 percent in 2015, and 70 percent after 2017. ANATEL also required wireless carriers to use a minimum percentage of technology developed in Brazil, starting with 10 percent in 2012, 15 percent in 2015, and 20 percent after 2017. ANATEL extended these requirements to the 700 MHz spectrum in an auction of that frequency held in September 2014. Additionally, ANATEL imposed a condition that 50 percent of deployed technology must meet PPB requirements (discussed above). As a result of these eligibility requirements, which favor local manufacturing and technology development, no U.S. telecommunications companies submitted bids in the 2014 auction.

In April 2013, Brazil's Ministry of Communications issued a decree (Portaria No. 87), which provides an exemption from consumption taxes for smartphones meeting certain requirements, including that they contain a pre-loaded package of locally-developed applications. This tax exemption is expected to lead to a price reduction of up to 30 percent on smartphones containing these applications.

INVESTMENT BARRIERS

Foreign Ownership of Agricultural Land

The National Land Reform and Settlement Institute (INCRA) administers the purchase and lease of Brazilian agricultural land by foreigners. Under the applicable rules, the area of agricultural land bought or leased by foreigners cannot account for more than 25 percent of the overall land area in a given municipal district. Additionally, no more than 10 percent of agricultural land in any given municipal district may be owned or leased by foreign nationals from the same country. The rules also make it necessary to obtain congressional approval before large plots of agricultural land can be purchased by foreign nationals, foreign companies, or Brazilian companies with a majority of foreign shareholders. On February 26, 2014, Brazil's Attorney General issued Interministerial Directive 04/2014, which clarified the regulations applicable to agricultural land sales to foreigners made between 1994 and 2010 and legally protected such transactions from court challenge.

BRUNEI DARUSSALAM

TRADE SUMMARY

U.S. goods exports in 2014 were $550 million, down 1.4 percent from the previous year. Brunei is currently the 101st largest export market for U.S. goods. Corresponding U.S. imports from Brunei were $32 million, up 86.2 percent. The U.S. goods trade surplus with Brunei was $518 million in 2014, a decrease of $23 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Brunei was $132 million in 2013 (latest data available), up from $116 million in 2012.

Trade Agreements

Brunei is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Brunei, the TPP negotiating partners currently include Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Wine and Distilled Spirits

It is illegal to import alcohol to Brunei for sale. Non-Muslims are permitted to bring a limited amount of alcohol into Brunei for personal use, subject to restrictions on display, sale, and public consumption.

Meat and Poultry Products – Halal Standards

Most food sold in Brunei is certified as halal, although there is a small market for non-halal foods, which are sold in designated rooms in grocery stores separated from other products or at restaurants that are specified as non-halal. The Ministry of Religious Affairs administers Brunei's halal standards under guidelines first published in 2007, which are among the most stringent in the world.

Under the Halal Meat Act, halal meat (including beef, mutton, lamb, and chicken) can be imported only by a person holding a halal import permit and an export permit from the exporting country. The importers and local suppliers of halal meat must be Muslim. The Bruneian government maintains a list of the foreign and local slaughtering centers that have been inspected and declared fit for providing halal meat. Brunei's stringent system of abattoir approval involves on-site inspections carried out by Bruneian government officials for every establishment seeking to export meat or poultry to Brunei. Halal meat must be kept

separately from non-halal meat at all times, and halal certification must be renewed annually by the Brunei Religious Council. Non-halal food importers must also notify the Ministry of Religious Affairs.

IMPORT POLICIES

Tariffs

Brunei's bound tariff lines in the WTO decreased from 92.8 percent in 2007 to 89.1 percent in 2014, due to changes made in harmonized system nomenclature. However, applied rates have not changed; Brunei's average bound MFN tariff rate is 25.4 percent and its applied MFN tariff of 1.7 percent. With the exception of a few products, including coffee, tea, tobacco, and alcohol, tariffs on agricultural products are zero. Alcoholic beverages, tobacco, coffee, tea, petroleum oils, and lubricants are among the products included in the 55 tariff lines subject to specific rates of duty. Brunei reduced the tariff rate for machinery and electrical equipment from 20 percent to 5 percent in 2013, but continues to apply duties of up to 20 percent on automotive parts.

GOVERNMENT PROCUREMENT

Government procurement in Brunei is conducted by individual ministries and departments, which must comply with financial regulations and procurement guidelines issued by the State Tender Board of the Ministry of Finance. Procurement practices are determined by the estimated value of procurement: direct purchase of goods, services, or construction services up to BND $2,000 ($1,523); solicitation of at least three quotations for goods, services, or construction services valued above BND $2,000 and up to BND $50,000 ($38,090); and open tenders for procurement of goods, services, or construction services above BND $50,000. Selective tenders may be used with approval of the department or ministry's Mini Tender Board (BND $50,000 to BND $500,000 ($380,908) or State Tender Board (above BND $500,000). Tender awards above BND $500,000 must be approved by the Sultan in his capacity as Minister of Finance, based on the recommendation of the State Tender Board.

Most invitations for tenders or quotations are published in a bi-weekly government newspaper but are often selectively tendered only to locally registered companies. Some ministries and departments publish tenders on their individual websites. Foreign firms can participate in the tenders individually, but are advised by the government to form a joint venture with a local company. A project performance bond is required at the tender approval stage to guarantee the delivery of a project in accordance with the project specifications. The bond is returned to the companies involved after the project is successfully completed.

Brunei is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Brunei was removed from the Special 301 Watch List in 2013 in light of its increased focus on IPR protection and enforcement in recent years. Brunei made notable progress in 2013 by conducting nationwide raids against vendors of pirated recordings and by prosecuting vendors of pirated goods. Brunei's enforcement efforts have contributed to a general decline in the physical piracy of music, now estimated to be about 30 percent. In 2014, Brunei continued progress in combatting pirated goods, notably with amendments made to the Copyright Order, which included much stiffer fines and penalties for copyright infringers.

However, concerns remain in some areas, including with respect to whether Brunei provides effective 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 IPR border enforcement,

particularly against transshipments. The United States also continues to urge Brunei to proceed with steps to join the WIPO Internet Treaties. The United States will continue to work closely with Brunei to ensure that progress is sustained and to address remaining areas of concern, including through the TPP negotiations.

OTHER BARRIERS

Transparency is lacking in many areas of Brunei's economy. Brunei operates State-owned monopolies in key sectors of the economy, such as oil and gas, telecommunications, transport, and energy generation and distribution. In addition, Brunei's foreign direct investment policies are not transparent, particularly with respect to limits on foreign equity participation, partnership requirements, and the identification of sectors in which foreign direct investment is restricted.

Brunei's Local Business Development Framework seeks to increase the use of local goods and services, provide local employment, and develop Bruneian businesses by placing requirements on all operators in the oil and gas industry in Brunei to meet targets in hiring and contracting. The Framework sets targets based on the sophistication of technology involved and the value of the contract. High technology, low value contracts are open to all companies and require only best endeavor efforts for local employment and content. Low technology, high value contracts are only open to local companies, with local employment targets of 50 percent to 90 percent and local content targets above 70 percent.

Food importers must provide customs declaration forms with required documentation five days prior to arrival of the food shipment. Import permits are required for a variety of goods, including industrial machines, used vehicles, salt, sugar, rice, cigarettes, and meat. Prepackaged goods are required to comply with labeling requirements and food requiring a date marking must be registered with the Director General of Health prior to importation. Foods containing artificial sweeteners other than saccharin, sodium saccharin, and aspartame require a license, as does irradiated food.

CAMBODIA

TRADE SUMMARY

U.S. goods exports in 2014 were $328 million, up 36.1 percent from the previous year. Cambodia is currently the 119th largest export market for U.S. goods. Corresponding U.S. imports from Cambodia were $2.8 billion, up 2.6 percent. The U.S. goods trade deficit with Cambodia was $2.5 billion in 2014, a decrease of $15 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Cambodia was $63 million in 2013 (latest data available), up from $54 million in 2012.

IMPORT POLICIES

Tariffs

Cambodia is one of the few least-developed World Trade Organization (WTO) Members that made binding commitments on all products in its tariff schedule when it joined the WTO in 2004. Cambodia's overall simple average bound tariff rate is 20.22 percent, while the average applied tariff rate is now around 11.8 percent. Cambodia's highest applied tariff rate of 35 percent is imposed across a number of product categories, including a wide variety of prepared food products, bottled and canned beverages, cigars and cigarette substitutes, table salt, paints and varnishes, cosmetic and skin care products, glass and glassware, electrical appliances, cars, furniture, video games, and gambling equipment.

Customs

Both local and foreign businesses have raised concerns that the Customs and Excise Department engages in practices that are nontransparent and that appear arbitrary. Importers frequently cite problems with undue processing delays, burdensome paperwork, and unnecessary formalities. The United States continues to raise these and other customs issues with Cambodia.

Taxation

Cambodia levies trade-related taxes in the form of customs duties, petroleum taxes on gasoline ($0.02 per liter) and diesel oil ($0.04 per liter), an export tax, and two indirect taxes – a value-added tax (VAT) and an excise tax – levied on the value of imports. The VAT is applied at a uniform 10-percent rate. To date, the VAT has been imposed only on large companies, but the Cambodian government is working to expand the base to which the tax is applied. The VAT is not collected on exports and services consumed outside of Cambodia (technically, a zero percent VAT applies). Subject to certain criteria, the zero rate also applies to businesses that support exporters and subcontractors that supply goods and services to exporters, such as garment and footwear manufacturers.

GOVERNMENT PROCUREMENT

In March 2014, the Ministry of Economy and Finance issued a ministerial declaration re-defining procurement value limits for governmental institutions and state-owned enterprises at both national and sub-national levels.

Despite the general requirement for competitive bidding for procurements valued at approximately $25,000, the conduct of government procurement often is not transparent. The Cambodian government frequently

provides short response times to public announcements of tenders, which may not be widely publicized. For construction projects, only bidders registered with the Ministry of Economy and Finance are permitted to participate in tenders. Additionally, prequalification procedures exist at the provincial level, which further limit the opportunity for prospective contractors to participate in tenders.

Cambodia is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The U.S. Government continues to have concerns regarding the protection and enforcement of intellectual property rights in Cambodia in light of widespread copyright piracy and trademark counterfeiting. Although public awareness of the dangers of counterfeit products is gradually increasing, pirated CDs, DVDs, software, garments, and other copyrighted materials, as well as an array of counterfeit goods, including pharmaceuticals, are reportedly widely available in Cambodia's markets. The rates of signal and cable piracy also remain high and online sites purveying pirated music, films, eBooks, software, and TV shows are spreading and gaining in popularity. Legislation that would address protection of trade secrets, encrypted satellite signals, and semiconductor layout designs, has been drafted but remains under review.

Cambodia passed a law clarifying the process for obtaining geographical indications in January 2014. A ministerial declaration on the process for registering trademarks and trade names, recording changes of a trademark owner's address and affidavit of use or non-use was issued on May 26, 2014. The declaration stipulates that an applicant whose permanent residence or place of business is outside Cambodia may appoint a representative agent to file an application on his or her behalf provided that the agent is domiciled and practicing in Cambodia.

Cambodia has agreed to join the Madrid Protocol for International Registration of Marks at the World Intellectual Property Organization. Cambodia deposited the instrument of accession on March 5th; the Madrid Protocol is expected to enter into force for Cambodia on June 5th, 2015.

INVESTMENT BARRIERS

Cambodia's constitution restricts foreign ownership of land. In 2010, a law was enacted allowing foreign ownership of property above the ground floor of a structure. The law stipulates that no more than 70 percent of a building can be foreign-owned, and that foreigners cannot own property within 30 kilometers of the national border. Foreign investors may also use land through concessions and renewable leases, although the Cambodian government imposed a moratorium on Economic Land Concessions (ELCs), which allow long-term leases of state-owned land, in May 2012. The Cambodian government also has been reviewing previously-granted ELCs and has revoked 19 ELCs on the grounds that the recipients had not followed through with the projects or complied with the ELC terms and conditions.

OTHER BARRIERS

Corruption

Both foreign and local businesses have identified corruption in Cambodia as a major obstacle to business and a deterrent to attracting investment. In 2010, Cambodia adopted anti-corruption legislation and established a national Anti-Corruption Unit to undertake investigations, implement law enforcement measures, and conduct public outreach. Enforcement, however, remains inconsistent. Cambodia began publishing the official fees for public services at the end of 2012 in an effort to combat "facilitation" payments, but this exercise has yet to be completed. After the national elections in July 2013, certain

ministries, such as the Ministry of Commerce and the General Department of Taxation, started to provide online information and services as an effort to reduce paper work and unofficial fees.

Judicial and Legal Framework

Cambodia's legal framework is incomplete and laws are unevenly enforced. While the National Assembly has passed numerous trade and investment laws, including a law on commercial arbitration, many business-related laws are still pending. Cambodia's judicial system is frequently viewed as often arbitrary and subject to corruption. Transparency International ranked Cambodia 156th out of 175 countries in its 2014 Corruption Perceptions Index, a one-point improvement compared with 2013.

In 2009, the Cambodian government established a commercial arbitration body called the National Arbitration Center, an alternative dispute resolution mechanism intended to resolve commercial disputes more quickly than the judicial system. The National Arbitration Center, later renamed as the National Commercial Arbitration Center, was officially launched in March 2013.

Smuggling

The smuggling of products, such as vehicles, fuel, soft drinks, livestock, crops, and cigarettes, remains widespread. The Cambodian government has issued numerous orders to suppress smuggling and has created various anti-smuggling units within government agencies, including the General Department of Customs and Excise, and has established a mechanism within this department to accept and act upon complaints from the private sector and foreign governments. Enforcement efforts, however, remain weak and inconsistent.

CANADA

TRADE SUMMARY

U.S. goods exports in 2014 were $312.1 billion, up 3.5 percent from the previous year. Canada is currently the largest export market for U.S. goods. Corresponding U.S. imports from Canada were $346.1 billion, up 4.1 percent. The U.S. goods trade deficit with Canada was $33.9 billion in 2014, an increase of $3.0 billion from 2013.

U.S. exports of services to Canada were $63.3 billion in 2013 (latest data available), and U.S. imports were $30.5 billion. Sales of services in Canada by majority U.S.-owned affiliates were $127.5 billion in 2012 (latest data available), while sales of services in the United States by majority Canada-owned firms were $80.9 billion.

The stock of U.S. foreign direct investment (FDI) in Canada was $368.3 billion in 2013 (latest data available), up from $346.1 billion in 2012. U.S. FDI in Canada is led by the nonbank holding companies, manufacturing, and finance and insurance sectors.

The North American Free Trade Agreement

The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico (the Parties), entered into force on January 1, 1994. At the same time, the United States suspended the United States-Canada Free Trade Agreement, which had entered into force in 1989. Under the NAFTA, the Parties progressively eliminated tariffs and nontariff barriers to trade in goods among them, provided improved access for services, established strong rules on investment, and strengthened protection of intellectual property rights. After signing the NAFTA, the Parties concluded supplemental agreements on labor and the environment, under which the Parties are obligated to effectively enforce their environmental and labor laws, among other things. The agreements also provide frameworks for cooperation on a wide variety of labor and environmental issues.

In 2012 Canada became a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. It will also address a range of new and emerging issues of concern to U.S. businesses, workers, and other stakeholders in the 21st century. In addition to the United States and Canada, the TPP negotiating partners currently include Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANTIARY BARRIERS

Technical Barriers to Trade

Restrictions on U.S. Seeds Exports

Canada's Seeds Act prohibits the sale, advertising, or importation into Canada of seed varieties that are not registered in the prescribed manner. In order to apply for seed varietal registration, the applicant must reside permanently in Canada. In addition, once registered, the seed variety must be grown in Canada in order to avail the resulting crop of any benefits under the Canada Grain Act's grain grading and inspection system. This operates as a trade barrier to the many U.S. seeds (***e.g.,*** wheat, barely, etc.) that are not varieties registered in Canada. In 2013, the Canadian government presented an options paper seeking guidance on how to modernize and streamline the crop variety registration system. Among the options is to remove the oversight role of Canada's federal government in varietal registration.

Cheese Compositional Standards

Canada's compositional standards for cheese further restrict access of certain U.S. dairy products to the Canadian market. These regulations limit the ingredients that can be used in cheese making, require use of a minimum percentage of fluid milk in the cheese-making process, and hold importers more accountable for ensuring that the imported product is in full compliance. The compositional standards also apply to cheese that is listed as an ingredient in processed food.

IMPORT POLICIES

Agricultural Supply Management

Canada uses supply management systems to regulate its dairy, chicken, turkey, and egg industries. Canada's supply management regime involves production quotas, producer marketing boards to regulate price and supply, and tariff-rate quotas (TRQs). Canada's supply management regime severely limits the ability of U.S. producers to increase exports to Canada above TRQ levels and inflates the prices Canadians pay for dairy and poultry products. Under the current system, U.S. imports above quota levels are subject to prohibitively high tariffs (***e.g.***, 245 percent for cheese, 298 percent for butter). The United States continues to press for the elimination of all remaining tariffs and TRQs.

Additional Canadian actions limit the access of U.S. exporters to the Canadian dairy market. For example, the United States has issues surrounding tariff classification of dairy products that have slowed or stopped trade of certain products.

Geographical Indications

Canada and the European Union (EU) announced August 5, 2014 that they had reached agreement on a complete text on the Canada-EU Comprehensive Economic and Trade Agreement (CETA). The details contained in the agreement have raised serious concerns with respect to access for current and future U.S. agricultural and foodstuff producers. For example, the Canadian government has agreed to the EU's request to automatically protect more than 170 food and beverage terms as geographical indications without providing for due process safeguards, such as the possibility of refusal of applications or objection by third parties. Also, while the agreement appears to provide limited safeguards for the use of generic terms with respect to a short list of specific terms for existing producers, concerns remain about the right for future producers to use those terms and for producers to use generic terms with respect to other products. In addition, the U.S. Government continues to examine the effect the agreement will have on the use of

individual components of compound terms, the use of translations, and prior rights of existing trademark owners.

Restrictions on U.S. Grain Exports

Under the Canada Grain Act, U.S. origin wheat and barley are not eligible to receive Canadian statutory grades, which are reserved exclusively for grains grown in Canada. As a result, while approved varieties of wheat and barley can be brought into Canada and sold at a fair price based on contract-based specifications, they must be segregated under Canada's grain handling system from Canadian varieties that are eligible for grading. Canadian wheat and barley exporters do not face such a two-tiered grain handling system in the United States. The Modernization of Canada's Grain Industry Act (Bill C-48), introduced in December 2014, would allow for grading of U.S. grain. Furthermore, under the Grain Act, grain varieties which are not approved in Canada may only receive the lowest official statutory grade in the particular class (for example, feed-grade wheat or #5 Amber Durum).

U.S. stakeholders are seeking to address concerns about Canada's varietal registration and grain grading system through existing channels of cooperation among U.S. and Canadian stakeholders, for example as part of the work of a task force created by not-for-profit associations from the United States and Canada. In 2013, the Canadian government presented an options paper seeking guidance from stakeholders on how to modernize and streamline the crop variety registration system. Among the options is to remove the oversight role of Canada's federal government in varietal registration.

Personal Duty Exemption

Canada's personal duty exemption for residents who bring back goods from trips outside of its borders is less generous than the U.S. personal duty exemption. In particular, both Canada and the United States have similar personal duty exemptions for goods brought back from travel of more than 24 hours; however, the United States allows travelers to bring back up to $200 of duty-free goods from trips of less than 24 hours, while Canada has no duty-free allowance for goods purchased during trips of less than 24 hours. Canadians who spend more than 24 hours outside of Canada can bring back C$200 worth of goods duty free while duty-free limit for trips over 48 hours is C$800. However, Canada provides no duty-exemption for returning residents who have been out of Canada for fewer than 24 hours. The United States provides similar treatment for its returning travelers who spend more than 24 hours outside of the country, but unlike Canada, also allows up to $200 of duty-free goods after visits of less than 24 hours.

Wine, Beer, and Spirits

Most Canadian provinces restrict the sale of wine, beer, and spirits through province-run liquor control boards. Market access barriers in those provinces greatly hamper exports of U.S. wine, beer, and spirits to Canada. These barriers include cost-of-service mark-ups, restrictions on listings (products which the liquor board will sell), reference prices (either maximum prices the liquor board is willing to pay or prices below which imported products may not be sold in order to avoid undercutting domestic prices), labeling requirements, discounting policies (requirements that suppliers offer rebates or reduce their prices to meet sales targets), distribution, and warehousing policies. The United States is monitoring changes stemming from British Columbia's Liquor Policy Review and proposed changes in Ontario that would affect the sale of wine to ensure that any new policies do not allow preferences for Canadian wines beyond what is granted in existing trade agreements.

In June 2012, Canada increased its personal duty exemption limit. Canadians still face high provincial taxes on personal imports of U.S. wines and spirits upon their return to Canada from the United States. This inhibits their purchases of U.S. alcoholic beverages.

Softwood Lumber

The U.S-Canada Softwood Lumber Agreement (SLA) entered into force in October 2006 for a period of seven years, with option to extend the SLA for two years. In January 2012, the United States and Canada extended the SLA until October 12, 2015. The United States is currently consulting with stakeholders on how best to proceed.

DOMESTIC SUPPORT MEASURES

Aerospace Sector Support

Canada released a comprehensive review of its aerospace and space programs in November 2012. The review offered 17 recommendations intended to strengthen the competitiveness of Canada's aerospace and space industries and guide future government involvement in both sectors. Recommendations called on the Canadian government to create a program to support large-scale aerospace technology demonstration, co-fund a Canada-wide initiative to facilitate communication among aerospace companies and the academic community, implement a full cost-recovery model for aircraft safety certification, support aerospace worker training, and co-fund aerospace training infrastructure.

The review also recommended that the Canadian government continue funding the Strategic Aerospace and Defense Initiative (SADI). The SADI provides repayable support for strategic industrial research and pre-competitive development projects in the aerospace, defense, space, and security industries, and has authorized over $900 million to fund 27 advanced research and development (R&D) projects since its establishment in 2007. To date, SADI has disbursed nearly $1.5 billion of which approximately $554 million was disbursed in in 2014.

The Canadian federal government and the Quebec provincial government announced aid to the Bombardier aircraft company in 2008 to support research and development related to the launch of the new class of Bombardier CSeries commercial aircraft. The federal government has provided C$350 million in financing for the CSeries aircraft and the government of Quebec has provided another C$118 million. The federal government and Quebec government are also offering commercial loans to potential buyers of the aircraft. The United States will continue to monitor carefully any government financing and support of the CSeries aircraft.

While Parties to the February 2011 OECD Sector Understanding on Export Credits for Civil Aircraft implement the revised agreement, the United States also has expressed concern over the possible use of Export Development Canada (EDC) export credit financing to support commercial sales of Bombardier CSeries aircraft in the U.S. market.

Canada has committed to spend approximately $25 million from 2009 to 2018 to support the Green Aviation Research and Development Network and provide additional funding to the National Research Council's Industrial Research Assistance Program to support R&D in Canada's aerospace sector.

GOVERNMENT PROCUREMENT

Canada and the United States are signatories to three international agreements relating to government procurement (the WTO Agreement on Government Procurement (WTO GPA), the NAFTA, and the 2010

United States-Canada Agreement on Government Procurement). The revised WTO GPA entered into force on April 6, 2014. The current agreements provide U.S. businesses with access to procurement conducted by most Canadian federal departments and a large number of provincial entities.

However, U.S. suppliers have only limited access under these trade agreements to procurements by Canada's Crown Corporations. While Canada has more than 40 Crown Corporations, only seven are covered under trade agreements with the United States.

Quebec Local Content Requirements

Hydro-Québec, a Crown Corporation of the province of Quebec (not covered under any of Canada's procurement agreements with the United States) continues to maintain a local content requirement in its bids for wind energy projects. Requirements for calls for tenders for wind farm projects are established by administrative regulations from the government of Quebec, and current rules stipulate that 60 percent of the value of all wind farm projects must be Quebec content, including 35 percent content required to originate from Gaspésie-Iles-de-la-Madeleine. These local content requirements pose significant hurdles for U.S. companies in the renewable energy sector in Canada.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Protection and enforcement of intellectual property rights is a continuing priority in bilateral trade relations with Canada. In 2012, the U.S. Government moved Canada from the Priority Watch List to the Watch List in light of steps taken to improve copyright protection through the Copyright Modernization Act. With respect to pharmaceuticals, the United States continues to have serious concerns about the impact of the heightened patent utility requirements that Canadian courts have adopted. On enforcement issues, Canada's Parliament passed the Combating Counterfeit Products Act December 9, 2014. The United States is disappointed that Canada did not amend this legislation to allow for inspection of in-transit counterfeit trademark goods and pirated copyright goods entering Canada destined for the United States.

SERVICES BARRIERS

Telecommunications

Canada no longer maintains foreign ownership restrictions for carriers with less than 10 percent share of the total Canadian telecommunications market, following an amendment to the *Telecommunications Act* in June 2012. Foreign-owned carriers are permitted to continue operating if their market share grows beyond 10 percent, provided the increase does not result from the acquisition of, or merger with, another Canadian carrier. Canada capped the amount of spectrum that all large incumbent companies could purchase in the January 2014 700 MHz spectrum auction in an effort to facilitate greater competition in the sector. No foreign entities participated in the auction, which resulted in Canada's three large incumbent wireless providers winning 85 percent of the available blocks. Canada has blocked deals it believes would lead to excessive spectrum concentration among market leaders, and set aside 60 percent of spectrum auctioned off in March 2015 for new wireless entrants as part of its plan to increase competition in Canada's wireless sector. The federal government included a provision to cap wholesale domestic wireless roaming rates in its 2014 budget implementation act. The measure is intended to foster increased competition in Canada's telecom sector by preventing large wireless carriers from charging smaller providers higher roaming rates than they would charge their own customers.

Canada maintains a 46.7 percent limit on foreign ownership of certain suppliers (i.e. those with more than 10 percent market share) of facilities-based telecommunications services, except for submarine cable operations. This is one of the most restrictive regimes among developed countries. Canada also requires

that at least 80 percent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadian citizens. As a consequence of these restrictions on foreign ownership, U.S. firms' presence in the Canadian market as wholly U.S.-owned operators has been limited to that of a reseller, dependent on Canadian facilities-based operators for critical services and component parts.

Canadian Content in Broadcasting

The Canadian Radio-television and Telecommunications Commission (CRTC) imposes quotas that determine both the minimum Canadian programming expenditure (CPE) and the minimum amount of Canadian programming that licensed Canadian broadcasters must carry (Exhibition Quota). Large English language private broadcaster groups have a CPE obligation equal to 30 percent of the group's gross revenues from their conventional signals, specialty, and pay services. In March 2015, the CRTC announced that it will eliminate the 55 percent daytime Canadian-content quota. The CRTC maintained the Exhibition Quota for primetime at 50 percent from 6 p.m. to 11 p.m.

Specialty services and pay TV services that are not part of a large English language private broadcasting group are now subject to a 35 percent requirement throughout the day, with no primetime quota.

For cable TV and direct-to-home broadcast services, more than 50 percent of the channels received by subscribers must be Canadian programming services. Non-Canadian channels must be pre-approved ("listed") by the CRTC. Upon an appeal from a Canadian licensee, the CRTC may determine that a non-Canadian channel competes with a Canadian pay or specialty service, in which case the CRTC may either remove the non-Canadian channel from the list (thereby revoking approval to provide service) or shift the channel into a less competitive location on the channel dial.

The CRTC also requires that 35 percent of popular musical selections broadcast on the radio qualify as "Canadian" under a Canadian government-determined point system.

The CRTC held stakeholder hearings in September 2014 to discuss changes to the Canadian broadcasting system and ways to improve consumer choice and flexibility. A proposal to apply a restrictive code of conduct designed for vertically-integrated suppliers in Canada (*i.e.*, suppliers that own infrastructure and programming) to foreign programming suppliers as well (who by definition cannot be vertically integrated, as foreign suppliers are prohibited from owning video distribution infrastructure in Canada) has raised significant stakeholder concern. The CRTC is expected to make its final recommendations to the Canadian government in 2015.

INVESTMENT BARRIERS

The Investment Canada Act (ICA) has regulated foreign investment in Canada since 1985. Foreign investors must notify the government of Canada prior to the direct or indirect acquisition of an existing Canadian business above a particular threshold value. In 2014, the threshold for review of investments/acquisitions by companies from World Trade Organization (WTO) Members was $354 million. Canada amended the ICA in 2009 to raise the threshold for review to $1 billion over a four-year period, although bids by foreign state owned enterprises (SOEs) will remain subject to the current $354 million threshold. The new thresholds will come into force once regulations are drafted and published. Industry Canada is the government of Canada's reviewing authority for most investments, except for those related to cultural industries, which come under the jurisdiction of the Department of Heritage. Foreign acquisition proposals under government review must demonstrate a "net benefit" to Canada to be approved. The Industry Minister may disclose publicly that an investment proposal does not satisfy the net benefit test and publicly explain the reasons for denying the investment, so long as the explanation will not do harm to the Canadian business or the foreign investor.

Under the ICA, the Industry Minister can make investment approval contingent upon meeting certain conditions such as minimum levels of employment and R&D. Since the global economic slowdown in 2009, some foreign investors in Canada have had difficulty meeting these conditions.

Canada administers supplemental guidelines for investment by foreign SOEs, including a stipulation that future SOE bids to acquire control of a Canadian oil-sands business will be approved on an "exceptional basis only."

OTHER BARRIERS

Port Hawkesbury Paper Mill

The United States remains concerned about the nature and extent of assistance provided by Nova Scotia's provincial government to the Port Hawkesbury paper mill following a bankruptcy settlement that resulted in the sale of the mill to a Canadian firm. In addition to provincial support, the mill also allegedly receives preferential power rates from Nova Scotia Power Inc. The Port Hawkesbury paper mill produces supercalendared paper which is an uncoated printing paper used to produce a variety of printed materials including magazines, catalogs, retail inserts, direct mail materials, corporate brochures, flyers, directories, and other high-run publications and advertising. On March 19, 2015, as a result of a petition filed by the domestic industry, the Department of Commerce announced the initiation of a CVD investigation of imports of supercalendered paper from Canada.

McInnis Cement Plant

In July 2014, McInnis Cement announced that it completed the financing package for constructing its $1.1 billion cement plant in Quebec's Gaspe Peninsula. The provincial government and other provincial entities have committed to providing $500 million in loans and equity to the project. The United States is concerned about the public sector assistance provided to McInnis, and is reviewing available information on the terms of such assistance.

Cross-Border Data Flows

The Canadian federal government is consolidating information technology services across 63 Canadian federal government email systems under a single platform. The request for proposals for this project invokes national security as a basis for prohibiting the contracted company from allowing data to go outside of Canada. This policy could preclude some new technologies such as "cloud" computing providers from participating in the procurement process. The public sector represents approximately one third of the Canadian economy, and is a major consumer of U.S. services. In today's information-based economy, particularly where a broad range of services are moving to cloud-based delivery where U.S. firms are market leaders, this law could hinder U.S. exports of a wide array of products and services.

Privacy rules in two Canadian provinces, British Columbia and Nova Scotia, mandate that personal information in the custody of a public body must be stored and accessed only in Canada unless one of a few limited exceptions applies. These laws prevent public bodies such as primary and secondary schools, universities, hospitals, government-owned utilities, and public agencies from using U.S. services when personal information could be accessed from or stored in the United States.

CHILE

TRADE SUMMARY

U.S. goods exports in 2014 were $16.6 billion, down 5.0 percent from the previous year. Chile is currently the 22nd largest export market for U.S. goods. Corresponding U.S. imports from Chile were $9.5 billion, down 8.6 percent. The U.S. goods trade surplus with Chile was $7.1 billion in 2014, an increase of $9 million from 2013.

U.S. exports of services to Chile were $3.6 billion in 2013 (latest data available), and U.S. imports were $1.2 billion. Sales of services in Chile by majority U.S.-owned affiliates were $11.5 billion in 2012 (latest data available), while sales of services in the United States by majority Chile-owned firms were $186 million.

The stock of U.S. foreign direct investment (FDI) in Chile was $41.1 billion in 2013 (latest data available), up from $37.8 billion in 2012. U.S. FDI in Chile is led by the mining, finance/insurance, and manufacturing sectors.

TRADE AGREEMENTS

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004. Pursuant to the FTA, Chile immediately eliminated tariffs on over 85 percent of bilateral trade in goods. All duties for U.S. goods entering Chile were eliminated on January 1, 2015.

Chile is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Chile, the TPP negotiating partners currently include Australia, Brunei, Canada, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANTIARY BARRIERS

Technical Barriers to Trade

Nutrition Labeling

The Chilean Congress adopted Law No. 20,606 on nutrition and composition of food and food advertising in July 2012, and the Chilean Ministry of Health (MOH) published and notified the "Proposed Amendment to the Chilean Food Health Regulations, Supreme Decree No. 977/96, provisions on the nutritional composition of food and on food advertising, in accordance with Law No. 20.606" on August 22, 2014, but it has not gone into effect, and the final rule has not yet been issued.

The 2014 draft regulation sets thresholds for saturated fat, calories, sugar, and sodium according to 100 gram or 100 ml portion sizes for prepackaged foods. If the specified thresholds are exceeded, an octagonal warning icon must be placed on the front label panel, indicating that the product has an excessive level of the nutrient(s) for which the threshold has been exceeded. One icon is required per category that is exceeded, up to four on a single package. The specified size of each icon fluctuates between 4 percent and 10.4 percent of the total surface area of the packaging depending on the size of the labeled area of the main face of the package. Further, the icons must be placed in the upper half of the main face of the package. The disclaimer used in the icon is "Excess Of" and includes a statement from Chile's Ministry of Health. Initial estimates from the USDA's Foreign Agricultural Service indicate that as much as 80 percent of the $312.4 million of U.S. prepackaged foods exported to Chile could need to bear at least one warning icon. The draft also restricts the use of positive health claims if at least one icon is used, but provides exemptions for foods that have no added saturated fat, sugar, or sodium.

The United States has discussed this issue with Chile within the framework of the WTO Committee on Technical Barriers to Trade (WTO TBT Committee), under the FTA, and on other bilateral occasions. Most recently, the United States submitted written comments to Chile on the proposed regulation on October 19, 2014. The United States, Canada, Mexico, European Union, Switzerland, Australia, Costa Rica, Brazil, and Colombia raised questions regarding and concerns with the draft regulation in the November 2014 meeting of the WTO TBT Committee. The United States has concerns about certain aspects of the proposed regulation — such as the "warning" element of the icons, and the prohibition on health claims and complementary information for products that carry icons—and will continue to discuss these issues with Chile.

Sanitary and Phytosanitary Barriers

Salmonid Products Ban

In 2010, Chile's Ministry of Fisheries, SERNAPESCA, suspended imports of salmonid species from all countries, including the United States, due to Chile's revised import regulations for aquatic animals, including salmonid eggs. Under the new regulations, U.S. producers cannot export salmonid eggs to Chile until SERNAPESCA completes a risk analysis and an on-site audit of the U.S. Department of Agriculture's (USDA) oversight of aquatic animal exports and U.S. salmonid egg production sites. An audit was conducted in 2011 on USDA's oversight of production sites in the states of Washington and Maine. The United States and Chile have had subsequent engagement on this issue, but a final risk assessment has not been completed. The United States government continues to work with Chile to resolve the issue.

Live Cattle

In 2003, Chile restricted imports of U.S. cattle because of bovine spongiform encephalopathy (BSE). The United States began requesting that Chile lift this restriction in 2007. In December 2014, Chile informed the U.S. Animal and Plant Health Inspection Service that Chile recognizes the United States' negligible risk status for BSE. The United States will work with Chile to move forward on re-opening Chile's market to U.S. live cattle on the basis of this recognition.

IMPORT POLICIES

Tariffs and Taxes

Chile has one of the most open trade regimes in the world with a uniform applied tariff rate of 6 percent for nearly all goods not covered under a free trade agreement. Additionally, many capital goods may be imported with an applied tariff rate of zero percent under specific conditions. Importers must pay a 19

percent value-added tax (VAT) calculated based on the CIF value of the import. The VAT is also applied to nearly all domestically produced goods and services. There are additional taxes applied to some products regardless of their origin, such as an 18 percent tax on sugared non-alcoholic beverages, a 20 percent tax for beers and wines, and a 31.5 percent tax for distilled alcoholic beverages. Cigarettes are subject to a 30 percent *ad valorem* tax plus approximately $0.07 per cigarette; other tobacco products have taxes between 52.6 percent and 59.7 percent. These values reflect changes recently implemented under the reformed tax regime introduced in 2014.

Import Controls

There are virtually no restrictions on the types or amounts of goods that can be imported into Chile, nor are there any requirements to use the official foreign exchange market. However, importers and exporters must report their import and export transactions to the Central Bank. Commercial banks may sell foreign currency to any importer to cover the price of imported goods and related expenses as well as to pay interest and other financing expenses that are authorized in the import report. Licensing requirements appear to be primarily used for statistical purposes; legislation requires that most import licenses be granted as a routine procedure. More rigorous licensing procedures apply for certain products such as pharmaceuticals and weapons.

Nontariff Barriers

Chile maintains a complex price band system for sugar (mixtures containing more than 65 percent sugar or sugar substitute content are subject to the sugar price band), wheat, and wheat flour. However, pursuant to the FTA, Chile phased out its application of the price band system to imports from the United States, and as of January 1, 2015, imports of U.S. goods are fully exempt from application of the system. Chile's President will evaluate in 2015 whether to continue the price band system for all other trading partners with which Chile has a free trade agreement.

Companies are required to contract the services of a customs agent when importing or exporting goods valued at over $1,000 free on board (FOB). Companies established in any of the Chilean duty-free zones are exempt from the obligation to use a customs agent when importing or exporting goods, as are non-commercial shipments valued at less than $500.

EXPORT POLICIES

Other than cases where a free trade agreement makes an exception, Chile currently provides a simplified duty drawback program for nontraditional exports. The program reimburses a firm up to 3 percent of the value of the exported good if at least 50 percent of that good consists of imported raw materials. Chile publishes an annual list of products excluded from this policy. In accordance with its FTA commitments, as of January 1, 2015, Chile eliminated the use of duty drawback and duty deferral for imports that are incorporated into any goods exported to the United States.

Under Chile's separate VAT reimbursement policy, exporters have the right to recoup the VAT paid on goods and using services intended for export activities. Any company that invests in a project in which production will be for export is eligible for VAT reimbursement. Exporters of services can only benefit from the VAT reimbursement policy when the services are rendered to people or companies with no Chilean residency. Also, the service must qualify as an export through a resolution issued by the Chilean customs authority.

GOVERNMENT PROCUREMENT

The FTA requires procuring entities subject to the Agreement to use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurement covered by the Agreement. The FTA also contains nondiscrimination provisions that require Chilean entities covered by the FTA to allow U.S. suppliers to participate on the same basis as Chilean suppliers in covered procurements. Most Chilean central government entities, 13 regional governments, 10 ports, state-owned airports, and 341 municipalities are covered by the FTA and must comply with the government procurement obligations.

Chile is not a party to the WTO Agreement on Government Procurement, but it is an observer to the Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Chile remained on the Priority Watch List in the 2014 Special 301 Report. The report identified weaknesses in the adequacy and effectiveness of Chile's protection of intellectual property. The report also identified obstacles to swift resolution of patent issues in connection with applications to market pharmaceutical products and inadequate protection against unfair commercial use as well as unauthorized disclosure of undisclosed test or other data generated to obtain marketing approvals for pharmaceutical products. Chile has inadequate protection against the circumvention of technological protection measures, inadequate legal basis for rights-holders to take effective action against any act of infringement of copyright and related rights, and inadequate administrative and judicial procedures for intellectual property violations. Chile has not approved legislation to implement the International Convention for the Protection of New Varieties of Plants (1991).

CHINA

TRADE SUMMARY

U.S. goods exports in 2014 were $124.0 billion, up 1.9 percent from the previous year. China is currently the third largest export market for U.S. goods. Corresponding U.S. imports from China were $466.7 billion, up 6.0 percent. The U.S. goods trade deficit with China was $342.6 billion in 2014, an increase of $23.9 billion from 2013.

U.S. exports of services to China were $37.8 billion in 2013 (latest data available), and U.S. imports were $14.3 billion. Sales of services in China by majority U.S.-owned affiliates were $39.1 billion in 2012 (latest data available), while sales of services in the United States by majority China-owned firms were $1.7 billion.

The stock of U.S. foreign direct investment (FDI) in China was $61.5 billion in 2013 (latest data available), up from $53.7 billion in 2012. U.S. FDI in China is led by the manufacturing, wholesale trade, and banking sectors.

KEY TRADE BARRIERS

The United States continues to pursue vigorous and expanded bilateral and multilateral engagement to increase the benefits that U.S. businesses, workers, farmers, ranchers, service providers and consumers derive from trade and economic ties with China. In an effort to remove Chinese barriers blocking or impeding U.S. exports and investment, the United States uses outcome-oriented dialogue at all levels of engagement with China, while also taking concrete steps to enforce U.S. rights at the WTO as appropriate. At present, China's trade policies and practices in several specific areas cause particular concern for the United States and U.S. stakeholders. The key concerns in each of these areas are summarized below. For more detailed information on these concerns, see the 2014 USTR Report to Congress on China's WTO Compliance, issued on December 30, 2014 at https://ustr.gov/sites/default/files/2014-Report-to-Congress-Final.pdf. The USTR Report to Congress on China's WTO Compliance provides comprehensive information on the status of the trade and investment commitments that China has made through the United States-China Joint Commission on Commerce and Trade (JCCT) and the United States-China Strategic and Economic Dialogue (S&ED).

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Beef, Poultry, and Pork

In 2014, beef, poultry, and pork products were affected by questionable SPS measures implemented by China's regulatory authorities. For example, China continued to block the importation of U.S. beef and beef products, more than seven years after these products had been declared safe to trade under international scientific guidelines established by the World Organization for Animal Health (known by its historical acronym OIE), and despite the further fact that in 2013 the United States received the lowest risk status from the OIE, *i.e.*, negligible risk. China also continued to impose some unwarranted state-level Avian Influenza import suspensions on poultry. Additionally, China continued to maintain overly restrictive pathogen and residue standards for raw meat and poultry. Consequently, anticipated growth in U.S. exports of these products was again not realized.

Biotech Approvals

In 2014, delays in China's approvals of agricultural products derived from biotech worsened, creating increased uncertainty among traders and also resulting in trade disruptions, particularly for U.S. exports of corn and dried distillers' grains (DDGs). In early December 2014, shortly before the JCCT meeting, China announced that it would be issuing import approvals for three outstanding biotech products of significant importance to U.S. farmers, including two soybean events and one corn event. In addition, while China still needs to improve its regulatory process and begin reviewing biotech products in a transparent and predictable manner, China did agree at the December 2014 JCCT meeting to hold an annual, multi-ministry dialogue with the United States at the Vice Minister level to discuss science-based agricultural innovation and the increased use of innovative technologies in agriculture.

Intellectual Property Rights

Overview

Since its accession to the WTO, China has undertaken a wide-ranging revision of its framework of laws and regulations aimed at protecting the intellectual property rights (IPR) of domestic and foreign right holders, as required by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement). However, inadequacies in China's IPR protection and enforcement regime continued to present serious barriers to U.S. exports and investment. China was again placed on the Priority Watch List in USTR's 2014 Special 301 report. In addition, in 2014, USTR announced the results of its 2013 Out-of-Cycle Review of Notorious Markets, which identifies Internet and physical markets that exemplify key challenges in the global struggle against piracy and counterfeiting. Several Chinese markets were among those named as notorious markets.

Trade Secrets

The protection and enforcement of trade secrets in China is a serious problem that has attained a higher profile in recent years. Thefts of trade secrets that benefit Chinese companies have occurred both within China and outside of China. Offenders in many cases continue to operate with impunity, while the Chinese government too frequently has failed to recognize serious infringements of IPRs that violate Chinese law. Most troubling are reports that actors affiliated with the Chinese government and the Chinese military have infiltrated the computer systems of U.S. companies, stealing terabytes of data, including the companies' intellectual property. In order to help address these challenges, the United States has urged China to update and amend its trade secrets laws and regulations, particularly the *Anti-unfair Competition Law*. The United States also has urged China to take actions to address this problem across the range of state-sponsored actors and to promote public awareness of this issue.

At the December 2013 JCCT meeting, China committed to adopt and publish an action plan to address trade secrets protection and enforcement for 2014, as well as to work with the United States on proposals to amend China's trade secrets laws and regulations. Six months later, at the July 2014 S&ED meeting, China pledged to pursue criminal and other actions to deter the misappropriation of trade secrets, to ensure that criminal and civil cases are tried and the resulting judgments are published, and to protect trade secrets contained in materials submitted by companies as part of regulatory, administrative, and other proceedings.

Most recently, at the December 2014 JCCT meeting, China confirmed that trade secrets submitted to the government in administrative or regulatory proceedings are to be protected from improper disclosure to the public. China further confirmed that government officials shall only disclose trade secrets in connection

with their official duties and that government officials who illegally disclose companies' trade secrets are to be subject to administrative or legal liability. China also committed to study various specified ways in which it could improve its laws, regulations and administrative procedures governing the protection of trade secrets in the context of administrative or regulatory proceedings.

Pharmaceutical Patents

The United States continues to engage China on a range of patent and technology transfer concerns relating to pharmaceuticals. One year ago, China committed to permit supplemental data supporting pharmaceutical patent applications. However, it appears that China has not yet fully implemented that commitment. In addition, many other concerns remain, including the need to provide effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to provide effective enforcement against infringement of pharmaceutical patents.

Software Piracy

Due to the serious obstacles in China to the effective protection and enforcement of IPR in all forms, sales of legitimate IP-intensive goods and services, including software and audiovisual products, remain disproportionately low compared to similar markets with stronger IPR protection and enforcement. The United States continues to work with China on a series of JCCT and S&ED commitments to foster a better IP environment that will facilitate increased sales of legitimate IP-intensive goods and services. For example, sales of legitimate software to the Chinese government by U.S. companies have seen only a modest increase, while losses to U.S. software companies from the use of pirated software by Chinese state-owned enterprises and other enterprises remain very high. The United States continues to call on China to fulfill its existing commitments with regard to software legalization and to urge all levels of the Chinese government, state-owned enterprises and state-owned banks to take necessary steps to ensure the use of legitimate software.

Online Piracy

Online piracy in China is widespread and continues on a large scale, affecting industries distributing legitimate music, motion pictures, books and journals, software and video games. Increased enforcement activities have yet to slow online sales of pirated goods. At the December 2014 JCCT meeting, China committed to strengthen enforcement against copyright piracy activities in the online environment and to deter the occurrence of copyright piracy through criminal, civil, and administrative remedies and penalties.

Counterfeit Goods

Although rights holders report increased enforcement efforts by Chinese government authorities, counterfeiting in China, affecting a wide range of goods, remains widespread. One area of particular U.S. concern involves medications. Despite sustained engagement by the United States, China still needs to improve its regulation of the manufacture of active pharmaceutical ingredients to prevent their use in counterfeit and substandard medications. In a positive development, at the July 2014 S&ED meeting, China agreed to develop and seriously consider amendments to the *Drug Administration Law* that will require regulatory control of the manufacturers of bulk chemicals that can be used as active pharmaceutical ingredients. China further committed to hold a multi-ministerial meeting for the purpose of developing a possible framework for regulatory oversight of bulk chemicals. The United States has been monitoring developments closely and will continue to press China in 2015 to fully implement these commitments.

Industrial Policies

Overview

China continued to pursue industrial policies in 2014 that seek to limit market access for imported goods, foreign manufacturers, and foreign service suppliers, while offering substantial government guidance, resources, and regulatory support to Chinese industries. The principal beneficiaries of these policies are state-owned enterprises, as well as other favored domestic companies attempting to move up the economic value chain.

Indigenous Innovation

In 2014, policies aimed at promoting "indigenous innovation" continued to represent an important component of China's industrialization efforts. Through intensive, high-level bilateral engagement, the United States previously secured a series of critical commitments from China that generated major progress in delinking indigenous innovation policies at all levels of the Chinese government from government procurement preferences, culminating in the issuance of a State Council measure mandating that provincial and local governments eliminate any remaining linkages by December 2011. Since then, the principal challenge has been to address a range of discriminatory indigenous innovation preferences proliferating outside of the government procurement context. Using the United States-China Innovation Dialogue, the United States was able to persuade China to take an important step in this direction at the May 2012 S&ED meeting, where China committed to treat IPR owned or developed in other countries the same as IPR owned or developed in China. The United States also used the 2012 JCCT process to press China to revise or eliminate specific measures that appeared to be inconsistent with this commitment. Throughout 2013 and 2014, China reviewed specific U.S. concerns, and the United States and China intensified their discussions. At the December 2014 JCCT meeting, China clarified and underscored that it will treat IPR owned or developed in other countries the same as domestically owned or developed IPR, and it further agreed that enterprises are free to base technology transfer decisions on business and market considerations, and are free to independently negotiate and decide whether and under what circumstances to assign or license intellectual property rights to affiliated or unaffiliated enterprises.

In late 2014, China announced two measures relating to information technology equipment used in the banking services sector and in providing Internet- or telecommunications-based services more generally. These measures raise fairness and transparency concerns as well as other industrial policy-related concerns. The United States has pressed China to suspend these measures and will continue to do so going forward.

Technology Transfer

While some longstanding concerns regarding technology transfer remain unaddressed, and new ones have emerged, such as tying government preferences to the localization of technology in China (discussed above), some progress has been made in select areas. For example, China committed at the December 2013 JCCT meeting not to finalize or implement a selection catalogue and rules governing official use vehicles. The catalogue and rules would have interfered with independent decision making on technology transfer and would have effectively excluded vehicles produced by foreign and foreign-invested enterprises from important government procurement opportunities.

Export Restraints

China continues to deploy a combination of export restraints, including export quotas, export licensing, minimum export prices, export duties, and other restrictions, on a number of raw material inputs where it holds the leverage of being among the world's leading producers. Through these export restraints, it appears

that China is able to provide substantial economic advantages to a wide range of downstream producers in China at the expense of foreign downstream producers, while creating pressure on foreign downstream producers to move their operations, technologies, and jobs to China. In 2013, China removed its export quotas and duties on several raw material inputs of key interest to the U.S. steel, aluminum, and chemicals industries after the United States won a dispute settlement case against China at the WTO. In 2014, the United States won a second WTO case, where the claims focused on China's export restraints on rare earths, tungsten, and molybdenum, which are key inputs for a multitude of U.S.-made products, including hybrid automobile batteries, wind turbines, energy-efficient lighting, steel, advanced electronics, automobiles, petroleum, and chemicals. China has agreed to comply with the WTO's rulings in this second case by May 2015.

Export Subsidies

China has continued to provide a range of injurious subsidies to its domestic industries, some of which appear to be prohibited under WTO rules. The United States has addressed these subsidies both through countervailing duty proceedings conducted by the Commerce Department and through dispute settlement proceedings at the WTO. The United States and other WTO members also have continued to press China to notify its subsidies to the WTO in accordance with its WTO obligations. Since joining the WTO 13 years ago, China has yet to submit to the WTO a complete notification of subsidies maintained by central and sub-central governments.

Excess Capacity

Chinese government actions and financial support in manufacturing industries like steel and aluminum have contributed to massive excess capacity in China, with the resulting overproduction distorting global markets and hurting U.S. producers and workers. For example, from 2000 to 2013, China accounted for more than 75 percent of global steelmaking capacity growth. Currently, China's capacity alone exceeds the combined steelmaking capacity of the EU, Japan, the United States, and Russia. China has no comparative advantage with regard to the energy and raw material inputs for steelmaking, yet China's capacity has continued to grow exponentially and is estimated to have exceeded one billion metric tons (MT) in 2013, despite weakening demand domestically and abroad. China's steel exports have grown to be the largest in the world, at 62 million MT in 2013, an 11 percent increase over 2012 levels, despite sluggish steel demand abroad. Excess capacity in China–whether in the steel industry or other industries like aluminum–hurts U.S. industries and workers not only because of direct exports from China to the United States, but because lower global prices and a glut of supply make it difficult for even the most competitive producers to remain viable. At the July 2014 S&ED meeting, China committed to establish mechanisms to reign in excess production capacity in key manufacturing sectors, including in crude steel making. Domestic industries in many of China's trading partners have continued to respond to the effects of the trade-distortive effects of China's excess capacity by petitioning their governments to impose trade remedies such as antidumping and countervailing duties.

Value-added Tax Rebates and Related Policies

As in prior years, in 2014, the Chinese government attempted to manage the export of many primary, intermediate, and downstream products by raising or lowering the value-added tax rebate available upon export. China sometimes reinforces its objectives by imposing or retracting export duties. These practices have caused tremendous disruption, uncertainty, and unfairness in the global markets for some products, particularly downstream products where China is a leading world producer or exporter, such as products made by the steel, aluminum, and soda ash industries. These practices, together with other policies, such as excessive government subsidization, also have contributed to severe excess capacity in these same industries. A positive development took place at the July 2014 S&ED meeting, when China agreed to

improve its value-added tax rebate system, including by actively studying international best practices, and to deepen communication with the United States on this matter, including regarding its impact on trade.

Aircraft Tariffs

In August 2013, China increased the import tariff on narrow body aircraft with an empty weight of between 25 tons and 45 tons from 1 percent to the bound rate of 5 percent. Because the tariff for narrow body aircraft weighing more than 45 tons remains at 1 percent, and many comparable narrow body aircraft have an empty weight of between 40 tons and 50 tons, this change is having the consequence of encouraging Chinese airlines to purchase heavier, less fuel-efficient aircraft in order to fall within the 1 percent tariff category and thereby save millions of dollars on the purchase price. As a result, this change could adversely affect U.S.-manufactured narrow body aircraft in particular, as they tend to be lighter and more fuel-efficient than competing aircraft. The United States has been encouraging China to revise its tariff policy.

Strategic Emerging Industries

In 2010, China's State Council issued a decision on accelerating the cultivation and development of "strategic emerging industries" (SEIs) that called upon China to develop and implement policies designed to promote rapid growth in government-selected industry sectors viewed as economically and strategically important for transforming China's industrial base into one that is more internationally competitive in cutting-edge technologies. China subsequently identified seven sectors for focus under the SEI initiative, including energy-saving and environmental protection, new generation information technology, biotech, high-end equipment manufacturing, new energy, new materials, and new-energy vehicles.

To date, import substitution policies have been included in some SEI development plans at the sub-central government level. For example, a development plan for the LED industry issued by the Shenzhen municipal government included a call to support research and development in products and technologies that have the ability to substitute for imports. Shenzhen rescinded the plan in 2013 following U.S. Government intervention with China's central government authorities.

Similarly, some central and sub-central government measures use local content requirements as a condition for enterprises in SEI sectors to receive financial support or other preferences. For example, in the high-end equipment manufacturing sector, China maintains a program that conditions the receipt of a subsidy on an enterprise's use of at least 60 percent Chinese-made components when manufacturing intelligent manufacturing equipment. Citing WTO concerns, the United States has been pressing China to repeal or modify these measures.

In addition, an array of Chinese policies designed to assist Chinese automobile enterprises in developing electric vehicle technologies and in building domestic brands that can succeed in global markets continued to pose challenges in 2014. These policies have generated serious concerns about discrimination based on the country of origin of intellectual property, forced technology transfer, research and development requirements, investment restrictions, and discriminatory treatment of foreign brands and imported vehicles. Although significant progress has been made in addressing some of these policies, more work remains to be done.

Import Ban on Remanufactured Products

China prohibits the importation of remanufactured products, which it typically classifies as used goods. China also maintains restrictions that prevent remanufacturing process inputs (known as cores) from being imported into China's customs territory, except special economic zones. These import prohibitions and restrictions undermine the development of industries in many sectors in China, including mining,

agriculture, healthcare, transportation, and communications, among others, because companies in these industries are unable to purchase high-quality, lower-cost remanufactured products produced outside of China.

Standards, Technical Regulations, and Conformity Assessment Procedures

In the area of standards, technical regulations, and conformity assessment procedures, three principal types of problems harm U.S. companies. First, Chinese government officials in some instances have reportedly pressured foreign companies seeking to participate in the standards-setting process to license their technology or intellectual property on unfavorable terms. Second, China has continued to pursue unique national standards in a number of high technology areas where international standards already exist, such as 3G and 4G telecommunications standards, Wi-Fi standards and information security standards. Third, China appears to be turning more and more to in-country testing for a broader range of products, which does not conform with international practices that generally accept foreign test results and conformity assessment certifications. To date, bilateral engagement has yielded minimal progress in resolving these matters.

Two recent developments bear noting. In a positive development, at the December 2014 JCCT meeting, China committed to accelerate its review process for medical devices and pharmaceutical products and to eliminate its application backlog for pharmaceutical products within 2-3 years. At the same time, in a negative development, China has issued a draft technical regulation that proposes to impose labeling requirements on cosmetics that could discriminate unfairly against imported products and could serve as an unnecessary obstacle to trade. The United States is engaging China's regulatory authorities in an effort to facilitate the development of a measure that is both effective and avoids needlessly burdening trade.

Government Procurement

The United States continues to press China to fulfill its commitment to accede to the WTO's Government Procurement Agreement (GPA) and to open up its vast government procurement market to the United States and other GPA parties. To date, however, the United States, the EU, and other GPA parties have viewed China's offers of coverage as highly disappointing in scope and coverage. At the December 2013 JCCT meeting, China committed to submit its fifth revised offer by the end of 2014 and that the offer would be "on the whole commensurate" with coverage provided by GPA parties. While China's 2014 offer made notable progress in some areas, including by lowering thresholds, adding sub-central and other entities, and eliminating exclusionary notes, the offer still falls far short of GPA standards and remains far from acceptable to the United States and other GPA parties.

China's current government procurement regime is governed by two important laws. The Government Procurement Law, which is administered by the Ministry of Finance, governs purchasing activities conducted with fiscal funds by state organs and other organizations at all levels of government in China. The Tendering and Bidding Law falls under the jurisdiction of the National Development and Reform Commission and imposes uniform tendering and bidding procedures for certain classes of procurement projects in China, notably construction and works projects, without regard for the type of entity that conducts the procurement. Both laws cover important procurements that GPA parties would consider to be government procurement eligible for coverage under the GPA. The United States will continue to work with the Chinese government to ensure that China's future GPA offers include coverage of government procurement regardless of which law it falls under, including procurement conducted by both government entities and other entities, such as state-owned enterprises. In a recent development, on December 31, 2014, China announced that the State Council had approved final *Implementing Regulations for the Government Procurement Law*, although it did not publish the measure for two more months. This measure, together

with further rules currently under development, should significantly affect the way that Chinese government agencies procure and which types of goods and services are eligible to be procured.

Investment Restrictions

China seeks to protect many domestic industries through a restrictive investment regime, which adversely affects foreign investors in services sectors, such as financial services, telecommunications services, Internet-related services, legal services, and express delivery services, as well as in certain manufacturing industries and the agricultural sector. In addition to prohibitions and restrictions on market access imposed through China's foreign investment catalogue or other means, China can readily impose additional constraints on investment through its foreign investment approval processes, where Chinese government officials can use vaguely defined powers on an *ad hoc* basis to delay or restrict market entry. For example, foreign enterprises report that Chinese government officials may condition investment approval on a requirement that a foreign enterprise conduct research and development in China, transfer technology, satisfy performance requirements relating to exportation or the use of local content, or make valuable, deal-specific commercial concessions.

The United States has repeatedly raised concerns with China about its restrictive investment regime. To date, this sustained bilateral engagement has not led to a significant relaxation of China's investment restrictions, nor has it appeared to curtail *ad hoc* actions by Chinese government officials. However, China is starting to take steps to reform its investment approval system.

As a separate matter, China has started to implement the Third Plenum's call to unify domestic and foreign investment laws and regulations by revoking many registered capital requirements and by imposing the remaining registered capital requirements on a nondiscriminatory basis. However, much work remains in this area. In addition, the United States has been urging, and will continue to urge, China to eliminate its system of separate investment laws for domestic and foreign investors and to instead apply one law to both domestic and foreign investors.

Meanwhile, the United States continues to pursue negotiations with China for a Bilateral Investment Treaty (BIT). These negotiations intensified after China committed at the July 2013 S&ED meeting to negotiate a high-standard BIT that will embrace the principles of openness, nondiscrimination and transparency, provide national treatment at all phases of investment, including market access (*i.e.*, the "pre-establishment" phase of investment), and employ a "negative list" approach in identifying exceptions (meaning that all investments are permitted except for those explicitly excluded). At the 2014 S&ED meeting, China built on this commitment by agreeing to provide its first negative list offer by early 2015.

Trade Remedies

China's regulatory authorities in some instances seem to be pursuing antidumping and countervailing duty investigations and imposing duties for the purpose of striking back at trading partners that have exercised their WTO rights against China, even when necessary legal and factual support for the duties is absent. The U.S. response has been the filing and prosecution of three WTO disputes, in which the United States has raised claims concerning systemic substantive and procedural deficiencies in China's administration of trade remedy investigations. The decisions reached by the WTO in those three disputes–the most recent of which was issued in May 2014–confirm that China failed to abide by WTO disciplines when imposing the duties at issue.

Services

Overview

The prospects for U.S. service suppliers in China are promising, given the size of China's market and the Chinese leadership's stated intention to promote the growth of China's services sectors. The United States continues to enjoy a substantial surplus in trade in services with China, as the United States' cross-border supply of services into China totaled $38 billion in 2013. In addition, services supplied through majority U.S.-invested companies in China totaled $39 billion in 2012, the latest year for which data are available. This success has been largely attributable to the market openings phased in by China pursuant to its WTO commitments, as well as the U.S. Government's comprehensive engagement with China's various regulatory authorities, including in the pursuit of sector openings that go beyond China's WTO commitments.

Nevertheless, in 2014, numerous challenges persisted in a range of services sectors. As in past years, Chinese regulators continued to use discriminatory regulatory processes, informal bans on entry and expansion, overly burdensome licensing and operating requirements, and other means to frustrate efforts of U.S. suppliers of banking, insurance, telecommunications, Internet-related, audiovisual, express delivery, legal, and other services to achieve their full market potential in China. Some sectors, including electronic payment services and theatrical film distribution, have been the subject of WTO dispute settlement. While China declared an intent to further liberalize a number of services sectors in its Third Plenum Decision, concrete steps have not yet been taken.

Electronic Payment Services

China continued to place unwarranted restrictions on foreign companies, including the major U.S. credit card and processing companies, which supply electronic payment services to banks and other businesses that issue or accept credit and debit cards. The United States prevailed in a WTO case challenging those restrictions, and China agreed to comply with the WTO's rulings by July 2013, but China has not yet taken needed steps to authorize access by foreign suppliers to this market. The United States is actively pressing China to comply with the WTO's rulings and also is considering appropriate next steps at the WTO.

Theatrical Film Distribution

In February 2012, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO case that the United States had won. The two sides signed a memorandum of understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year, along with substantial additional revenue for foreign film producers. Significantly more U.S. films have been imported and distributed in China since the signing of the MOU, and the revenue received by U.S. film producers has increased significantly. However, China has not yet fully implemented its MOU commitments, including with regard to a critical commitment to open up film distribution opportunities for imported films that are distributed in China on a flat-fee basis rather than a revenue-sharing basis. As a result, the United States has been pressing China for full implementation.

Banking Services

China has exercised significant caution in opening up the banking sector to foreign competition. In particular, China has imposed working capital requirements and other requirements that have made it more difficult for foreign banks to establish and expand their market presence in China. Many of these requirements, moreover, have not applied equally to foreign and domestic banks. For example, China has

limited the sale of equity stakes in existing state-owned banks to a single foreign investor to 20 percent, while the total equity share of all foreign investors is limited to 25 percent. Another problematic area involves the ability of U.S. and other foreign banks to participate in the domestic currency business in China. This is a market segment that foreign banks are most eager to pursue in China, particularly with regard to Chinese individuals. Under existing governing regulations, only foreign-funded banks that have had a representative office in China for two years and that have total assets exceeding $10 billion can apply to incorporate in China. After incorporating, moreover, these banks only become eligible to offer full domestic currency services to Chinese individuals if they can demonstrate that they have operated in China for three years and have had two consecutive years of profits. The regulations also restrict the scope of activities that can be conducted by foreign banks seeking to operate in China through branches instead of through subsidiaries.

Information and communications technology-related banking rules issued late in 2014 by Chinese banking regulators raised serious concerns, including concerns that domestic and foreign companies offering banking services in China will be required to purchase information and communications technology equipment that may create a less secure and more vulnerable infrastructure for them.

Insurance Services

China's regulation of the insurance sector has resulted in market access barriers for foreign insurers, whose share of China's market remains very low. In the life insurance sector, China only permits foreign companies to participate in Chinese-foreign joint ventures, with foreign equity capped at 50 percent. The market share of these joint ventures is less than four percent. For the health insurance sector, China also caps foreign equity at 50 percent. While China allows wholly foreign-owned subsidiaries in the non-life insurance (*i.e.*, property and casualty) sector, the market share of foreign-invested companies in this sector is only one percent. China also limits foreign insurance brokers from providing a full scope of services, and its market for political risk insurance is completely closed to foreign participation. In addition, some U.S. insurance companies established in China continue to encounter difficulties in getting the Chinese regulatory authorities to issue timely approvals of their requests to open up new internal branches to expand their operations.

Telecommunications Services

Restrictions maintained by China on value-added telecommunications services have created serious barriers to market entry for foreign suppliers seeking to provide value-added services. In addition, China's restrictions on basic telecommunications services, such as informal bans on new entry, a requirement that foreign suppliers can only enter into joint ventures with state-owned enterprises, and exceedingly high capital requirements, have blocked foreign suppliers from accessing China's basic services market. In May 2013, China introduced rules establishing a pilot program for the resale of mobile services, which can increase competitive opportunities in China's heavily concentrated market. The United States is very concerned that foreign firms continue to be excluded from the pilot program, while China has issued licenses to more than a dozen Chinese suppliers.

Internet-related Services

China's Internet regulatory regime is restrictive and non-transparent, affecting a broad range of commercial services activities conducted via the Internet. In addition, China's treatment of foreign companies seeking to participate in the development of cloud computing, including computer data and storage services provided over the Internet, raises concerns. For example, China has sought to impose value-added telecommunications licensing requirements on this sector, including a 50 percent equity cap on investments by foreign companies, even though the services at issue are not telecommunications services.

Audio-visual Services

China's restrictions in the area of theater services have wholly discouraged investment by foreign suppliers, and China's restrictions on services associated with TV and radio greatly limit participation by foreign suppliers.

Express Delivery Services

The United States continues to raise concerns with China regarding implementation of the 2009 Postal Law and related regulations. China has blocked foreign companies' access to the document segment of China's domestic express delivery market, and it has threatened troubling restrictions on foreign companies' access to the package segment of China's domestic express delivery market, including discriminatory treatment in approving their business permits.

Legal Services

China has issued measures intended to implement the legal services commitments that it made upon joining the WTO. However, these measures restrict the types of legal services that can be provided and impose lengthy delays for the establishment of new offices.

Agriculture

Overview

China is the largest agricultural export market for the United States, with nearly $24.6 billion in U.S. agricultural exports in 2014. Much of this success resulted from intensive engagement by the United States with China's regulatory authorities. Notwithstanding this success, China remains among the least transparent and predictable of the world's major markets for agricultural products, largely because of uneven enforcement of regulations and selective intervention in the market by China's regulatory authorities. As in past years, seemingly capricious practices by Chinese customs and quarantine agencies delay or halt shipments of agricultural products into China. In addition, SPS measures with questionable scientific bases and a generally opaque regulatory regime frequently create difficulties and uncertainty for traders in agricultural commodities, who require as much certainty and transparency as possible.

Subsidies

Over the past several years, China has been significantly increasing domestic subsidies and other support measures for its agricultural sector. China has established a direct payment program, instituted minimum support prices for basic commodities and sharply increased input subsidies. China has implemented a cotton reserve system, based on minimum purchase prices, and cotton target price programs. China also has begun several new support schemes for hogs and pork, along with a purchasing reserve system for pork. China has not submitted a notification concerning domestic support measures since October 2011, and that notification covered only the period 2005-2008. This notification documents an increase in China's support levels, but the United States is concerned that the methodologies used by China to calculate support levels, particularly with regard to its price support policies and direct payments, result in underestimates. In 2014, the United States grew increasingly concerned about the effects of domestic support measures that China has been pursuing for cotton, pork, wheat, corn, and rice.

Transparency

Overview

One of the core principles reflected throughout China's WTO accession agreement is transparency. China's WTO transparency commitments in many ways required a profound historical shift in Chinese policies. Although China has made strides to improve transparency following its accession to the WTO, there remains a lot more for China to do in this area.

Publication of Trade-related Laws, Regulations and Other Measures

In its WTO accession agreement, China committed to adopt a single official journal for the publication of all trade-related laws, regulations, and other measures, and China adopted a single official journal, to be administered by the Ministry of Commerce of the People's Republic of China (MOFCOM), in 2006. To date, it appears that some but not all central-government entities publish trade-related measures in this journal, and these government entities tend to take a narrow view of the types of trade-related measures that need to be published in the official journal. As a result, while trade-related administrative regulations and departmental rules are more commonly (but still not regularly) published in the journal, it is less common for other measures such as opinions, circulars, orders, directives, and notices to be published, even though they are in fact all binding legal measures. In addition, China does not normally publish in the journal certain types of trade-related measures, such as subsidy measures, nor does it normally publish sub-central government trade-related measures in the journal.

Notice-and-comment Procedures

In its WTO accession agreement, China committed to provide a reasonable period for public comment before implementing new trade-related laws, regulations, and other measures. China has taken several steps related to this commitment. In 2008, the National People's Congress (NPC) instituted notice-and-comment procedures for draft laws, and shortly thereafter China indicated that it would also publish proposed trade and economic related administrative regulations and departmental rules for public comment. Subsequently, the NPC began regularly publishing draft laws for public comment, and China's State Council often (but not regularly) published draft administrative regulations for public comment. In addition, many of China's ministries were not consistent in publishing draft departmental rules for public comment.

At the May 2011 S&ED meeting, China committed to issue a measure implementing the requirement to publish all proposed trade and economic related administrative regulations and departmental rules on the website of the State Council's Legislative Affairs Office (SCLAO) for a public comment period of not less than 30 days. In April 2012, the SCLAO issued two measures that appear to address this requirement. Since then, despite continuing U.S. engagement, no noticeable improvement in the publication of departmental rules for public comment appears to have taken place, even though China recently confirmed that those two SCLAO measures are binding on central government ministries.

Translations

In its WTO accession agreement, China committed to make available translations of all of its trade-related laws, regulations and other measures at all levels of government in one or more of the WTO languages, *i.e.*, English, French, and Spanish. To date, however, China has focused only on translations of trade-related laws and administrative regulations, and China is years behind in translating these measures. At the July 2014 S&ED meeting, China committed that it will extend its translation efforts to include not only trade-related laws and administrative regulations but also trade-related departmental rules. The United States is

pressing China to ensure that a translation normally is made available before a measure's implementation, as required by China's WTO accession agreement.

Legal Framework

Overview

In addition to the area of transparency, several other areas of China's legal framework can adversely affect the ability of the United States and U.S. exporters and investors to access or invest in China's market. Key areas include administrative licensing, competition policy, commercial dispute resolution, labor laws, and laws governing land use. Corruption among Chinese government officials, enabled in part by China's incomplete adoption of the rule of law, is also a key concern.

Administrative Licensing

Despite numerous changes made by the Chinese government since the issuance of the Third Plenum Decision in November 2013, U.S. companies continue to encounter significant problems with a variety of administrative licensing processes in China, including processes to secure product approvals, investment approvals, business expansion approvals, business license renewals, and even approvals for routine business activities. While U.S. companies are encouraged by the overall reduction in license approval requirements and the focus on decentralizing licensing approval processes, U.S. companies report that these efforts have only had a marginal impact on their licensing experiences so far.

Anti-Monopoly Law

Chinese regulatory authorities' implementation of China's *Anti-Monopoly Law* poses multiple challenges. One key concern relates to how the *Anti-Monopoly Law* will be applied to state-owned enterprises, given that a provision in the *Anti-Monopoly Law* protects the lawful operations of state-owned enterprises and government monopolies in industries deemed nationally important. To date, China has enforced the *Anti-Monopoly Law* against state-owned enterprises, but concerns remain that enforcement against state-owned enterprises will be more limited.

Another serious concern relates to the procedural fairness of *Anti-Monopoly Law* investigations. U.S. stakeholders have expressed concern about insufficient predictability, fairness, and transparency in the National Development and Reform Commission's (NDRC) investigative processes, including NDRC pressure to "cooperate" in the face of unspecified allegations or face steep fines. U.S. stakeholders also has reported pressure from NDRC against seeking outside counsel, in particular foreign counsel, or having counsel present at meetings.

At the July 2014 S&ED meeting, China recognized that the objective of competition policy is to promote consumer welfare and economic efficiency rather than promote individual competitors or industries, and that enforcement of China's competition laws should be fair, objective, transparent, and nondiscriminatory. China also committed to provide any party under an *Anti-Monopoly Law* investigation with information about the enforcement agency's concerns and an effective opportunity for the party to present evidence in its defense. More recently, at the December 2014 JCCT meeting, China committed that, in *Anti-Monopoly Law* enforcement proceedings, the Chinese authorities would treat domestic and foreign companies equally and normally would permit an investigated foreign company to have foreign counsel present, to advise it, and to provide information on its behalf.

COLOMBIA

TRADE SUMMARY

U.S. goods exports in 2014 were $20.3 billion, up 10.5 percent from the previous year. Colombia is currently the 19th largest export market for U.S. goods. Corresponding U.S. imports from Colombia were $18.2 billion, down 15.7 percent. The U.S. goods trade surplus with Colombia was $2.1 billion in 2014, shifting from a trade deficit of $3.2 billion in 2013.

The stock of U.S. foreign direct investment (FDI) in Colombia was $7.8 billion in 2013 (latest data available), up from $7.4 billion in 2012. U.S. FDI in Colombia is led by the mining, manufacturing, finance, and insurance sectors.

The United States-Colombia Trade Promotion Agreement

The United States-Colombia Trade Promotion Agreement (CTPA) entered into force on May 15, 2012. The CTPA is a comprehensive free trade agreement, under which Colombia immediately eliminated duties on 80 percent of U.S. exports, with most remaining tariffs to be phased out over ten years, with tariffs on some sensitive agricultural products being phased out over longer periods of time. Under the CTPA, Colombia also provides for substantially improved market access for U.S. service suppliers. In addition, the CTPA includes disciplines on customs administration and trade facilitation, technical barriers to trade, government procurement, investment, electronic commerce, telecommunications, intellectual property rights, transparency, and labor and environmental protection.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Live Cattle

Colombia continues to ban imports of U.S. live cattle due to concerns over bluetongue and leucosis. In June 2010, Colombia nominally allowed live cattle imports from the United States, but at the same time imposed restrictive requirements that effectively prevented any such imports. In 2014, the United States continued to raise its ongoing concerns regarding Colombia's bluetongue requirements, including at the CTPA Standing Committee on Sanitary and Phytosanitary Matters (SPS Committee) meeting held in May 2014. At that meeting, Colombia highlighted its proposed testing requirements for bluetongue, and U.S. regulatory authorities underscored the problematic technical aspects associated with those measures. The two sides continue to hold technical discussions on this issue.

Beef

Two 2006 letter exchanges between the United States and Colombia fully opened the Colombian market to U.S. beef and beef products from animals of all ages. However, as the side letters predated the United States' 2007 classification by the World Organization for Animal Health (OIE) as "controlled risk" for Bovine Spongiform Encephalopathy (BSE), the side letters use the OIE definition of specified risk materials which includes the entire vertebral column, rather than the Food Safety Inspection Services' domestic SRM definition, which requires participation in a USDA Agricultural Marketing Service (AMS) export verification (EV) program. Meat used in processed products must also be sourced from establishments that participate in an EV program. The United States has been engaging Colombia on updating its certification requirements for U.S. beef and beef products imported into Colombia to reflect changes in the U.S. risk

status for BSE, including the OIE classification of the United States as "negligible risk" for BSE. The changes in certification requirements would enhance U.S. beef and beef product exporters' access to Colombia's market by removing the current necessity of participation in an EV program. In 2014, the United States continued to press for updating the certification statements, including at the May 2014 CTPA SPS Committee. Colombia's relevant regulatory authority reported that its internal risk assessment process had been completed, and that the import requirements would be subsequently discussed internally within the Colombian government, pursuant to the established regulatory process. The United States continues to engage with Colombia to address this issue.

Rice

As part of the CTPA, Colombia agreed, via an exchange of letters with the United States dated April 15, 2012, to provide access for U.S. rough rice through the Port of Barranquilla, subject to specified certification requirements and the pre-export fumigation of shipments. Colombia's concerns pertaining to *Tilletia horrida* (a rice smut) and that the rice not be imported near Colombia's rice producing areas. Based on a subsequent December 2013 report that *Tilletia horrida* had been detected in rice production areas in Colombia, the United States has been raising the issue with Colombia, including at the May 2014 meeting of the CTPA SPS Committee to discuss the situation and its potential implications on the conditions of the April 2012 agreement. At that time, Colombia indicated it was conducting an epidemiologic survey to update the status of *Tilletia horrida* as a result of the December 2013 report and would provide the United States with the results and possible actions to be taken relating to imports from the United States. The United States will continue to engage Colombia in addressing this issue, as the United States seeks to expand the list of eligible ports of entry for U.S. rough rice beyond the Port of Barranquilla and to remove the methyl bromide fumigation requirement.

IMPORT POLICIES

Tariffs

About 80 percent of U.S. exports of consumer and industrial products to Colombia became duty free immediately upon the CTPA's entry into force on May 15, 2012. Subsequent tariff reductions occur on January 1 of each year, and the fourth round of tariff reductions took place on January 1, 2015. The remaining consumer and industrial product tariffs are to be phased out within ten years of entry into force.

Colombia applies variable tariffs to imports of certain agricultural products pursuant to the Andean Community's price band system. However, upon entry into force of the CTPA, Colombia stopped imposing variable tariffs on U.S. agricultural exports, and almost 70 percent of U.S. agricultural exports (by value) became duty free. Duties on most other U.S. agricultural goods will be phased out over a period of 5 years to 12 years, depending on the product. Tariffs on the most sensitive products for Colombia, such as some poultry products, some dairy products, sugar, and rice will be phased out over 15 years to 19 years. U.S. agricultural exporters also benefit from zero-duty tariff rate quotas on corn, rice, poultry parts, dairy products, sorghum, dried beans, standard grade beef, animal feeds, and soybean oil. This access will increase as quotas are increased and over-quota duties are phased out over the course of the implementation period.

Nontariff Measures

Truck Scrappage

Prior to March 2013, new freight trucks over 10.5 metric tons (mt) could be legally registered in Colombia either by paying a "scrappage fee" to the government or by demonstrating that an old freight truck of

equivalent capacity had been scrapped and its registration cancelled. In Decree 486 of March 2013, without public consultation or a transition period, Colombia eliminated the option to pay a "scrappage fee." Therefore, scrapping an old truck of equivalent cargo capacity is now a condition for the sale and registration of new freight trucks over 10.5 mt.

Sales of new freight trucks in Colombia were strong in the past, even though the scrappage fee raised costs. However, the elimination of the fee option has effectively frozen the sale of imported trucks (which are generally over 10.5 mt). In the first year of this policy, imports fell 65 percent, costing U.S. exporters a reported $500 million in lost sales. In addition, sales-related administration costs rose by $60 million for all importers.

In December 2013, Colombia passed another decree, also without consultation or a transition period, to provide greater flexibility to scrap trucks (*e.g.*, allowing the scrapping of two smaller trucks for one larger), but this measure has not alleviated the scarcity of the "coupons" generated by scrapping vehicles, which are needed to register new trucks. Industry estimated that there were only enough coupons to cover about one quarter of the demand that existed prior to Decree 486.

In 2014, the United States continued to raise concerns with the scrapping requirements, as well as with the lack of a transparent public consultation process and transition period for the new measures, in multiple fora and at multiple levels, including in the Organization for Economic Cooperation and Development (OECD) Trade Committee in the context of Colombia's accession to the OECD. Colombia has frequently suggested that it would issue new measures that would address U.S. concerns, but to date no tangible actions have been taken that comprehensively address the issue. The United States will continue to press Colombia for a resolution of this issue to effectively reopen the Colombian market for U.S. trucks.

Internal Taxes on Distilled Spirits and Alcohol Monopolies

Colombia currently assesses a consumption tax on distilled spirits with a system of specific rates per degree (half percentage point) of alcohol strength (Law 788 of 2002, Chapter V, as amended by Law 1393 of 2010). Arbitrary breakpoints based on alcohol content result in a lower tax rate on spirits that are produced locally. This may result in an unfair disadvantage for imported distilled spirits. Under the CTPA, Colombia committed to eliminating the breakpoints with respect to imports of distilled spirits four years after entry into force of the CTPA, that is, by May 15, 2016.

Additionally, the Department of Cundinamarca, which accounts for over half of U.S. liquor sales in Colombia, implemented new ordinances in 2014, without providing a public comment period, which increase the consumption tax by eight percent on private producers (department-owned monopolies are exempt) and implemented additional market access restrictions. In 2014, the government of Colombia formed a working group to identify solutions to barriers to trade in liquors. The working group includes national ministry and department-level representatives, as well as stakeholders and foreign government officials.

In January 2015, this group presented a draft regulation intended to address both the consumption tax issue as well as issues with respect to departmental alcohol monopolies which was subsequently included in Colombia's draft National Development Plan. While some aspects of the relevant provisions of the National Development Plan could have been helpful, particularly with regard to the alcohol monopolies-related issues, it proposes that the differential consumption tax on distilled spirits be eliminated over five years, that is, by 2019, and then in a subsequent version, over 10 years, both dates are well after the May 15, 2016, deadline reflected in the CTPA. In March 2015 all language on these two issues in the National Development Plan was removed. The United States will continue to press Colombia to meet its CTPA and WTO commitments on these issues.

Remanufactured Goods

Under the CTPA, Colombia affirmed it would not adopt or maintain restrictions on trade of remanufactured goods (provided they have warranties similar to new goods) and treat remanufactured goods in the same manner as new goods. It also affirmed that some existing prohibitions on trade in used goods would not apply to remanufactured goods. In January 2015, Colombia's customs authority published for comment a draft regulation regarding the importation of remanufactured goods. While the draft regulation appears to provide for the importation of remanufactured goods under several of Colombia's free trade agreements, including under the CTPA, it also raises concerns that it might impose additional requirements for the importation of remanufactured goods as opposed to new goods. The United States has consulted with Colombia on the draft regulation and will continue to monitor further developments of the draft regulation.

Biologics and Biotechnologic Medicines

In September 2014, Colombia issued a final decree establishing a framework for marketing approval of biological medicines and biosimilars. The Decree established three approval pathways, the third of which, the "abbreviated" pathway, permits an applicant to rely on "any information deemed relevant" when that information originates from designated countries or specified health authorities abroad. The United States will monitor the implementation of the Decree to determine whether specific market access concerns arise.

Third Party Customs Observers

Colombia recently began to implement a 1999 decree that allows third party "customs observers" at ports of entry to provide technical support to customs inspectors. The "customs observers," some of whom are from national producer organizations that directly compete with U.S. importers, are permitted to review product quantities, weights, and customs values, and to identify appropriate commodity codes for agricultural products. Although "customs observers" do not have the authority to reject shipments, they have reportedly caused delays in the release of U.S. imports and questioned U.S. Department of Agriculture statutory product quality grading standards, which could have significant implications for the duties imposed on certain products. Additionally, samples of some products, such as ethanol, are sent for testing to the laboratories of local producers that compete directly with the U.S. importers raising concerns about possible conflicts of interest.

Ethanol

In April 2014, the Ministry of Mines and Energy (MME) published a decree that allowed Colombia to set import quantity limits on ethanol and establish a licensing mechanism for importing firms to allow for imports in cases of domestic shortfall.

GOVERNMENT PROCUREMENT

Under the CTPA, Colombia grants national treatment to U.S. goods, services, and suppliers in procurements covered by the Agreement. The CTPA expands U.S. firms' access to procurement by Colombia's ministries, departments, legislature, courts, and first tier sub-central entities, as well as a number of Colombia's government enterprises, including its majority state-owned oil company. In addition, Colombia does not apply Law 816 of 2003 to CTPA-covered procurements, as that law mandates preferential treatment for tenders that provide Colombian goods or services. U.S. companies are still required to have some local representation in order to qualify for government procurement.

Colombia is not a signatory to the WTO Agreement on Government Procurement, but it has been an observer to the WTO Committee on Government Procurement since February 1996.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Colombia remained on the Watch List in the 2014 Special 301 Report. Colombia's implementation of the intellectual property rights (IPR) provisions of the CTPA was interrupted in 2013 when the Constitutional Court invalidated on procedural grounds the law enacting those obligations. In the second half of 2014, Colombia actively reengaged and advanced several CTPA IPR implementation measures, including finalizing decrees enhancing damages in trademark infringement cases and addressing patent term limitations caused by administrative examination delays. Colombia anticipates that the remaining implementation measures will be introduced or significantly advanced in 2015. The United States will continue to engage with Colombia at political and technical levels to complete implementation as soon as possible.

In 2013, Colombia began implementing a system identifying geographical indications (GIs) to review and make determinations regarding European Union applications to register a range of GIs in Colombia. Since then, Colombia has issued several administrative rulings to clarify the scope of protection granted to registered GIs. During engagement with Colombia on the matter, the United States stressed the need for consistency in protections and process, including public notice and opportunity for opposition and cancellation, and transparency in decision making, in particular the need for transparency and clarity with regard to the determinations and the scope of coverage of protection. The United States will continue to engage on GIs with Colombia to preserve market access for U.S. agricultural producers.

The growing use of microchipped Free-to-Air (FTA) boxes, used exclusively for pirating broadcasting signals, has become a concern with regard to intellectual property. Although Colombia still does not officially prohibit the importation of these products, in response to U.S. concerns, it has started to take some measures to restrict their use. In November 2014, Colombia issued a guideline to establish a national policy on satellite services provided by the government that prohibits the use of FTA boxes with decodification capacities. It also drafted a decree to prohibit the importation of these boxes and requires Internet Service Providers to take down webpages that contain software updates needed to decrypt TV signals.

SERVICES BARRIERS

The CTPA grants U.S. service suppliers improved market access. Some restrictions, such as economic needs tests and residency requirements, still remain in sectors such as accounting, tourism, legal services, insurance, distribution services, advertising, and data processing.

Telecommunications

Foreign participants in Colombia's telecommunications market, including U.S. providers, continue to raise concerns about regulatory treatment in the mobile market. In August 2014, the Communications Regulation Commission proposed changes to its regulations for mobile termination rates and roaming rates. Although the proposed changes decrease the rates charged for mobile termination, it delays full implementation beyond earlier proposals from Colombia. In addition, the proposed changes would not reduce roaming rates as much as earlier proposals from Colombia. The United States will continue to monitor this issue and engage with the government of Colombia.

COSTA RICA

TRADE SUMMARY

U.S. goods exports in 2014 were $7.0 billion, down 2.7 percent from the previous year. Costa Rica is currently the 38th largest export market for U.S. goods. Corresponding U.S. imports from Costa Rica were $9.5 billion, down 20.2 percent. The U.S. goods trade deficit with Costa Rica was $2.5 billion in 2014, a decrease of $2.2 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Costa Rica was $969 million in 2013 (latest data available), down from $1.0 billion in 2012. U.S. FDI in Costa Rica is led by the manufacturing sector.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR, or "Agreement") entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006 and for the Dominican Republic in 2007. The CAFTA-DR entered into force for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services and includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Costa Rican Ministry of Health requires a Good Manufacturing Practices (GMP) certificate or a License of Operation as a prerequisite for approval of cosmetics and toiletries registrations in Costa Rica. However, U.S. manufacturers have difficulty in complying with this requirement because a U.S. Federal Government certificate of this kind does not exist. U.S. companies have, in some cases, been able to comply with the requirement by submitting documents from state or local authorities or trade organizations. However, for U.S. manufacturers unable to obtain such documents, the regulation results in an inability to access the Costa Rican market. The United States has explained that the U.S. Federal Government does not issue the GMP certificate, but the issue persists. In one case, a U.S. company reported losing $1,000,000 in sales during the first half of 2013 because of its inability to register a particular cosmetic product.

Sanitary and Phytosanitary Barriers

In September 2013, Costa Rica banned the import of fresh potatoes from the United States allegedly due to excess soil in some shipments and the presence of "zebra chip," a disease that causes striping of potatoes. To date, Costa Rica has not provided details of the zebra chip identification or testing methods. The U.S. Government continues to engage with the Government of Costa Rica to resolve these issues.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Costa Rica applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

Under the CAFTA-DR, however, 100 percent of U.S. consumer and industrial goods enter Costa Rica duty free as of January 1, 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Costa Rica duty free and quota free. In addition, under the CAFTA-DR, more than half of U.S. agricultural exports currently enter Costa Rica duty free. Costa Rica will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2022 for chicken leg quarters; 2025 for rice; and 2028 for dairy products). For certain agricultural products (rice, pork, dairy, poultry), tariff-rate quotas (TRQs) will permit some duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period. Costa Rica will liberalize trade in fresh potatoes and onions through continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including Costa Rica, committed to improve transparency and efficiency in administering customs procedures. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods.

Costa Rica's Information Technology Customs Control (TICA) system has suffered system-wide breakdowns as the volume of entries has increased since its implementation in 2006. The system is designed to allow for a single automated customs declaration process, with a centralized database, including electronic payment, integrated risk analysis and connectivity with public and private institutions. Some have argued that TICA is still one of the best customs systems in Central America, but rapid development and installation of a new "TICA2" customs system, believed to still be in the concept stage, will be critical to Costa Rica's ability to facilitate the import and export of goods without undue delays.

In July 2014, a Costa Rican court ruling eliminated the value-added tax (VAT) of 40 percent on imported carbonated beverages. However, the tax authorities do not have a firm deadline to implement the change and did not publish new draft regulations until late November. Once implemented, imported and domestic carbonated beverages will be subject to the same 25 percent VAT, but until then, imported carbonated beverages continue to be subject to the higher, 40 percent VAT.

Costa Rica maintains a specific excise tax system for spirits that is calculated based on the percent of alcohol per liter, with a lower rate per percentage of alcohol on alcoholic beverages that are typically produced locally (Ley 7972). The local spirit, guaro, (which is produced in largest volume by the state-owned alcohol company) is assessed an excise tax of 30 percent alcohol-by-volume (a.b.v.), while the vast majority of internationally traded spirits, such as whiskey and gin, are assessed at a rate of 40 percent a.b.v.

Both imported and domestic beers are subject to the same consumption tax of 0.22332 colones per milliliter. However, imported beer is subject to a 10 percent customs tax while locally produced beer is exempt. U.S. exporters question whether the 10 percent tax is legal under the Costa Rican constitution. Mexican beer manufacturers reportedly won a claim in 2001 that the 10 percent tax was unconstitutional and are therefore now exempt from it. The United States is continuing to follow this issue.

GOVERNMENT PROCUREMENT

Some U.S. company representatives have commented that they find it difficult to compete with domestic suppliers in Costa Rican government procurement because bids are often due within three weeks to six weeks of the procurement announcement. U.S. companies interpret the short deadlines as reflecting Costa Rica's reluctance to attract foreign bidders to its government procurement processes. The United States will continue to monitor Costa Rica's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations.

Costa Rica is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

Under the CAFTA-DR, Costa Rica may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). Costa Rica has modified its free trade zone regime in order to conform to this requirement. While tax holidays are available for investors in free trade zones, sources have expressed concern that the Ministry of Foreign Trade (COMEX) exercises significant discretionary power using undefined criteria in determining what investors qualify for Free Trade Zone status, making it unpredictable and nontransparent.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Costa Rica was again on the Watch List in the 2014 Special 301 report. Key concerns include Costa Rica's need to place a higher priority on intellectual property rights (IPR) protection, to devote more resources to IPR enforcement efforts, and to impose deterrent penalties. The United States engaged extensively with Costa Rica as it prepared legislative amendments governing protections for geographical indications (GIs), in anticipation of action on applications from the European Union, which were received in 2013, to register a range of GIs in Costa Rica. During that ongoing engagement, the United States has stressed the need for use of CAFTA-DR consistent protections and processes, including providing public notice and opportunity for opposition and cancellation and transparency and impartiality in decision making. The United States will continue to monitor Costa Rica's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Insurance

While foreign companies operate in most segments of the market, mandatory insurance categories such as worker's compensation and basic automobile liability are still serviced only by National Insurance Institute (INS), despite being open to new entrants. New market entrants continue to face challenges in light of the market power INS derives from its former monopoly position. Specific concerns relate to deceptive advertising by the former monopoly, a cumbersome and nontransparent product approval process, and the extension of exclusivity contracts between INS and insurance retailers designated as agents.

Telecommunications

Under the CAFTA-DR, Costa Rica has progressively opened important segments of its telecommunications market, including private network services, Internet services, and mobile wireless services, which are now formally open for competition as a matter of law or regulation. As of December 2013, the Costa Rican telecommunication consumer is guaranteed the opportunity to switch mobile service providers while retaining the same cell phone number; this number portability heightens competition among mobile service providers by facilitating the transfer process for consumers. The telecommunication market has grown, with revenue jumping from 1.1 percent of GDP in 2010 to 2.4 percent of GDP in 2013. While this market opening is a notable achievement, Costa Rica's new wireless service providers continue to face obstacles, including reluctance by some municipal governments to approve cell tower construction necessary to support new providers and expand coverage areas.

INVESTMENT BARRIERS

Costa Rica's regulatory environment can pose significant barriers to investment. One common problem is inconsistent action between institutions within the central government or between institutions in the central government and municipal governments. The resulting inefficiency in regulatory decision-making is especially noticeable in infrastructure projects which can languish for years between the award of a tender and the start of project construction. Construction on a new container terminal at Costa Rica's main Atlantic port, a public-public partnership project that is critical to facilitating trade, has been delayed by more than 13 months, reportedly costing the investing private company more than $300 million to date.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a concern and a constraint to successful investment in Costa Rica. Administrative and judicial decision-making appear at times to be inconsistent, nontransparent, and very time consuming.

In July 2009, Costa Rica notified levels of agricultural domestic support to the WTO for 2007 that were above its $15.9 million Total Aggregate Measurement of Support (TAMS) ceiling on trade-distorting domestic support. Costa Rica's subsequent notifications to the WTO for the years 2008 through 2012 listed domestic support expenditures at ever increasing levels, reaching $109.7 million in 2010. In 2013, domestic support expenditures dropped to $86.1 million, still well above Costa Rica's WTO ceiling. Between 2009 and 2013, Costa Rica's price support for rice accounted for all of its notified TAMS, and rice accounted for a majority of its notified TAMS prior to 2009. Between 2009 and 2013, Costa Rica's domestic production of rice has increased while U.S. rice exports to Costa Rica have dropped by 37 percent. In May 2013, the government of Costa Rica issued Decree #37699-MEIC, which reduced the price support by a modest amount and stated that the then current price support mechanism for rice would be eliminated starting in March 2014. However, in January 2014, Costa Rica delayed that deadline by a year until March 2015. In January 2015, Costa Rica announced a four-year safeguard of 27.06 percent on milled rice. On February 27, 2015 the Government of Costa Rica published Executive Decree #38884-MEIC which established producer prices for dry and clean paddy rice and also set the minimum and maximum price for different presentations and qualities of milled rice, either locally produced or imported. Those prices will enter into effect on June 8, 2015.

As the Costa Rican government has increased tax collection efforts in recent years, several U.S. companies have found themselves facing what they consider to be novel or inconsistent interpretations of tax regulations and principles. Adoption of a new set of transfer-pricing regulations in September 2013 represented a significant advance by the Costa Rican government in the area of transparency and predictability. The United States will continue to monitor implementation of the regulations and other tax measures.

DOMINICAN REPUBLIC

TRADE SUMMARY

U.S. goods exports in 2014 were $8.0 billion, up 11.1 percent from the previous year. Dominican Republic is currently the 36th largest export market for U.S. goods. Corresponding U.S. imports from Dominican Republic were $4.5 billion, up 6.1 percent. The U.S. goods trade surplus with Dominican Republic was $3.4 billion in 2014, an increase of $537 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Dominican Republic was $1.3 billion in 2013 (latest data available), up from $1.2 billion in 2012. U.S. FDI in Dominican Republic is led by the manufacturing sector.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or "Agreement") entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services and includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Regulation for Steel Rebars

Dominican Quality Norm RTD 458 for steel rebars, drafted by the recently renamed standards agency *Instituto Dominicano para Calidad* (INDOCAL, formerly known as DIGENOR), presents a series of technical barriers to trade. Barriers, including import requirements and quality testing obligations, have been discussed with Dominican authorities.

In particular, in order to import steel rebars local companies must register with INDOCAL, which requires a certificate issued by the General Directorate of Internal Revenue stating that the person concerned is up-to-date on all his or her fiscal obligations. Formerly, a performance bond was required, but now U.S. manufactures are able to insure their shipments. Exporters must also present quality certification for each shipment. The INDOCAL regulation requires additional testing of samples after they have left the mill. Specifically, the importer must obtain third party testing for all shipments to confirm conformity with the RTD 458 standard. Since no such facilities exist in the Dominican Republic and the government of the Dominican Republic will not accept testing by a third party before the shipments leave the mill, the Dominican importer of U.S. rebar must send samples to a qualified third-party testing facility in a third-party country. The closest such facility is in Puerto Rico. This adds approximately 20 days to 30 days to the import process, additional costs, and a significant loss in business for imported rebar. RTD 458 initially introduced product marking, import registration, and guarantee requirements, but according to the U.S. manufacturer and local importers these issues have been largely resolved. This United States continues to press Dominican authorities regarding these issues.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, the Dominican Republic applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

However, under the CAFTA-DR, as of 2015, 100 percent of U.S. consumer and industrial goods enter the Dominican Republic duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter the Dominican Republic duty free and quota free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Also, under the CAFTA-DR, as of 2015, 83 percent of U.S. agricultural products qualify for duty-free treatment when exported to the Dominican Republic. The Dominican Republic will eliminate remaining tariffs on nearly all agricultural goods by 2020 (2025 for chicken leg quarters, 2028 for some dairy products and rice). Tariff-rate quotas (TRQs) permit duty-free access for specified quantities of 47 different agricultural products, including ice cream, selected cuts of beef, cheddar cheese, and yogurt, with the duty-free amount progressively expanding during the tariff phase-out period.

Nontariff Measures

The Dominican Ministry of Agriculture continues to manipulate the issuance of import licenses in order to regulate trade in sensitive commodities. The United States continues to raise concerns regarding this matter with Dominican authorities and is working to eliminate this practice.

Under the CAFTA-DR, TRQs for agricultural products are to be made available for the entire calendar year, beginning on January 1 of each year. However, the Dominican Republic has a record of failing to open TRQs by January 1; historically, quota allocations have often been issued several months into the year. In addition, both the issuance of quotas for sensitive products and the distribution of import licenses, which allow importers to exercise their quota rights, were frequently delayed. However, the current Dominican administration has made substantial improvements to its administration of TRQs in 2013 and 2014 by issuing the annual allocations in the month of January. The Dominican Republic also eliminated the use of physical import certificates for imports under the TRQs and has established an electronic document system, which has the effect of eliminating the opportunity for quota holders to sell the import certificates. The United States will continue to engage on this issue with the Dominican Republic and will monitor its performance with regard to the timely opening of the TRQs, the timely distribution of import licenses, and the distribution of appropriate quota volumes to allow TRQ products to enter the Dominican Republic as of January 1 of each year.

The Dominican Republic maintains a ban on imports of all used vehicles over five years old, and took an exception under the CAFTA-DR to the obligation not to impose import restrictions for this measure. Since late 2011, importers of U.S.-made used vehicles less than five years old have reported that the Dominican customs service has frequently challenged the eligibility of those vehicles to be considered as originating under the CAFTA-DR and therefore eligible for the CAFTA-DR preferential tariff rate. The cited reasons for the challenges have been "technical difficulties in demonstrating compliance with the rules of origin." The United States continues to engage with the Dominican Republic to address complaints received from exporters of used cars of U.S. manufacture.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Dominican government entities, including key ministries and state-owned enterprises, on the same basis as Dominican suppliers. The anticorruption provisions in the Agreement require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties. Nevertheless, U.S. suppliers have complained that Dominican government procurement is frequently not conducted in a transparent manner and that corruption is widespread. However, the Dominican government has increased transparency in its procurement system in the last few years. Published procurement opportunities rose from 6,500 in 2012 to 60,000 in 2013, and an electronic procurement system is expected to be on-line in 2015. The United States will continue to monitor the Dominican Republic's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations. The Dominican Republic is not a signatory to the WTO Agreement on Government Procurement.

SUBSIDIES

The Dominican Republic does not have export promotion schemes other than tariff waivers for inputs imported by firms in the free trade zones. Under Law 139 of 2011, the Dominican Republic now levies a 2.5 percent tax on goods sold from free trade zones into the local market. The U.S. Government is working with the Dominican Republic government in an effort to ensure that it implements its CAFTA-DR obligations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2014, the Dominican Republic remained on the Watch List in the Special 301 Report. Key concerns cited in the report include the widespread availability of pirated and counterfeit goods and excessive delays in the issuance of patents. Despite these concerns, progress recently has been made in a few areas. For example, the Dominican Republic continued its efforts to implement its obligations under the CAFTA-DR with respect to effective regulatory protection against pharmaceutical patent infringement. The Dominican Republic also ratified the WIPO Trademark Law Treaty. In addition, in April 2013 the Dominican government approved the "National Strategy on Intellectual Property in the Dominican Republic," which seeks to integrate intellectual property into the country's public policies and development plans. The Dominican Republic expanded the use of a system to facilitate and expedite the Ministry of Public Health's marketing approval process for medicinal and other products, but U.S. producers continue to report lengthy administrative delays in the marketing approval process for pharmaceutical products. The United States will continue to engage the Dominican Republic on these issues in 2015, including through the Special 301 process.

OTHER BARRIERS

Some U.S. firms and citizens have expressed concerns that corruption in government, including in the judiciary, continues to be a constraint to successful investment in the Dominican Republic. Administrative and judicial decision making at times are perceived as inconsistent, nontransparent, and overly time-consuming.

ECUADOR

TRADE SUMMARY

U.S. goods exports in 2014 were $8.4 billion, up 9.3 percent from the previous year. Ecuador is currently the 34th largest export market for U.S. goods. Corresponding U.S. imports from Ecuador were $10.9 billion, down 5.5 percent. The U.S. goods trade deficit with Ecuador was $2.5 billion in 2014, a decrease of $1.3 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Ecuador was $427 million in 2013 (latest data available), down from $449 million in 2012. U.S. FDI in Ecuador is led by the manufacturing and mining sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Resolution 116 - Product Certificate

Ecuador's Foreign Trade Committee (COMEX) issued Resolution 116 on December 4, 2013. This resolution restricts U.S. imports of a variety of products by requiring that commercial entities obtain certificates of recognition to demonstrate that their products conform to the criteria of Ecuador's technical regulations. Stakeholders raised concerns that Resolution 116 and the various technical regulations may be intended to address Ecuador's trade balance rather than address legitimate health or safety concerns. Certain Ecuadorian government officials have been reported as stating that these measures are part of Ecuador's policy of import substitution. Resolution 116 was not notified to the WTO before it went into force. As a result of Resolution 116, exports to Ecuador of certain products declined sharply in 2014.

On June 3, 2014, the Minister of Industry and Productivity (MIPRO) signed MIPRO Agreement 14241 creating an exception to Ecuador's technical regulations under Resolution 116 for products of EU origin. Agreement 14241 states that products of EU origin can be imported with only a sworn statement by the importer that the product meets Ecuadorian technical regulations and thus waives the requirement for a certificate of recognition. At the time this agreement was issued, Ecuador was negotiating with the EU to join the Multiparty Trade Agreement between the EU, Colombia, and Peru.

On November 7, 2014, the General Secretariat of the Andean Community issued ruling 003-2014 against Ecuador saying it was in partial breach of the Cartagena Agreement because MIPRO Agreement 14241 provided more favorable treatment to products of EU origin than to those of Andean Community countries. The ruling requests that Ecuador immediately extend the preferential treatment to products imported from Bolivia, Colombia, and Peru.

During 2014, the Ministry of Foreign Trade and COMEX issued numerous resolutions adding or removing the requirement that commercial entities obtain certificates of recognition for imported products. The resolutions can be found at the COMEX web site at http://comercioexterior.gob.ec/comex/ and include:

- Resolution 001, issued on January 24, requires certificates of recognition for imports of fans and washing and drying machines.

- Resolution 002, issued on January 29, requires certificates of recognition for imports of dishwashers and other electrical appliances and parts.

- Resolution 003, issued on February 7, requires certificates of recognition for imports of 10 sub-tariff items, including jewelry and articles manufactured with pearls and precious metals.

- Resolution 004, issued on March 7, requires certificates of recognition for imports of 20 sub-tariff items, including cookies, bags, briefcases, backpacks, Christmas decorations, and others.

- Resolution 005, issued on March 21, requires certificates of recognition for imports of crockery, kitchen utensils, and some plastic articles.

- Resolution 006, issued on April 15, excludes 103 sub-tariff items from the requirement for certificates of recognition because, per the resolution, the goods are not intended for sale directly to the public. The resolution includes fresh, frozen, and processed food, tea, herbs, soap and cleaning materials, pipes and pipeline accessories, wires, valves, radios, car parts, apparel, and others.

- COMEX Resolution 003, issued on January 14, requires certificates of recognition for 16 sub-tariff items, including TV and computer monitors, TV CKDs, screws, bolts, iron and steel wire, and others.

- COMEX Resolution 010, issued on March 21, excludes 10 sub-tariff items from the certificates of recognition requirement because the goods are not intended for sale directly to the public. The list includes condiments, seasoning, food flavoring, bacon, olives, paint, varnish, and glaze.

- Resolution 013, issued December 9, requires certificates of recognition for personal hygiene products, including toilet paper, tooth brushes, and tooth paste, as well as tubular and milk containers.

The United States has raised concerns regarding Resolution 116 and other trade restrictions with senior Ecuadorian officials. The United States intends to continue to raises these concerns in 2015, both bilaterally and in the WTO TBT Committee.

Processed Foods – Nutritional Labeling Requirements

As of November 29, 2014, all processed food products were required to comply with Executive Decree No. 4522, which was published in November 2013 by the National Agency of Regulation, Control, and Sanitary Surveillance (ARCSA), an agency in Ecuador's Ministry of Health. The decree requires that processed and packaged food products include a label as set out in technical regulation RTE-INEN-022. The Executive Decree establishes several new labeling provisions. Labels must include a set of colored bars, commonly referred to as traffic light symbols that reflect low, medium, or high content of salt, sugar, and fat. For food packages smaller than 14.4 cm, the icon is not required, but an advisory message stating, "For your health, reduce the consumption of this product" is required. An advisory statement is also required for foods that contain less than 50 percent "natural" content. Ecuador defines a "natural food" as "a food as presented in nature that has not been transformed." Despite concerns raised by many trading partners both bilaterally and under the framework of the WTO TBT Committee, the Executive Decree entered into force in August 2014.

Upon implementation of the Executive Decree, Ecuador also began enforcing previously existing, but unenforced Ecuadorian Service for Standardization (INEN) requirements for a certificate to demonstrate compliance with each labeling elements. The certificates of conformity (COC) may only be issued by the Ecuadorian Accreditation Agency (OAE) or an OAE accredited inspection body or designee in relation to existing mutual recognition agreements with Ecuador. There are no OAE accredited laboratories in the United States. All prepackaged foods with the new traffic light labeling must also be reregistered under Ecuador's cumbersome Sanitary Registration process. Ecuador and the United States continue to explore alternatives to the COC, including use of State or Federal Certificates of Free Sale, a Supplier's Declaration of Conformity, or a determination of equivalence with INEN's requirements.

Mandatory Labeling of Foods Derived From Biotechnology

As of August 29, 2014, products containing at least 0.9 percent transgenics are required to display a label with the statement "contains transgenics" as per technical regulation RTE-INEN-022.

The United States has engaged bilaterally with Ecuador on this issue, including on the sidelines of the WTO TBT Committee meeting in October 2013. The United States requested clarification of the manner by which "testing for access to compliance" and "demonstration of compliance" will be carried out with regards to mandatory transgenics labeling. The United States will continue to engage Ecuador in addressing biotech-related concerns.

Sanitary and Phytosanitary Barriers

All agricultural imports require an SPS certificate issued by Ecuador's animal and plant health service (AGROCALIDAD). Importers complain the certification process is lengthy and burdensome. They also complain that the certificate process lacks scientific basis, is at odds with World Organization for Animal Health and Codex Alimentarius Commission standards, and is used to block imports that compete with domestic production of meat products, dairy products, and produce.

COMEX Resolution 019, issued September 10, 2014, mandates that AGROCALIDAD require an SPS certificate for processed agricultural products, including low-risk (cooked) products. Ecuadorian customs officials began enforcing Resolution 019 on October 9, 2014. Importers of U.S. products, especially U.S. fast food franchisees, reported import processing delays caused by confusion among government agencies over how to enforce the resolution and by officials intentionally delaying the entry of imported products as part of Ecuador's policy of import substitution.

IMPORT POLICIES

Ecuador has imposed a broad range of tariff and non-tariff restrictions on trade in goods, services and investment, as well as weakening protection of intellectual property rights. This trend began several years ago, but accelerated in 2014. Both individually and collectively, these measures have created uncertainty in Ecuador's market, which reduces investment, penalizes Ecuador workers and businesses, and denies the people of Ecuador a choice of competitively priced, high quality goods and services.

The United States has objected to Ecuador's discriminatory and unjustified restrictions on trade in a variety of fora – bilaterally, through the WTO and its various committees, and in coordination with other countries affected by Ecuador's increasingly protectionist measures. The United States in 2015 will continue to press Ecuador to reverse its protectionist policies and fully comply with its international commitments.

Ecuador's Organic Code for Production, Trade, and Investment (Production Code), which came into effect in 2010, covers an array of issues, including import and export policies, customs procedures, taxes, and

investment and labor rules. Among other things, the Production Code calls for strategic import substitution and for a transformation of Ecuador's "productive matrix" to increase the production of higher value-added products. According to Ecuador's National Plan for Good Living 2013-2017, produced by the National Secretariat of Planning and Development (SENPLADES), products subject to import substitution measures include fertilizers, agrochemicals, agricultural commodities and food products, pesticides and fungicides, soaps, detergents, cosmetics, ceramic tiles, floors, textiles, clothing, footwear, leather, radios, telephones, TVs, electronics, pharmaceuticals, and electrical appliances. Ecuador applies a combination of tariff and nontariff measures, such as non-automatic import licensing, to most of the sectors listed above.

As part of the policy of import substitution, Ecuadorian officials reportedly seek commitments from companies to increase local production and decrease imports. Ecuador's Coordinating Minister for Production, Employment, and Competitiveness announced in October 2014 that 905 companies had signed such agreements with the government. Importers complained that the government coerced them into the "agreements" by blocking their imports until they signed.

Tariffs

When Ecuador joined the WTO in January 1996, it bound most of its tariff rates at 30 percent *ad valorem* or less, except for agricultural products covered by the Andean Price Band System (APBS). The 2011 WTO Trade Policy Review (TPR) of Ecuador reported that Ecuador's tariff structure had become more complex "with the increase in the number of *ad-valorem* rates and the adoption of compound duties." The TPR indicated that Ecuador's applied simple average most-favored-nation (MFN) tariff rate was 9.3 percent in 2011. Its average applied MFN tariff rate was 7.6 percent for industrial products and 19.6 percent for agricultural products. As Ecuador has implemented trade restrictions since the TPR, the actual average applied MFN tariff rates may be higher.

On March 11, 2015, Ecuador implemented a tariff surcharge ranging from 5 to 45 percent on 2800 tariff lines, which the government says represents about 32 percent of the value of Ecuador's imports. As of mid-March, the measure had not been notified to the WTO.

Specific tariff changes by industry in recent years include:

Construction Materials

COMEX Resolution 002, issued on January 14, 2014, raised tariff rates of 144 sub-tariff items including metal and construction items such as doors, windows, cables, and brushes. The new tariff rates vary between 10 percent and 25 percent, although COMEX resolution 027, issued on August 25, 2014, reversed some of the increases.

Consumer goods

COMEX Resolution 023, issued on July 17, 2014, created a $42 tariff on packages shipped via international courier. Consumers may only receive packages that weigh less than four kilograms and are valued at less than $400 and may only receive five packages per year with a total value not to exceed $1,200. COMEX Resolution 033, issued September 19, 2014, modified Resolution 023 to provide a waiver from the $42 tariff for packages sent by Ecuadorian residents abroad up to a limit of 12 packages or $2,400 dollars.

Resolution 012, issued on April 1, 2014, eliminated the prior tariff exemption that applied to bicycles valued at $400 or less. It also increased the tariffs on certain bicycle parts to 25 percent.

COMEX Resolution 013, issued on April 30, 2014, increased tariffs to 30 percent for five tariff lines including electric stoves, induction stoves, complete knock-downs (CKDs), and others in order to strengthen local production. However, CKDs for induction stoves received duty-free treatment indefinitely under COMEX Resolution 039. In addition, the Organic Production Incentives and Tax Fraud Prevention Law, signed by President Correa on December 23, 2014, exempted importers from paying the five percent capital exit tax on imports of induction stoves.

Automotive

Resolution 65, issued on June 15 2012, established a sliding tariff scale ranging between 4 percent and 40 percent on automobiles, which decreases as more locally produced content is incorporated in the vehicle. Resolution 65 also created a monitoring mechanism to verify increases in the incorporation of local content. However, Ecuador has not yet published a methodology for measuring local content and as such has not altered tariff rates in response to increased use of local content. Resolution 65 also established quotas for automotive imports, and Resolution 049, issued December 29, 2014, renewed and reduced those quotas (see section on non-tariff measures).

COMEX Resolution 95, passed on December 7, 2012, established *ad valorem* tariffs between 30 percent and 40 percent for three-wheeled vehicles.

Agricultural products

COMEX Resolution 040, issued November 26, 2014, suspended application of the Andean Price Band System (APBS) for soybean meal and set the tariff at zero percent until December 31, 2016.

Ecuador agreed to phase out its participation in the APBS when it became a WTO Member. To date, no steps have been taken to phase out use of the APBS. Since July 2007, the application of APBS is voluntary for members of the APBS. The extent to which the APBS affects trade varies by product. For some U.S. exports, such as wheat, barley, malt barley, and their byproducts, the price band total duty (*ad valorem* tariff plus variable levy) is often zero percent. However, price band total duties as high as 86 percent and 45 percent have been applied to chicken parts and pork, respectively, restricting those imports.

Non-tariff Measures

Importers must register with Ecuador's National Customs Service to obtain a registration number for all products.

Agriculture

Several regulations requiring import licenses from Ecuador's Ministry of Agriculture, Livestock, Aquaculture, and Fishing (MAGAP) affect imports of food and agricultural products. These import licenses generally require several approvals within MAGAP, including those of the Under Secretary for Livestock Development, the Under Secretary for Commerce, the corresponding consultative committee, and AGROCALIDAD. This non-science based prior authorization system is vulnerable to lobbying by domestic producers who may wish to block or constrain imports.

MAGAP operates through consultative committees for a number of agricultural products. These committees are composed of private sector representatives and government officials. Originally conceived as an advisory body for recommending production and agricultural development policies, these committees now often seek to block imports and to encourage domestic production.

On June 14, 2013, MAGAP issued Resolution 299-A that imposes a mandatory and cumbersome process to allocate import licenses for cheese, butter, milk, potatoes (including french fries), beef, pork, chicken, turkey, beans, sorghum, and corn. Resolution 299-A states that import licenses will not be granted automatically but rather issued depending on the level of domestic production relative to demand. Resolution 299-A also requires importers to present annually to MAGAP their import requirements for the coming year and that they submit documentation for technical analysis. The results of the analysis are then provided to domestic producers for feedback. Resolution 299-A also prohibits imports during times of high domestic production, but excludes Andean Community members from the resolution.

Automotive

Resolution 049, issued December 29, 2014, reduced the value ceilings and unit quotas on imported motor vehicles and complete knock-downs (CKDs) that were established by COMEX Resolutions 65 and 66 in 2012. The value ceilings were reduced about 52 percent for motor vehicles and 24 percent for CKDs. The unit quotas were reduced about 45 percent for motor vehicles and 25 percent for CKDs.

Resolution 66, issued on June 11, 2012, limits vehicle imports to 68 percent of the total value imported in 2010. Resolution 77, approved on July 30, 2012, set out 50 vehicle importers allowed to import under the quota system. Together with Resolution 96 of 2012, these measures established an import quota in total units and value per dealer (as opposed to by vehicle type).

Resolution 91, issued by COMEX on October 24, 2012, established an annual import quota in units and in dollars for vehicles with cylinder capacity equal to or less than 1,000 cubic centimeters (tariff line item 8703210090), excluding purchases made by the government. Resolution 91 established a quota of 189 units and a total value of $434,501 (FOB) for such products, with 75 percent allocated to a single importer.

Consumer Goods

In 2008, Ecuador increased its special consumption tax (ICE) on a number of products, largely luxury items. The ICE was increased mostly for products that tend to be imported rather than those produced domestically, such as perfumes, video games, firearms, airplanes, helicopters, boats, and cable TV service. In 2011, a new tax package increased the ICE *ad valorem* rate on spirits from 40 percent to 75 percent, and added a specific tax, phased in over three years, of $6.20 for every liter equivalent of alcohol. After Ecuador increased the specific per liter tax in 2012 based on consumer price index for alcohol and beer, on December 24, 2014, Resolution 1109 again increased the specific per liter tax to $7.10 for every liter equivalent of alcohol.

Satellite decoders/dishes

Resolution 93, issued on November 19, 2012, banned the import of decoders and satellite dishes when transported by mail, couriers, personal air luggage, ports, or land borders.

Mobile phones

Quantitative restrictions of phone imports remain in place, based on Resolutions 67, 69, 100 and 104. Resolution 67, adopted on June 15, 2012, limited annual imports for mobile phones to $142.6 million, which represented 68 percent of the total value of cell phone imports in 2011. Unit and dollar value limits were established for each of Ecuador's 33 cell phone importers. Cell phones are also subject to a 15 percent *ad valorem* tariff.

COMEX Resolutions 69 and 70, issued on July 17, 2012, tightened the import restrictions established in Resolution 67. Resolution 69 reduced by 28 percent the total value of permissible imports by CONECEL, Ecuador's largest private mobile phone operator. Meanwhile, the state-owned telecommunications company, CNT, received a 145 percent increase in its import value entitlement, which grew from $4.9 million to $12 million. Unit quotas for CONECEL and CNT remained unchanged, suggesting that Ecuador has structured the restrictions to permit CNT to import more expensive phone models and improve its market share. Resolution 104, approved on August 9, 2013, established quotas on smart phones valued at $220 or less for the three operators (CONECEL, CNT, and OTECEL). Although the three operators have unequal shares in the wireless market, CONECEL has about 68 percent, OTECEL has about 29 percent, and CNT has about 3 percent, the government allocated equal shares of 15,152 units and/or a total value of $3,333,333 to each of them. On November 12, 2014, Resolution 034 assigned CNT an additional 266,044 units or $13.2 million dollars for importation of devices for 4G service only.

GOVERNMENT PROCUREMENT

As a general rule, all public institutions are subject to Ecuador's Public Procurement Law. However, the law establishes several exceptions, including for procurements made according to special rules established by presidential decrees, for exploration and exploitation of hydrocarbons, for emergency situations, and for national security contracts. Article 34 of the Public Procurement Law allows public enterprises to follow special procurement rules, provided the National Public Procurement Service (SERCOP) issues an open-ended authorization for purchases considered within "the nature of the enterprise." This gives public enterprises broad flexibility to make procurements with reduced oversight.

Ecuador requires that preferential treatment be given to locally produced goods, especially those produced by the constitutionally created "social and solidarity economy," as well as micro and small enterprises, although foreign suppliers can compete for the procurements.

Bidders are required to register and submit bids for government procurement through an online system (http://www.compraspublicas.gob.ec). Foreign bidders must register and have a local legal representative in order to participate in government procurements. Bidding on government procurement can be cumbersome and non-transparent. The lack of transparency creates opportunities for manipulation by procuring entities.

On August 29, 2013, Decree 92 created the Public Enterprise for Imports (PEI). The entity, chaired by the Minister of Foreign Trade, is responsible for importing all goods procured by the executive branch and for acquiring products subject to trade restrictions.

On September 26, 2014, Resolution 2 of the PEI was enacted to approve the PEI's procurement procedures under the "nature of the enterprise" provision, stating that the PEI can make purchases through direct purchases, bidding, or framework agreements. Local companies complained that PEI is attempting to bypass their distribution networks and procure directly from their corporate offices.

Ecuador is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Ecuador remained on the Special 301Watch List in 2014 due to policies that adversely affect market access for U.S. intellectual property-intensive industries. On February 10, 2014, Ecuador enacted a new Penal Code, in effect since August 9, which de-criminalized intellectual property rights infringement. The United States continues to express its concern over this repeal of criminal IP enforcement provision, which will further exacerbate Ecuador's high levels of piracy and counterfeiting. The Correa Administration has yet

to pass a proposal reinstating the full complement of repealed remedies. In addition to copyright and trademark enforcement challenges, U.S. companies face exorbitant fees for patent registration and maintenance. Market access is further limited for the pharmaceutical and agricultural chemical industries by the lack of protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for their products.

Presidential Decree 522, signed by President Correa on December 17, 2014, requires that off-patent medicines be labeled primarily with their International Nonproprietary Names and that the label include the words "generic medicine," effective one-year from issuance of the decree. It is unclear how the decree will be implemented but it may limit the use of trademarked brands in Ecuador.

The United States will continue to engage Ecuador on these issues in 2015, including through the Special 301 process.

SERVICES BARRIERS

Credit Bureaus

On September 12, 2014, Ecuador enacted the Monetary and Financial Code that regulates the financial, insurance, and capital markets. Article 357 of the law established the National Data Registry as the only depository of credit information (no date for when Article 357 takes effect has been set). At least one private bureau remained operational as of March 2015.

Mobile Spectrum

Ecuador's 4G spectrum is currently licensed exclusively to the state-owned National Telecommunications Corporation (CNT), a public enterprise with 3.4 percent market coverage of the mobile market. The Government of Ecuador has committed to auctioning spectrum to private companies in 2015.

INVESTMENT BARRIERS

Ecuador's investment climate remains marked by uncertainty, by virtue of the government's evolving economic policies. Regulations and laws enacted between 2007 and 2014 limit private sector participation in sectors deemed "strategic," most notably in the extractive industries. In addition, inconsistent application and interpretation of investment laws negatively impact the transparency and stability of Ecuador's investment regime. This legal complexity increases the risks and costs of doing business in Ecuador.

Ecuador withdrew from the Convention on the Settlement of Investment Disputes (ICSID Convention), effective January 7, 2010. In September 2009, the Ecuadorian government requested approval from the country's National Assembly to terminate 13 bilateral investment treaties (BITs), including Ecuador's BIT with the United States, arguing that the BITs contained provisions that were unconstitutional. On November 24, 2010, Ecuador's Constitutional Court ruled that provisions within Ecuador's BIT with the United States were unconstitutional.

The Constitutional Court delivered similar rulings on the other BITs under review. Based on the Constitutional Court's rulings, Ecuador's National Assembly approved the termination of five BITs. The National Assembly has not approved the termination of four other, BITs, including the U.S. BIT. The Sovereignty, Integration, and Foreign Relations Committee approved the termination of the U.S. BIT, but the decision has not come to a full floor vote in the plenary. To date, the Ecuadorian government has only officially terminated its BIT with Finland.

Certain sectors of Ecuador's economy are reserved for the state, including nonrenewable natural resources and oil and gas transport and refining, while equity caps apply in other sectors, such as a 49 percent cap on foreign investment in domestic fishing operations and a 25 percent limit in broadcast stations.

In 2010, the Ecuadorian government enacted a hydrocarbons law that requires all contracts in the extractive industries to be in the form of service, or "for fee" contracts, rather than production sharing agreements. Several foreign companies declined to renegotiate their contracts and instead opted to negotiate compensation agreements for operations that they subsequently turned over to the Ecuadorian government.

EGYPT

TRADE SUMMARY

U.S. goods exports in 2014 were $6.5 billion, up 25.4 percent from the previous year. Egypt is currently the 39th largest export market for U.S. goods. Corresponding U.S. imports from Egypt were $1.4 billion, down 12.6 percent. The U.S. goods trade surplus with Egypt was $5.1 billion in 2014, an increase of $1.5 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Egypt was $19.3 billion in 2013 (latest data available), up from $17.3 billion in 2012. U.S. FDI in Egypt is led by the mining sector.

TECHNICAL BARRIERS TO TRADE/ SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Vehicles

In June 2010, Egypt announced that it would exclusively adopt EU-based emissions and safety regulatory standards for vehicles. It would apply these standards to all imported and locally produced vehicles, dividing the implementation into three phases. Phase I targeted imported cars and trucks. Implementation of Phase 1 has resulted in reduced sales for U.S. manufacturers which do not produce EU versions of their vehicles, and given the small volumes of U.S. vehicles sold outside the United States, the development of EU versions would be cost prohibitive. Additionally, under phase I, replacement parts built to U.S. Department of Transportation (DOT) and Environmental Protection Agency regulatory standards are prohibited for use in American manufactured vehicles already on the road in Egypt, and it is frequently not possible to use parts built in conformity with EU standards to service vehicles built to U.S. regulatory requirements. It is unclear when Egypt will implement phases II and III.

Sanitary and Phytosanitary Barriers

In recent years the Egyptian government has made progress in reducing bureaucratic hurdles and the time required for customs clearance of agricultural products by taking a more scientific approach to sanitary and phytosanitary (SPS) measures. Despite these improvements, importers of U.S. agricultural commodities continue to face unwarranted barriers such as those that lack technical and scientific justification.

Beef and Beef Products

The United States is concerned that Egypt's proposal to establish a zero-tolerance level for synthetic hormone residues in foodstuffs of animal origin is not based on science. If enforced, this regulation would have a substantial negative impact, if not eliminate, exports of U.S. beef and beef products to Egypt. Egypt is the largest market for U.S. beef liver by far and the seventh largest market for U.S. beef and beef products with exports of over $150 million in 2014.

Agricultural Biotechnology

In March 2012, the Ministry of Agriculture and Land Reclamation issued a decree "temporarily suspending" the cultivation of the biotech corn seed. This suspension followed anti-biotech media reports

about alleged health risks, despite the successful use of a biotech corn variety approved for four years across 10 governorates.

Potatoes

Egypt is one of world's larger seed potato importers, but it does not permit imports of varieties of U.S. seed potatoes due to phytosanitary concerns regarding Ralstonia (brown rot) and ring rot. The U.S. seed certification process, however, ensures that seed potatoes are free from the aforementioned viruses as well as other diseases. Egypt has conducted a pest risk assessment and two field inspection visits to the United States, and is in a position to sign an import protocol for U.S. seed potatoes. Nonetheless, Egypt has not agreed to an import protocol for U.S. seed potatoes, nor has it declared the United States an eligible supplier of potato seeds to Egypt.

Grain and Oilseeds

Egypt claims to enforce a zero tolerance policy for the presence of Ambrosia (ragweed) in corn, soybeans, and wheat imports, but in practice it only applies the regulation to international shipments and does not require testing for domestic producers of corn, soybeans, and wheat

IMPORT POLICIES

Tariffs

Egypt maintains the high tariffs it implemented in March 2013, when it increased tariffs on approximately 100 "non-essential" items, including sunglasses, nuts, cut flowers, fireworks, grapes, strawberries, apples, pineapples, video games, chewing gum, watches, and seafood (including shrimp and caviar). Tariffs on seafood increased as follows: on fish from 5 percent to 30 percent, on caviar from 30 percent to 40 percent, and on lobster from 20 percent to 40 percent. Tariffs on cut flowers increased from 30 percent to 40 percent, and on fresh and dried nuts from 5 percent to 10 percent. Tariffs on some fresh fruits, including strawberries, increased from 5 percent to 10 percent, while levies on some other fresh fruits, including apples, increased from 20 percent to 30 percent.

Egypt maintains high tariffs on a number of additional products. The tariff on passenger cars with engines of less than 1,600 cubic centimeters (cc) is 40 percent, and the tariff on cars with engines of more than 1,600 cc is 135 percent. In addition, cars with engines over 2,000 cc are subject to an escalating sales tax of up to 45 percent. Tariffs on a number of processed and high-value food products, including poultry meat, range from 20 percent to 30 percent. There is a 300 percent tariff on alcoholic beverages for use in the tourism sector, including for hotels, plus a 40 percent sales tax. The tariff for alcoholic beverages ranges from 1,200 percent on beer, 1,800 percent on wine, and 3,000 percent on sparkling wine and spirits. Foreign movies are subject to tariffs amounting to 46 percent. They are also subject to sales taxes and box office taxes higher than those for domestic films.

Customs Procedures

In 2004, the Ministry of Finance began reorganizing the Customs Authority to meet international standards. Since then, it has attempted to establish modern customs centers at major ports to test new procedures and new information technology systems to facilitate communications among ports and airports. These systems were to become fully operational in 2009, but interagency disputes regarding information sharing have delayed implementation. As a result, the information technology infrastructure has deteriorated, representing an additional obstacle to modernization. Moreover, Egypt does not currently have systems in place to accept advance information on international cargo arriving at ports of entry.

The Ministry of Finance in 2008 finalized a draft of a new customs law to streamline procedures and facilitate trade. The proposed legislation has yet to be submitted to parliament for consideration. Its status at this point remains unclear. The practice of consularization, which requires exporters to secure a stamp from Egyptian consulates on all documents for goods to be exported to Egypt – at a cost of $100 to $150 per document – remains in place and adds significant costs in money and time.

Import Bans and Barriers

Either the National Nutrition Institute or the Drug Planning and Policy Center of the Ministry of Health and Population (MoHP) must register and approve all nutritional supplements, specialty foods, and dietary foods. While there is no law which prohibits the importation of nutritional supplements in finished pill form, import licenses are not provided. The definition of specialty foods is broad and includes processed foods with labels claiming that the food is "high in" or "enriched with" vitamins or minerals. The government attempts to complete the approval process in six weeks to eight weeks, but occasionally some products face longer waiting periods for approval. Importers must apply for a license to import a dietary product and renew the license every one to five years, depending on the product, at a cost of approximately $1,000 per renewal.

The MoHP must approve the importation of new, used, and refurbished medical equipment and supplies. This requirement does not differentiate between the most complex computer-based imaging equipment and basic supplies. The MoHP approval process consists of a number of steps which can be burdensome. Importers must submit a form requesting the MoHP's approval to import, provide a safety certificate issued by health authorities in the country of origin, and submit a certificate of approval from the U.S. Food and Drug Administration or the European Bureau of Standards. The importer must also present an original certificate from the manufacturer indicating the production year of the equipment and, if applicable, certifying that the equipment is new. All medical equipment must be tested in the country of origin and proven safe. The importer must prove it has a service center to provide after-sales support for the imported medical equipment, including spare parts and technical maintenance.

GOVERNMENT PROCUREMENT

A 1998 law regulating government procurement requires procuring entities to consider technical factors, along with price, in awarding contracts. A preference is granted to Egyptian companies whose bids are within 15 percent of the price of other bids. In the 2004 Small- and Medium-Sized Enterprises (SMEs) Development Law, Egyptian SMEs were given the right to supply 10 percent of the goods and services in every government procurement contract.

Egyptian law grants potential suppliers certain rights, such as speedy return of their bid bonds and an explanation of why a competing supplier was awarded a contract. However, concerns about a lack of transparency remain. For example, the Prime Minister retains the authority to determine the terms, conditions, and rules for procurement by specific entities. The Prime Minister may also grant authorities the right to use sole-source contracting for a project, and thus government procurement may occur without the solicitation of proposals.

Egypt is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Egypt remained on the Watch List in the 2014 Special 301 Report. The United States remains concerned about piracy of broadcast content via satellite TV operations, the lack of enforcement in major cases involving trademark violations, online piracy, entertainment software piracy, and book piracy. The lack of

speed and effectiveness in processing trademark applications are obstacles for growth. To address this gap, officials from the U.S. Patent and Trademark Office trained local trademark examiners on best practices. The United States will continue to engage Egypt on these issues, including through the Special 301 process.

SERVICES BARRIERS

Egypt restricts foreign equity in construction and transport services to 49 percent. Egypt also limits the employment of non-nationals to 10 percent of an enterprise's general workforce, although the Ministry of Manpower and Migration can waive this limitation. In computer-related industries, Egypt requires that 60 percent of top-level management be Egyptian within three years of the start-up date of the venture.

Banking

Foreign banks are able to buy shares in existing banks but not able to secure a license to establish a new bank in Egypt. In 2009, the Government slowed its effort to privatize the three remaining state-owned banks on the grounds that market conditions were not appropriate. These banks control at least 40 percent of the banking sector's total assets.

Despite having a large and well-developed formal financial sector, a significant portion of small-scale financial transactions are undocumented or remain outside of the formal banking system. The Egyptian National Postal Organization (ENPO), for example, remains Egypt's primary provider of retail banking services.

Telecommunications

The state-owned telephone company, Telecom Egypt, lost its legal monopoly on the local, long-distance and international telecommunication sectors in 2005. Nevertheless, Telecom Egypt continues to hold a *de facto* monopoly in the fixed-line sector, primarily because the National Telecommunications Regulatory Authority (NTRA) has not approved additional licenses to compete in these sectors.

NTRA has been working on a unified license regime that would allow a company to offer both fixed line and mobile networks, but it has not been finalized. Adoption of a unified license regime would allow Telecom Egypt, currently operating in the fixed line market, to enter the mobile market and the three mobile companies to enter the fixed market.

The lack of competition among internet service and fixed landline providers translates into high prices, low internet speeds, and poor service quality. In October 2014, Brand Finance ranked two Egyptian companies, Telecom Egypt and Mobinil, among the most expensive providers of Arab telecommunications. An additional barrier is that only 3G services are available in Egypt. The Ministry of Information and Telecommunications has stated that 4G services and broadband will be instituted once the unified license regime is finalized.

Courier and Express Delivery Services

ENPO must grant special authorization to private courier and express delivery service suppliers seeking to operate in Egypt. In addition, although express delivery services constitute a separate, for-profit, premium delivery market, ENPO requires private express operators to pay a postal agency fee of 10 percent of annual revenue on shipments of less than 20 kilograms. ENPO imposes an additional fee on private couriers and express delivery services of £E5 ($0.75) on all shipments under five kilograms.

INVESTMENT BARRIERS

Labor rules prevent companies from employing more than 10 percent non-Egyptians (25 percent in Free Zones), and foreigners are not allowed to operate sole proprietorships or simple partnerships. Egypt's trade regulations allow foreigners to act as commercial agents with respect to the import of goods for trading purposes, but prohibit foreigners from acting as importers themselves. A foreign company wishing to import for trading purposes must do so through an Egyptian importer.

Although Egypt is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, U.S. investors have complained that Egyptian courts are not consistent in their approach to the recognition of foreign arbitral awards. In their view, the arbitration enforcement mechanism can in some cases require re-litigating the dispute in court. For foreign court judgments, only a few foreign states' judgments are enforceable in Egypt, and there is a perception that the domestic judicial system is subject, in some cases, to political influence.

EL SALVADOR

TRADE SUMMARY

U.S. goods exports in 2014 were $3.3 billion, up 2.2 percent from the previous year. El Salvador is currently the 53rd largest export market for U.S. goods. Corresponding U.S. imports from El Salvador were $2.4 billion, down 1.7 percent. The U.S. goods trade surplus with El Salvador was $951 million in 2014, an increase of $115 million from 2013.

The stock of U.S. foreign direct investment (FDI) in El Salvador was $2.9 billion in 2013 (latest data available), up from $2.7 billion in 2012.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006 and for the Dominican Republic in 2007. The CAFTA-DR entered into force for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services as well as includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Since 2013, U.S. companies have been disadvantaged by onerous labeling regulations issued by the Ministry of Health. Though recent legislation was supposed to do away with such restrictions, they continue to be applied and the United States is working closely with affected U.S. companies and associations to address these concerns.

In El Salvador, the Certificate of Free Sale is a requirement to register food products, cosmetics and hygienic products. Since no such equivalent certificate exists in the United States for these products, local companies occasionally have difficulties complying with this requirement in order to import U.S. products.

The Ministry of Health has drafted regulations without the requisite consultation and notification processes and then attempted to enforce such unapproved regulations via unofficial notifications. Labeling requirements that are not contemplated by laws have also been inserted into implementing regulations.

Sanitary and Phytosanitary Barriers

El Salvador's Ministry of Agriculture has issued a new protocol for imports of bone-in beef cuts which includes recognition of the United States as a negligible-risk country. As a result, U.S. bone-in beef is now entering the Salvadoran market without Specific Risk Material restrictions.

The Ministry of Agriculture requires plant inspections in the United States in order to accept U.S. seafood imports. The United States will work with the Ministry of Agriculture to consider recognizing NOAA and FDA approvals in El Salvador.

In order to register samples, large quantities of the product, even those deemed low-risk, are required for the required laboratory tests, which are often redundant and add to costs.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, El Salvador applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions.

United States qualifying goods, however, can enter under the CAFTA-DR; as of 2015 100 percent of U.S. consumer and industrial goods enter El Salvador duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also now enter El Salvador duty free and quota free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Eighty-four percent of U.S. agricultural products qualify for duty-free treatment in El Salvador under the CAFTA-DR as of 2015. El Salvador will eliminate its remaining tariffs on nearly all agricultural products by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain agricultural 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. El Salvador will liberalize trade in yellow corn through a 5 percent continual expansion of the initial 350,000 metric ton TRQ with a 15-year phase-out period.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including El Salvador, committed to improve transparency and efficiency in administering customs procedures. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal transshipment of goods. In 2013, Salvadoran Customs implemented nonintrusive inspections with x-rays at border crossings. Unfortunately, the procedures, designed to facilitate cross-border movements, have resulted in considerable delays, causing losses to exporters and importers. Customs is also increasingly charging fines when the shipment's weight differs from that presented on the paperwork without taking account of shipping losses or providing an opportunity to amend the manifest.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurements covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Salvadoran government entities, including key ministries and state-owned enterprises, on the same basis as Salvadoran suppliers. The anticorruption provisions in the Agreement require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties.

In May 2011, the Legislative Assembly approved a series of reforms to the LACAP (*Ley de Adquisiciones y Contrataciones de la Administración Pública*), which regulates government procurement. These reforms included easing procurement procedures to expedite contracts valued at less than $35,856. In 2013 and 2014, the Ministry of Agriculture's family seed distribution program procured bean and corn seeds in a scheme favoring national seed producers, raising questions on the program's compliance with CAFTA-DR. The U.S. Government has sought various assurances from the government of El Salvador that future seed

purchases will take place in compliance with CAFTA-DR norms. The U.S. Government is currently monitoring the 2015 seed purchase program and will continue to monitor El Salvador's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations.

El Salvador is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

El Salvador has notified the WTO Committee on Subsidies and Countervailing Measures of the Export Processing Zones and Marketing Act, an export subsidy program which must be phased out by the end of 2015.

The Salvadoran government operates a form of duty drawback, consisting of a refund of custom duties paid on imported inputs and intermediate goods exclusively used in the production of products exported outside of the Central American region, which remains in place.

Under the CAFTA-DR, El Salvador may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods).

INTELLECTUAL PROPERTY RIGHTS PROTECTION

While El Salvador remained unlisted in the 2014 Special 301 Report, the United States initiated an out-of-cycle review of El Salvador in 2013 which found "significant and ongoing concerns with El Salvador's protection and enforcement of intellectual property, including the treatment of geographical indications and pharmaceutical products," and the necessity to closely monitor ongoing developments. To implement its CAFTA-DR intellectual property rights (IPR) obligations, El Salvador undertook legislative reforms providing for stronger IPR protection and enforcement. Despite these efforts, the piracy of optical media, both music and video, in El Salvador remains a concern. In addition, the U.S. stakeholders continue to report very high piracy rates for El Salvador. Optical media imported from the United States into El Salvador are being used as duplication masters for unauthorized copies of copyrighted works. The United States has expressed concern to the Salvadoran government about inadequate enforcement of cable broadcast rights and the competitive disadvantage it places on legitimate providers of this service. The United States remains concerned about the adequacy of implementation of regulations to protect against the unfair commercial use, as well as unauthorized disclosure, of test and other data generated to obtain marketing approval for pharmaceutical products. The lack of an effective system to address patent issues expeditiously in connection with applications to market pharmaceutical products is also disconcerting. The United States will continue to monitor El Salvador's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

Every international telephone call, regardless of origin, is charged a $0.04 per minute tax, while domestic calls within El Salvador are not assessed this tax. A previous exemption for calls from other Central American countries is no longer in effect.

INVESTMENT BARRIERS

While there are few formal investment barriers in El Salvador, investment can be impeded by nontransparent and duplicative regulations, and by licensing and regulatory decision-making processes that appear to be inconsistent and contradictory. Such barriers have affected sectors including energy, mining, and retail sales. Foreign direct investment inflows are paltry compared to other countries in the region. The Legislative Assembly is discussing a Judicial Stability Law, which would provide some measure of assurances regarding prejudicial changes in taxes, customs, and investment income regulations for foreign investors.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in El Salvador. Administrative and judicial decision-making appear at times to be inconsistent, nontransparent, and very time consuming. Bureaucratic requirements have at times reportedly been excessive and unnecessarily complex. A proposed Sovereignty and Food and Nutrition Security Law may include trade protectionist measures; the National Association of Private Enterprise (ANEP) is also concerned it may impose onerous advertising restrictions under the guise of protecting public nutritional health.

ETHIOPIA

TRADE SUMMARY

U.S. goods exports in 2014 were $1.7 billion, up 151.2 percent from the previous year. Ethiopia is currently the 68th largest export market for U.S. goods. Corresponding U.S. imports from Ethiopia were $207 million, up 6.8 percent. The U.S. goods trade surplus with Ethiopia was $1.5 billion in 2014, an increase of $1.0 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Ethiopia was $10 million in 2013 (latest data available), down from $11 million in 2012.

SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

In September 2009, Ethiopia established a biosafety proclamation that restricts commercial imports of biotech products by imposing unduly burdensome documentation and testing requirements. Food aid shipments are exempt from these requirements. To address the import barriers, the Ethiopian government recently began the process of revising the proclamation with the intent to allow crops derived from agricultural biotech, namely Bt cotton, to be grown in Ethiopia. In November 2014, the Ethiopian Parliament returned the draft revision to a technical committee for further review and deliberation after which it will be sent back to Parliament for ratification.

IMPORT POLICIES

Tariffs

According to the WTO latest estimates published for 2012, Ethiopia's average applied tariff rate was 17.3. Revenue generation, not protection of local industry, appears to be the primary reason for Ethiopia's tariff levels; however, high tariffs are applied to protect certain local industries, including textiles and leather.

Nontariff Measures

An importer must obtain a letter of credit for the total value of an import transaction and apply for an import permit before an order can be placed. Even with a letter of credit, import permits are not always granted.

Foreign Exchange Controls

Ethiopia's central bank administers a strict foreign currency control regime and the local currency (Birr) is not freely convertible. While larger firms, state-owned enterprises, enterprises owned by the ruling party, and businesses in priority manufacturing export sectors do not typically face major problems obtaining foreign exchange, less well-connected importers, particularly smaller, new-to-market firms, face delays in arranging trade-related payments. The unreliability of the foreign exchange supply in Ethiopia's banks has negatively affected U.S. companies' ability to import essential inputs and industrial capital goods on a timely basis.

GOVERNMENT PROCUREMENT

A high proportion of Ethiopian import transactions are for government consumption, reflecting the heavy involvement of the government in the overall economy. Tender announcements are usually made public, but a number of major procurements have not gone through an open tendering process. Bureaucratic procedures and delays in the decision-making process sometimes impede foreign participation in procurements. U.S. firms have complained about the abrupt cancellation of some procurements, a perception of favoritism toward Chinese competitors who often include financing packages in their tender offers, a frequent requirement that would-be suppliers appear in person to collect solicitation packages, and a general lack of transparency in the procurement system. Business associations complain that state-owned and ruling party-owned enterprises have enjoyed *de facto* advantages over private firms in government procurement. Several U.S. firms have complained of pressure to offer supplier financing or other low-cost financing in conjunction with tenders. Several significant contracts have been signed in recent years between government enterprises and Asian companies outside of the government procurement process.

As a non-member of the WTO, Ethiopia is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Ethiopia was not listed in the 2014 Special 301 Report. While the Ethiopian Intellectual Property Office is responsible for the administration and enforcement of intellectual property rights (IPR) in Ethiopia, it focuses mainly on protecting domestic content and has taken virtually no action to confiscate or impede the sale of pirated foreign works in Ethiopia. Ethiopia is a member of the World Intellectual Property Organization; however, it has not ratified most of the major IPR treaties, including the Berne Convention or Madrid Protocol.

Trademark infringement continues to be widespread in Ethiopia. The lack of enforcement capacity leaves the government in a position of only responding to IPR challenges brought to Ethiopia's Competition Commission. Furthermore, IPR enforcement is often unpredictable due to an overall lack of coordination between government agencies.

SERVICES BARRIERS

Banking and Financial Services

Ethiopia's investment code prohibits foreign investment in banking, insurance, and financial services. A limited number of international banks maintain representative offices.

Telecommunications

The state-owned Ethio-Telecom maintains a monopoly on wire and wireless telecommunications and Internet service and is closed to private investment. The Value Added Service Directive No. 2/2005 allows private companies to provide Internet service through the government's infrastructure, but implementing regulations have yet to be promulgated. The Ministry of Information and Communication Technology allows companies and organizations whose operations are Internet-dependent or are located in remote areas of the country to use Very Small Aperture Terminals (VSATs), but it does not allow the general public to use VSATs. Ethio-Telecom is undertaking network expansion and upgrade projects through partnerships with Huawei and ZTE. As of December 2014, Ethio-Telecom was in negotiations with Erikson AG and other foreign telecommunications providers to take over some of the ZTE contract. Many multi-national

companies still assert that the current quality of service impedes information transfer and general business operations.

Logistics

Logistics backlogs can occur because the shipment process remains paper-based; companies importing goods into the country have also raised concerns with delivery delays and difficulties in estimating the full logistics cost. Within Ethiopia, most goods are transported by trucks from the ports to Addis Ababa and other parts of the country. Ethiopia's ruling party-owned companies dominate the truck transportation market, and the overall number of trucks is insufficient to meet demand. Plans to restore Ethiopia's rail systems are underway but rail systems are not currently operational.

INVESTMENT BARRIERS

A number of formal and informal barriers impede foreign investment in Ethiopia. Investment in telecommunications services and in defense industries is permitted only in partnership with the Ethiopian government. The banking, insurance, and micro-credit industries are restricted to domestic investors. Other areas of investment reserved exclusively for Ethiopian nationals include broadcasting, domestic air transport services using aircraft with a seating capacity of over 20 passengers, and forwarding and shipping agency services. Foreign investors are also barred from investing in a wide range of retail and wholesale enterprises (*e.g.*, printing, restaurants, and beauty shops).

While the government continues to privatize a number of state-owned enterprises and most tenders issued by the Privatization and Public Enterprises Supervising Agency are open to foreign participation, some investors bidding in these tenders have alleged a lack of transparency in the process. Foreign investors in formerly state-owned businesses subject to privatizations reportedly have encountered problems transferring title, delays in evaluating tenders, and problems with tax arrearages.

All land in Ethiopia belongs to the state; there is no private land ownership. Land may be leased from local and regional authorities for up to 99 years. Current land-lease regulation places limits on the duration of construction projects, allows for revaluation of leases at a government-set benchmark rate, places previously owned land ("old possessions") under leasehold, and restricts the transfer of leasehold rights.

OTHER BARRIERS

Parastatal and Party-affiliated Companies

Ethiopian and foreign investors alike complain about patronage networks and *de facto* preferences shown to businesses owned by the government, including preferential access to bank credit, foreign exchange, land, and procurement contracts, as well as favorable import duties.

Judiciary

Companies that operate businesses in Ethiopia assert that its judicial system remains inadequately staffed and inexperienced, particularly with respect to commercial disputes. While property and contractual rights are recognized, and there are commercial and bankruptcy laws, judges often lack understanding of commercial matters and the scheduling of cases often suffers from extended delays. Contract enforcement remains weak.

EUROPEAN UNION

TRADE SUMMARY

U.S. goods exports in 2014 were $276.7 billion, up 5.5 percent from the previous year. European Union countries, together, would rank as the second largest export market for the United States in 2014. Corresponding U.S. imports from European Union were $417.8 billion, up 7.8 percent. The U.S. goods trade deficit with European Union was $141.1 billion in 2014, up $15.7 billion from 2013.

U.S. exports of services to the European Union were $205.9 billion in 2013 (latest data available), and U.S. imports were $163.5 billion. Sales of services in European Union by majority U.S.-owned affiliates were $554.7 billion in 2012 (latest data available), while sales of services in the United States by majority European Union-owned firms were $426.1 billion.

The stock of U.S. foreign direct investment (FDI) in European Union was $2.4 trillion in 2013 (latest data available), up from $2.2 trillion in 2012. U.S. FDI in European Union is primarily concentrated in the nonbank holding companies, finance/insurance, and manufacturing sectors.

OVERVIEW

The United States and the 28 Member States of the EU share the largest and most complex economic relationship in the world. Trade and investment flows between the United States and the EU are a key pillar of prosperity on both sides of the Atlantic.

Transatlantic trade flows (goods and services trade plus earnings and payments on investment) averaged $4.3 billion each day of 2013. The total stock of transatlantic investment was over $5.1 trillion in 2013 Countries around the world benefit significantly from the prosperity generated by the transatlantic economy.

U.S. exporters and investors nonetheless face persistent barriers to entering, maintaining, or expanding their presence in certain sectors of the EU market. Some of the most significant barriers, which have endured despite repeated efforts at resolution through bilateral consultations or WTO dispute settlement, have been highlighted in this report for many years. Many are highlighted again in this year's report.

The United States plans to make substantial progress on reducing or eliminating remaining EU barriers to trade and investment by concluding the Transatlantic Trade and Investment Partnership (T-TIP) agreement. U.S.-EU negotiations on this comprehensive trade and investment agreement were launched in July 2013, following an announcement by President Obama and EU leaders. The eighth negotiating round was held in February 2015, and several more negotiating rounds are expected before the end of 2015.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Semiconductors and Refrigeration Appliances: Regulation on Fluorinated 67 Greenhouse Gases (F-Gas)

The EU adopted a new regulation phasing-down and phasing-out the use of many high global warming potential (GWP) F-gases on April 14, 2014. The EU had previously notified its intent to change this on February 7, 2013 as G/TBT/N/EU/91. Consistent with President Obama's Climate Action Plan regarding U.S. leadership on global efforts to phase down the consumption and production of climate damaging

HFCs, the United States strongly supports the objectives of the EU's proposed regulation, including its proposed approach that combines both a phase down of hydrofluorocarbons (HFCs) and specific appliance bans. However, a particular ban contained in the proposed measure raised concerns for some U.S. household refrigerator manufacturers. Indeed, several U.S., Korean, and Japanese commenters on the regulation expressed concerns with particular product bans, tight timelines for implementation and the unwillingness of the EU to meet with some impacted industries.

The specific concern among household refrigerator appliance manufacturers is the EU's change to its F-gas regulations to ban the use of HFCs with global warming potential (GWP) of 150 or more in residential refrigerators and freezers, which became effective on January 1, 2015. At least one U.S. based SME indicated that it cannot meet this requirement. The rest of the U.S. appliance industry did not oppose the reduction of HFC use – indeed many companies have already adopted alternative substances. Stakeholders did, however, express concern about particular product specific regulations and the aggressive 2015 timeline for implementation with respect to household refrigerators and freezers. Specifically, the U.S. commenters explained that a few companies, including some U.S. SMEs, that had not yet adopted the alternative substances taken up by others (*e.g.*, more than 50 percent of current new production globally uses hydrocarbons (HC- 600a) instead of HFCs) and cited significant and expensive changes to manufacturing processes that those companies would need to make to produce appliances that use hydrocarbon instead of HFC refrigerants.

The EU's own impact assessment recommended against a ban on HFCs in domestic (residential) refrigeration because of its low effectiveness towards reducing GHG emissions, stating that "a strict regulatory instrument such as a ban would need to be justified with a substantial contribution to the EU's emission reduction targets." Nevertheless, the EU decided to include this ban. U.S. stakeholders expressed significant concern with the lack of opportunity to participate in the development of this proposal beyond a single public meeting. Stakeholders stated that DG Climate Action rebuffed several of its attempts to discuss the EU's proposal. Further, as noted above, the Commission had already transmitted its proposed regulation to the European Parliament and European Council before notifying WTO Members, and therefore the Commission did not take Members' comments into account by revising its proposed regulation.

Chemicals: Registration, Evaluation, Authorization, and Restriction of Chemicals

The EU regulation for the Registration, Evaluation and Authorization of Chemicals (REACH) began as a Communication from the Commission in 2001, "White Paper on Strategy for a future Chemicals Policy (REACH)." The European Parliament approved REACH and the European Council formally adopted it in December 2006. REACH entered into force on June 1, 2007, and will be fully implemented during 2015. REACH impacts virtually every industrial sector because it regulates chemicals as a substance, in preparations, and in products. It imposes extensive registration, testing, and data requirements on tens of thousands of chemicals. REACH also subjects certain chemicals to an authorization process that would prohibit them from being placed on the EU market except as authorized for specific uses by the European Commission.

Concerns regarding various aspects of REACH have been raised at every WTO TBT Committee meeting since 2003 by the United States and many other WTO Members. WTO Members have indicated the need for greater transparency in the development and implementation of REACH requirements, and frequently cite the need for further information and clarification, as well as problems producers have in understanding and complying with REACH's extensive registration and safety data information requirements. The United States has also raised its concerns regarding REACH directly with the EU and has worked with the European Chemicals Agency (ECHA) on specific technical issues.

Among the substances subject to REACH regulations are nanomaterials, or chemical substances or materials that are manufactured and used at a very small scale (down to 10,000 times smaller than the diameter of a human hair), which are used in products ranging from batteries to antibacterial clothing. The Commission is considering options to adapt the data requirements for nanomaterials in REACH registration dossiers. The European Commission published an impact assessment in March 2014. This legislation will be adopted using the internal committee process that does not require European Parliament or Council action.

Although REACH provides a standardized plan for reporting and registering nanoscale ingredients or products containing nanomaterials, several EU Member states have initiated the development of their own such registries, which often include exemptions for pigments and food additives. The European Commission published its impact assessment on the feasibility of adopting an EU-wide registry of nanomaterials in November 2014. The impact assessment raised significant concerns about the efficacy of establishing such a registry and the Commission has expressed no desire to move forward with this project.

There is also concern over a lack of transparency and science-based analysis associated with the Community Rolling Action Plan (CoRAP). The CoRAP is part of the REACH substance "evaluation" process. Its purpose is to allow EU Member States and ECHA to prioritize substances that are suspected of being hazardous to human health or the environment. Depending on the outcome of the evaluation, a substance evaluated under CoRAP may be considered for classification as a substance of very high concern (SVHC) and become subject to authorization and restriction procedures. It is also possible that after evaluation, a substance will be found to not pose such a risk. ECHA has established criteria for selecting substances for placement on the list. These criteria address concerns about hazard, exposure, and tonnage. Member States are encouraged, but not obliged, to use the ECHA criteria and are empowered to evaluate the 73 substances on the CoRAP list. The most recent CoRAP list was approved by ECHA on March 26, 2014. It is updated every March. The current list contains 120 substances, which will be evaluated during the course of 2015 and 2016. CORAP preliminary reports should be made available to interested U.S. companies, even if they have not yet registered the particular substance. Currently, the reports are only made available to registrants. More transparency on the part of the EU with respect to U.S. stakeholders impacted by this regulation would help reduce costs and address U.S. stakeholders' concerns.

The United States has also continued to raise concerns bilaterally with the EU on the lack of public notice and comment associated with the "Risk Management Options" (RMO) analysis phase of the SVHC Roadmap. Under the Commission's Roadmap for evaluation of individual SVHCs, at the request of the Commission, a Member State Competent Authority or ECHA will conduct an RMO analysis to determine whether regulatory risk management is required for a given substance and to identify the most appropriate regulatory instrument to address a concern. The regulatory decision may be to pursue authorization or restriction, address the concern via other legislation, or take no action. The Commission's SVHC Roadmap identifies five minimum criteria for the RMO analysis and states that the RMO is not meant to be public. Beyond this, the authority drafting the RMO has discretion with respect to the level of detail provided in its analysis and whether or not consultation of stakeholders is appropriate. ECHA has said that documenting the RMO analysis and sharing it with other EU Member States and the Commission promotes early discussion and should ultimately lead to a common understanding on the regulatory action pursued. The United States supports the EU's efforts to conduct RMO analysis and believes the RMO analysis should be implemented in a harmonized and consistent manner by Member States. Further, regulatory decisions taken under this process carry the potential to significantly impact trade. To prevent or minimize unnecessary potential adverse effects on trade, the RMO analysis should be subject to public notice and comment, with the views expressed by commenters taken into account by the Member State or ECHA irrespective of the domicile of the commenter.

Renewable Fuels: Renewable Energy Directive

In April 2009, the EU adopted the Renewable Energy Directive (RED) (2009/28/EC), with the objective of helping lower its greenhouse gas emissions (GHG), reducing its dependence on foreign oil, and increasing rural development. The RED establishes mandatory national targets for the share of energy from renewable sources by 2020. It also establishes a methodology and accounting system by which EU Member states may record and calculate GHG savings as compared to a baseline for fossil fuels. According to the European Commission, this comparison quantifies the total amount of GHG savings in the EU and progress toward the EU's overall goal of a 20 percent reduction in GHG emissions versus 1990 levels by 2020. To count toward Member State specific renewable energy use targets, or benefit from incentives, the RED requires that biofuels and feedstocks for biofuels meet certain sustainability criteria. The RED also sets the reporting and verification requirements for obtaining sustainability certifications.

The United States supports the emissions reduction objectives of the RED, but has expressed concerns both bilaterally and in the WTO that the Directive, and its paperwork and verification requirements, is disrupting trade in U.S. products (specifically soybeans used as biofuel feedstock) in ways that are not necessary for the achievement of its goals. Under Article 18(4) of the RED, which provides for bilateral agreements, the European Commission and the United States jointly established the U.S.-EU Technical Working Group on the RED (TWG), to examine how long-standing U.S. conservation programs address RED sustainability criteria and create the framework for a bilateral agreement to accept U.S. exports of biofuel feedstock as compliant with the sustainability goals of the RED. During the final meetings of the TWG, the Commission stated that U.S. conservation laws and programs must correspond exactly to those outlined in the RED sustainability criteria. At the TWG, the United States noted that requiring identical legislation was not the proper approach as the results of U.S. conservation laws and programs address the RED sustainability criteria and provide verifiable compliance measures for mass balance accounting.

Transport Fuel: Fuel Quality Directive

The EU's revised Fuel Quality Directive (FQD), adopted in 2009 as part of the EU's Climate and Energy package, requires fossil fuel suppliers to reduce the lifecycle greenhouse gas intensity of transport fuel by six percent by 2020. The Directive granted the European Commission the power to develop a methodology for calculating the GHG life-cycle emissions for transport fuels. The United States strongly supports the goal of the FQD of reducing GHG emissions. The United States has, however, raised concerns with the Commission about the lack of transparency and opportunity for public comment in the development of the Commission proposal for the methodology for calculating the GHG life-cycle emissions for transport fuels.

Trucks: Maximum Authorized Dimensions

U.S. stakeholders have long raised concerns that the EU's truck length requirements were too prescriptive and unnecessarily restricted U.S. exports of aerodynamic and fuel efficient trucks to Europe. On April 15, 2013, the EU issued a "Proposal for a Directive of the European Parliament and of the Council amending Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic." The EU notified the proposal to the WTO on May 24, 2013. The proposal stated that "in light of evolving market and available technologies" it is necessary to amend existing regulations (Directive 96/53/EC) "to improve the aerodynamics of vehicles and their energy efficiency, while continuing to improve road safety."

EU vehicle safety regulations measure truck lengths from the front bumper of the tractor to the rear of the trailer. The regulatory approach taken by the U.S. Department of Transportation is based on the length of the trailer alone. This regulatory divergence has driven the development of two, contrasting schools of

truck design: streamlined aero-nosed products in the United States and shorter, blocky "cabovers" in the EU. In the EU, and among countries that have adopted the EU's approach, the allowable length of a truck tractor-semitrailer combination is 16.5 meters. Because American aero-nosed truck tractors are approximately 1.5 meters longer than European cabover truck tractors, they must pull shorter semitrailers in order to meet the truck tractor-semitrailer combination limit of 16.5, which diminishes payload capacity. Thus, while the EU approach does not ban American aero-nosed truck tractors, they are economically disadvantaged, because every measured inch/centimeter of the tractor up front means less space for paying cargo. Although aero-nosed trucks are longer, they have many advantages over cabover trucks. The best aero-nosed tractor is over 19 percent more aerodynamic and over nine percent more fuel efficient than the best cabover. As a result, aero-nosed products emit fewer greenhouse gases.

In 2014, the EU revised the proposal to include several elements to promote greater energy efficiency, including revisions that would allow truck tractor-semitrailer combinations to exceed 16.5 meters in length and to add flaps to the rear of the vehicle. The proposal also contained the statement: "The only purpose of these exceedances is to allow the addition to the rear of vehicles or vehicle combinations of devices increasing their aerodynamic characteristics." It was therefore unclear whether the EU's proposal would provide an opening to the longer American aero-nosed truck tractors regardless of whether devices were to be added at the rear. The Vice President of the European Commission has stated that the EU's "intention is precisely to allow the potential use of slightly larger, more aerodynamic tractors - and/or rear devices, at the choice of manufacturers and end-users" and this intention would be captured in the still-to-be-developed technical specifications on aerodynamic designs or rear devices for trucks. The United States raised its concerns regarding the proposed directive in the WTO TBT Committee in 2014 and intends to raise bilaterally and during the Committee discussions in 2015 as well.

Food-Labeling Requirements

EU framework regulation 1169/2011 on the provision of food information to consumers – published in the Official Journal on November 22, 2011 – combines several EU directives and establishes new horizontal food labeling requirements. Most provisions became effective December 13, 2014, with mandatory nutrition labeling effective December 13, 2016. Although regulation 1169/2011 was adopted in December 2011, the EU still needs to propose and adopt a series of additional regulations to implement general provisions of the framework, and if necessary, conduct the corresponding impact assessments that normally accompany such proposals.

The United States has trade concerns regarding how certain elements of regulation 1169/2011 will be implemented, and is monitoring developments closely. The chief concern of U.S.stakeholders is that regulation 1169/2011 appears to provide wide latitude for EU Member States to adopt non-uniform implementing regulations. Specifically, U.S. stakeholders are concerned about the burden of meeting multiple labeling requirements, particularly if those requirements cannot be met through stickering or supplemental labeling. During the consultative process, the United States sought assurances that imported products will be subject to harmonized EU requirements, regardless of port of entry, and that compliance with national schemes (such as the United Kingdom and Ireland's traffic light requirements) would remain voluntary.

The United States is working bilaterally to better understand the rationale and basis for mandatory labeling requirements that appear more stringent than those found in the Codex General Standard. The United States is also seeking assurances that only harmonized EU requirements will be mandatory and that national labeling requirements remain voluntary.

Agriculture Quality Schemes

Traditionally, EU policies on agricultural quality have been developed on a piecemeal basis. On May 28, 2009, the European Commission published its "Communication on Agricultural Product Quality Policy" aimed at clarifying and simplifying its product quality policies. The Communication addresses EU quality schemes, marketing standards, and other certification and labeling schemes, such as organics and animal welfare. It follows on from a Green Paper published in October 2008 and outlines a policy framework for three complimentary quality schemes: the geographical indication scheme, which consists of Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI); the "Traditional Specialty Guaranteed" (TSG) scheme; and optional quality terms. Optional quality terms are defined as additional information about product qualities such as "first cold-pressed extra virgin olive oil" and "virgin olive oil." A separate measure addresses the marketing standards for wine and spirits, notified to the WTO on September 11, 2011. The three quality schemes are either certification schemes for which detailed specifications have been laid down and which are checked periodically by a competent body; or labeling schemes which are subject to official controls and communicate the quality of a product to the consumer. Schemes can indicate that a product meets baseline requirements but can also be used to show "value-adding qualities" such as specific product characteristics or farming attributes (e.g. production method, place of farming, mountain product, environmental protection, animal welfare, organoleptic qualities, Fair Trade, etc.). Schemes can be voluntary or mandatory.

The United States submitted comments on the "Proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes (COM (2010)733)" to the EU on August 2, 2011, and received a response from the EU in December 2011. The United States asked the EU to clarify the level of specificity required to identify a "place of farming," as well as the legitimate objective for such a requirement. The U.S. comments also highlighted concerns that the proposal establishes a framework that provides a "legal basis" for expanding place of farming requirements to all processed products from specified commodities. The EU responded that "place of farming" will be applied on a case-by-case basis, following impact assessments, and further noted that the definition of "place of farming" will change from one product to another.

The European Parliament and Council finalized the regulation on quality schemes for agricultural products and foodstuffs (EU 1151/2012) in November 2012. In order to implement its general provisions, EU 1151/2012 gives the European Commission the power to adopt delegated or implementing acts, and the Commission has not yet issued such measures.

The United States remains concerned that "place of farming" requirements are unclear and difficult to comply with, and lack a basis in international standards. Codex, for instance, maintains no recommendation for place of farming designations, and has rejected proposals that would have expanded country of origin designations to foods with multiple ingredients, because such labeling caused consumer confusion.

Further, the United States remains concerned over certain aspects of the TSG requirements, including whether "prior use of a name" includes a trademark or prior geographical indication. The United States is also seeking clarification of the manner of precedence in determining TSG requirements relative to trademarks. Despite assurances from the EU that the provisions of EU 1151/2012 "ensure that a prior trademark is not affected by the registration of a TSG," it remains unclear whether prior use of a trademark will be grounds for opposing registration of a TSG. Finally, U.S. stakeholders have expressed concern about the EU's decision to shorten the comment period to oppose a registration from six months to two months.

The United States continues to stress to the Commission that common usage names of products should not be absorbed into quality schemes, whether for wine or other products. If a Codex standard exists, or if a

name is used in a tariff schedule or by the World Customs Organization, the United States believes that the name should be excluded from the quality schemes. The United States has further argued that new certification and labeling schemes not be required for market access; however, where the EU implements such schemes, efforts should be made to acknowledge voluntary U.S. industry definitions. Similarly, U.S. processes and procedures should be acceptable for labeling requirements, and system and process comparability with industry definitions should be sought in order to minimize any negative market access impact for U.S. exports.

Wine Traditional Terms

Separate from its policies on agricultural quality schemes, the EU continues aggressively to seek exclusive use for EU producers of "traditional terms," such as "tawny," "ruby," and "chateau," on wine labels. Such exclusive use of traditional terms impedes U.S. wine exports to the EU, including U.S. wines that include these traditional terms as part of their trademarks. U.S. wines with a trademark granted before 2005 can continue to use the terms as part of their trademarks, but products granted trademarks more recently cannot. In June 2010, the U.S. stakeholders submitted applications to be able to use the terms. In 2012, the EU approved the applications for use of two terms, "cream" and "classic," but the EU's delayed application approval process for other terms continues to be a significant concern. The United States has repeatedly raised this issue in the WTO TBT Committee in recent years, and has also pursued bilateral discussions, including through the T-TIP negotiations. Beyond approving the two terms, however, the EU has not taken any visible steps to address U.S. concerns.

During the March 2013 EU-U.S. Wine Bilateral meeting, representatives from the European Commission Directorate for Agriculture and Rural Development (DG AGRI) indicated that the EU would reform the application process. They acknowledged difficulties with the term-by-term approval process and suggested that the European Commission would develop a different approval procedure. The Commission did not provide any timeline for completing the application process reforms.

In 2014, the World Wine Trade Group (WWTG), which includes major wine-producing countries, such as Argentina, Australia, Canada, Chile, Georgia, New Zealand, South Africa, and United States, conveyed to DG AGRI that WWTG countries were frustrated with the EU's application process and concerned that it may be more trade restrictive than necessary. The European Commission replied in February 2015 that it is discussing with EU Member State governments the conditions under which traditional terms may be used for labelling, but it did not commit to a timeline for resolving the issue.

Distilled Spirits Aging Requirements

The EU requires that for a product to be labeled "whiskey" (or whisky) it must be aged a minimum of three years. It is seen as a quality requirement. U.S. whiskey products that are aged for a shorter period cannot be marketed as "whiskey" in the EU market or other markets, such as Israel and Russia that adopt EU standards. The United States views a mandatory three-year aging requirement for whiskey as unwarranted. In fact, recent advances in barrel technology enable U.S. micro-distillers to reduce the aging time for whiskey. In 2014, the United States continued to urge the EU and other trading partners to end whiskey aging requirements which are restricting U.S. exports of whiskey.

Sanitary and Phytosanitary Barriers

The United States is concerned that the EU maintains regulations ostensibly for the purposes of food safety and protecting animal health that may not be based on scientific principles or maintained with sufficient scientific evidence. Moreover, the United States believes there are instances where the EU should recognize

United States food safety measures as equivalent to those maintained by the EU because they achieve the same level of protection. If the EU did so, trade could be facilitated considerably.

Hormones and Beta Agonists

The EU maintains a ban on meat produced using hormones, beta agonists, and other growth promotants, despite scientific evidence indicating that meat produced from animals properly treated with growth hormones and other substances is safe for consumers. U.S. meat bound for the EU must be produced under costly and burdensome programs to verify that hormones, beta agonists, or other growth promotants have not been used. The EU continues to resist the approval or adoption of a maximum residue level (MRL) for the beta agonist ractopamine, which promotes leanness in animals raised for meat. The EU does so even though the Codex Alimentarius Commission (Codex) adopted an MRL for ractopamine following scientific study by the FAO/WHO Expert Committee on Food Additives (JECFA) that found ractopamine at the specified MRL does not have an adverse impact on human health.

In 1998, the United States brought a WTO dispute settlement proceeding against the EU regarding the beef hormone ban. A WTO dispute settlement panel concluded, and a subsequent report of the WTO Appellate Body confirmed, that the EU imposes the ban on hormones in breach of the WTO's SPS Agreement. Following the failure by the EU to implement the recommendations of the WTO Dispute Settlement Body (DSB) resulting from the proceeding, the United States was granted permission by the WTO in 1999 to apply retaliatory tariffs. *Ad valorem* tariffs of 100 percent were levied on imports of EU products. The value of the retaliation, $116.8 million, represented the damage that the hormone ban caused to U.S. beef sales to the EU.

In 2009, the United States and the European Commission signed a Memorandum of Understanding, which established a new EU duty-free import quota for grain-fed, high quality beef (HQB) as part of a compromise solution to the U.S.-EU hormone beef dispute. Since 2009, Argentina, Australia, Canada, New Zealand, and Uruguay have also become eligible to ship under the HQB quota, and as a result, the market share of U.S. beef in the HQB quota has decreased and currently represents less than 50 percent of the quota.

The United States will continue to engage the EU regarding the unscientific ban on meat and animal products produced using hormones, beta agonists, and other growth promotants.

Agricultural Biotech

The EU's approval process for biotech crops is resulting in a divergence in regulatory outcomes for biotech events approved (and grown) in the United States and those approved in the EU. Moreover, the length of time taken for the EU decisions on new biotech crops appears to be increasing. As of March 11, 2015, 66 biotech applications (for import, renewal, or cultivation approval) remain pending in the EU biotech review system.

The EU approved only five products in 2013 and did not approve any products in 2014, taking an average of 45 months to reach decisions. The delay in EU approvals is a combination of the time it takes for European Food Safety Authority (EFSA) to make its safety determination, and the process for the European Commission to finalize an approval. This gap can take multiple years. Between 1998 and 2003, the EU similarly failed to approve any biotech products for sale in the EU. In 2003, the United States initiated a WTO dispute settlement proceeding against the EU. A WTO dispute settlement panel concluded that the EU applied a general *de facto* moratorium on the approval of biotech products. The WTO panel found this moratorium was inconsistent with the EU's obligations under the SPS Agreement because it led to undue delays in the completion of EU approval procedures.

Currently, exports of U.S. corn have been largely stopped because of concerns that events approved and grown in the United States, but not approved in the EU, will be detected and shipments rejected. U.S. exports of distillers' dried grains and corn gluten feed continue but could be disrupted by the detection of an unapproved event. U.S. rice exports remain well below the levels seen before the discovery of an unapproved event in the U.S. rice crop. Although no agricultural biotech rice varieties are currently grown in the United States, the approval of the single rice event under consideration in the EU could reduce commercial uncertainty associated with concerns about the detection of low-level presence in a shipment.

The United States continues to work with the EU to support continued trade in corn byproducts, but success will depend on the EU addressing the larger issue of delays in the biotech approval process.

Pathogen Reduction Treatments for Poultry

In 1997, the EU began blocking imports of U.S. poultry products that had been processed with pathogen reduction treatments (PRTs), which have been safely used by U.S. poultry producers for decades. In late 2002, the United States asked the EU to approve the use of four PRTs during the processing of poultry intended for the EU market. The PRTs are approved for use in the United States and include chlorine dioxide, acidified sodium chlorite, trisodium phosphate, and peroxyacids. Between 1998 and 2008, various EU agencies issued scientific reports concerning poultry processing and reaffirmed the findings of U.S. food safety authorities that residues of the four PRTs do not pose a health risk to consumers.

In May 2008, the European Commission, after years of delay, prepared a proposal that approved the use of the four PRTs during the processing of poultry, but imposed unscientific highly trade restrictive conditions with their use. EU Member States rejected the Commission's proposal in December 2008.

In January 2009, the United States requested consultations with the EU on whether the EU's failure to approve the four PRTs was consistent with the EU's commitments under various WTO agreements, including the SPS Agreement. In November 2009, the WTO DSB established a panel to address the matter.

In June 2013, USDA submitted a new application to the EU for use of peroxyacetic acid (PAA) as a PRT in poultry. In March 2014, EFSA adopted and published a favorable risk assessment for PAA. The Commission has yet to draft a measure approving the use of PAA on poultry, however, citing the recent transition change of Commissioners. The United States continues to engage the EU regarding the drafting and approval of a draft regulation authorizing the use of PAA as a PRT in poultry.

Export Certification

EU certification requirements are limiting U.S. agricultural exports such as meat, dairy, eggs, composite products, and animal byproducts, adding unnecessary costs to the movement of exports in Europe, irrespective of whether these goods are destined for commercial sale in the EU, transiting through the EU, or intended for cruise ships or U.S. military installations located in the EU. The sanitary and phytosanitary requirements are often inconsistent with international standards or appear to have been implemented without scientific justification. In particular, the certificates are often so rigid that it is nearly impossible to verify the requisite certification requirements even if the product is produced specifically for the EU. The level of detail required on the certificate (the specific attestation language) leads to a multitude of forms being required for each product containing references to multiple levels of EU legislation that in turn cites other legislation. The multitude of certificates/forms also creates enormous confusion for producers, manufacturers and exporters, as well as U.S. regulatory agencies, EU member country authorities, and EU importers. The current legislation related to processed food products containing ingredients of animal and

plant origin (composite products) is also administratively difficult to address in connection with EU border inspections.

Burdensome and confusing export certification requirements amount to a *de facto* ban on exports of certain U.S. agricultural products which otherwise meet EU requirements. The United States continues to engage the EU in various fora to find a resolution to the countless complex issues that are a direct result of the EU's certification requirements.

Dairy Products

Effective April 1, 2012, all shipments of dairy products requiring EU health certificates must comply with new certification requirements regarding EU somatic cell count (SCC) and standard plate count requirements that reflect farm level sampling and must be accompanied by an updated Certificate of Conformance. The EU requires attestation and certification to SCC requirements not to exceed 400,000 cells/ml. The EU SCC requirement is not a public health issue but a quality issue. The EU maintains that the SCC requirements are an animal health/welfare indicator, but has also surmised during the T-TIP negotiations that SCC is a quality parameter. The U.S. maximum SCC for Grade 'A' milk is 750,000 cells/ml and is included in the model Pasteurized Milk Ordinance. The United States continues to engage the EU regarding their SCC requirement and has stressed the fact that the requirement is not a public health concern.

DPA Apples

In 2009, the EU removed Diphenylamine (DPA) as a plant protection product authorized for use within the EU. Subsequently, the EU established a maximum residue limit (MRL) of 0.1 parts per million (ppm) for DPA on apples and pears. This MRL was implemented on March 2, 2014, and affects both domestic and imported product. The MRL will be reviewed two years following the implementation date. However, the MRL of 0.1 ppm greatly limits the use of DPA on U.S. products destined for the EU. Such a low MRL could also result in rejection of untreated fruit due to inadvertent cross-contamination during handling and storage.

Without the use of DPA or a workable MRL that accounts for cross contamination, the European market is significantly limited for U.S. apple exports. The United States and Codex have a harmonized standard of 10 ppm for apples and 5 ppm for pear. EU residue testing for DPA on apples falls under the coordinated multiannual control program of the Union to ensure compliance with maximum residue levels of pesticides and to assess the consumer exposure to pesticide residues in and on food of plant and animal origin within the EU. The United States will continue to engage the EU regarding this issue.

Animal Byproducts

The EU considers all animal byproducts sourced from animals raised under conditions not essentially identical to those in place in the EU to be hazardous materials (category 1 and 2 materials). Between 2002 and the present, the EU has made modifications to their regulations and implementation practices governing animal byproducts that have resulted in the treatment of U.S. products as hazardous. The current EU interpretation of the animal byproducts regulations could prevent most exports of U.S. animal byproducts. Several Member States border inspection posts have already begun to block consignments of various technical blood products.

The EU imposes requirements on U.S. tallow exports for non-food uses to meet criteria that appear to be maintained without sufficient scientific evidence and exceed OIE requirements. The United States and EU are engaging to seek a resolution on this longstanding barrier to trade in animal by-products.

EU Flavorings

There are five substances (1-methylnaphthalene, furfuryl methyl ether, difurfuryl sulphide, difurfuryl ether, and ethyl furfuryl ether) proposed for deletion from the EU Regulation 1334/2008 flavoring list. Restricting the use of these substances within the EU will limit the ability of the U.S. food and flavor sector to continue to use the substances in the global food chain, despite the fact that these proposed deletions are based on purely procedural grounds. The substances are proposed for deletion based on the fact that stakeholders were unable to provide the requested scientific data for additional evaluation by the EFSA within the legal deadline for submission of December 31, 2013.

These five substances have already been evaluated or are under consideration by other safety assessment bodies such as the UN FAO/WHO Joint Expert Committee on Food Additives JECFA, and are considered generally recognized as safe (GRAS) by the Flavor and Extract Manufacturers Association (FEMA) for their intended use as flavoring substances in the United States. The U.S. industry reports these substances are used in Europe as well as in other countries globally such as China, Japan, Latin America, Brazil, Mexico, and other countries that have adopted FEMA GRAS substances by reference.

Proposal for Categorization of Compounds as Endocrine Disruptors

Endocrine disruptors are naturally occurring compounds or man-made substances that may mimic or interfere with the function of hormones in the body. While the United States shares public health concerns with respect to endocrine disruptors, the United States is concerned that the EU appears to be contemplating approaches to regulating these compounds that are not based on scientific principles and evidence and thus would restrict trade without improving public health. Specifically, under the proposed approaches, the EU could ban a substance without considering exposure and evaluating the weight of evidence to determine whether there are any actual adverse effects to human and animal health. Active substances that are considered to have endocrine disrupting properties could potentially be banned and be required to be either withdrawn entirely or limited to permissible levels in food set at a default residue level of 0.01 ppm.

In 2013 and 2014, the United States raised this issue in WTO SPS Committee meetings and asked the EU to keep WTO Members informed of next steps. The EU officially notified a public consultation process to the WTO/SPS Committee on October 8, 2014, inviting all stakeholders to submit comments by January 16, 2015 as part of a "Public Consultation on Defining Criteria for Identifying Endocrine Disruptors." The United States submitted official comments on the roadmap to the EU. The U.S. submission expressed concern that the options in the EU's Roadmap omitted a risk-based scientific approach to regulating chemicals, which is likely to have severe implications both for EU growers and for third-country suppliers. The United States also suggested that a more extensive and developed public consultation process could result in measures that meet the objective of protecting human, animal, or plant life or health, while not unnecessarily restricting trade.

MARKET ACCESS

Non-Agriculture

Pharmaceutical Products

U.S. pharmaceutical stakeholders have expressed concerns regarding several EU Member State policies affecting market access for pharmaceutical products, including nontransparent procedures and a lack of meaningful stakeholder input into policies related to pricing and reimbursement, including therapeutic reference pricing and other price controls. Such policies reportedly create uncertainty and unpredictability regarding investment in these markets and can undermine incentives to market and innovate further. These policies have been identified in several Member States, including: Austria, Belgium, the Czech Republic, Finland, France, Hungary, Lithuania, the Netherlands, Poland, Portugal, Romania, Spain, and the United Kingdom. Additional detail on some of these Member State policies follows. Pharmaceutical firms have also expressed concern regarding recent changes to European Medicines Agency (EMA) policy regarding disclosures of clinical trial data, including potential disclosure of confidential commercial information submitted to EMA by pharmaceutical firms seeking marketing authorization. The United States continues to engage with the EU and individual Member States on these matters.

Austria: U.S. companies have expressed concern regarding the transparency of, and opportunity for meaningful stakeholder input in, reimbursement rules and determinations for biosimilar pharmaceutical products.

Belgium: Over the past 15 years, U.S. pharmaceutical companies have repeatedly expressed concern about the Belgian government's lack of adequate transparency in the decision-making process related to cost-containment measures in the pharmaceutical sector. These companies have identified several tax-related measures, such as a 6.73 percent turnover tax, the 1 percent crisis tax, the 0.13 percent marketing tax, and the claw back tax, as exemplifying such concerns. The United States continues to highlight the need for closer dialogue with the government and meaningful opportunities for stakeholder input into budget and pricing decisions.

Czech Republic: While pharmaceutical approvals in the Czech Republic often exceed the EU timetables, U.S. stakeholders report that the duration for such approvals has decreased incrementally in recent years. Regarding the Czech Republic's system for determining pricing and reimbursement levels for pharmaceutical products, U.S. stakeholders continue to express concerns, including with respect to the transparency of, and opportunity for meaningful stakeholder engagement in, such determinations. For example, questions persist regarding how the Czech government's practice of setting maximum medicine prices based on the average of the three lowest prices in a basket of countries (currently a group of 18 EU Member States) reflects the Czech market and adequately incentivizes innovation in research and development of pharmaceutical products in its market.

Finland: U.S. innovative pharmaceutical companies continue to raise concerns regarding Finnish Pharmaceutical Pricing Board determinations with respect to the transparency and opportunity for meaningful stakeholder engagement in the pricing and reimbursement of pharmaceutical products as well as delays in reimbursement determinations by the Finnish national healthcare system. Such delays can in turn delay market entry for products with marketing authorization and create uncertainty and unpredictability regarding future market access.

Hungary: Pharmaceutical manufacturers have expressed several concerns about Hungary's pharmaceutical policies, including: the transparency of, and opportunities for meaningful stakeholder engagement in, volume and pricing determinations; high sector-specific taxes; and delays in reimbursement approvals.

U.S. stakeholders have also identified negative impacts of Hungary's "blind-bidding" system, which provides for reference pricing and de-listing of pharmaceuticals from reimbursement respect to therapeutic reference categories every six months. There are concerns with respect to the lack of transparency regarding the creation of such reference groups and that this system does not adequately incentivize innovation in research and development of pharmaceutical products.

Hungary has taken some positive steps to address the concerns of pharmaceutical manufacturers, including adoption of amendments to the Hungarian Act 95 of 2005 Medical Products for Human Use (also known as the Medicines Act) in June 2013, which empowers the National Institute of Pharmacy with investigative tools and powers to impose fines, conduct dawn raids, and conduct searches of premises and seize goods.
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Italy: U.S. innovative companies have expressed concern about Italy's pharmaceutical policies , including with respect to transparency and opportunities for meaningful stakeholder input. Pharmaceutical companies report that, as in some other EU Member States, those companies are required to pay money back to the Italian government when government spending on pharmaceuticals exceeds the budgeted amount. According to industry reports, market entry for innovative drugs approved by the EMA has also been significantly delayed in Italy. Concerns also exist regarding the ability of pharmaceutical companies to fully exercise their patent rights for the complete patent term given the lack of an effective mechanism for the early resolution of patent disputes in the context of marketing authorization. In October 2012, the Italian government approved a law providing for more expeditious marketing approval for innovative drugs. The new law also states that generic medicines can be included in the approved reimbursable drug list only after the patent expiration of the original innovative medicine.

Lithuania: The United States continues to engage with the government of Lithuania regarding pharmaceutical market access issues. Discussions between the Health Ministry and U.S. stakeholders have made little progress to add innovative drugs to the government's reimbursement list. Stakeholders remain concerned about the lack of transparency in the pricing and reimbursement process for innovative drugs.

Poland: U.S. stakeholders report improved transparency and engagement with the Ministry of Health regarding the development and implementation of cost-containment measures affecting pharmaceutical reimbursement and pricing policies. The Ministry consults with stakeholders on a monthly basis about proposed legislative changes and policy changes. The Ministry publishes every two months lists of pharmaceuticals that the national health system will reimburse. However, U.S. stakeholders continue to identify concerns in Poland, including with respect to its therapeutic reference pricing system for reimbursements, which provides no opportunity for differentiation of innovative products, thereby removing a key incentive for innovation in research and development of pharmaceutical products in its market. In addition, U.S. companies have expressed concern regarding the transparency of, and opportunity for meaningful stakeholder input in, reimbursement rules and determinations for biosimilar pharmaceutical products. Some pharmaceutical manufacturers have also expressed concerns regarding the length of time it takes the Ministry to add a new drug to the official reimbursement list.

Portugal: U.S. stakeholders report that there continues to be a lack of transparency in the development and implementation of government cost-containment measures. In addition, pharmaceutical companies continue to raise concerns regarding the patent dispute resolution mechanism established under Portuguese Law No. 52/2011, which has been in effect since January 2012. The law does not provide for injunctive relief with respect to the marketing of pharmaceutical products that infringe patents covering pharmaceuticals already authorized to be on the market. Instead, the law provides only for damages for patent infringement. While the arbitration system has proven to be faster than the Portuguese court system, stakeholders report that this mechanism is costly, lacks injunctive relief and has resulted in questionable rulings.

Romania: Innovative pharmaceutical producers have identified several significant challenges in Romania due to the fact that the government has not updated the lists of innovative pharmaceuticals that are eligible for reimbursement under the national health system, despite repeated requests. According to industry reports, Romania has yet to add 130 innovative drugs to the list that have been approved for marketing. This severely undermines the ability of U.S. pharmaceutical companies to introduce newer drugs in Romania because the National Health Insurance House will not pay reimbursement for drugs that are not included on the reimbursement list. The claw back tax is another major challenge for U.S. stakeholders, equivalent to roughly 20 percent of total gross sales. This tax rate is determined on the basis of the difference between the state's budget for reimbursable drugs and the amount consumers actually spend on the drugs.

Spain: U.S. stakeholders remain concerned that Spain's pricing and reimbursement system is unpredictable and lacks transparency. . Stakeholders reported concerns regarding several pricing and reimbursement measures in Spain, including certain reference pricing requirements (e.g., reference groups containing both on-patent and non-innovative products), significant reimbursement rate reductions (between 30 and 50 percent in certain instances) as well as mandatory rebates on non-reimbursed medicines and medical devices. The industry is concerned that these measures do not adequately incentivize innovation in research and development of pharmaceutical products. The United States is working with the Spanish government on these issues.

Uranium

The United States is concerned that nontransparent EU policies may restrict the import into the EU of enriched uranium, the material from which nuclear power reactor fuel is fabricated. The EU maintains quantitative restrictions on imports of enriched uranium in accordance with the terms of the Corfu Declaration, a joint 1994 European Council and European Commission policy statement that has never been made public or notified to the WTO. The Corfu Declaration appears to limit the acquisition of non-EU sources of supply of enriched uranium reportedly by reserving 80 percent of the EU enriched uranium market for European suppliers. Such restrictions on imports of enriched uranium may raise concerns under the EU's obligations under the WTO. The United States has conveyed to the European Commission its concerns about the non-transparent nature of the Corfu Declaration and its application.

Agriculture

Bananas

In June 2010, the United States and the EU signed an agreement designed to lead to a settlement of the longstanding dispute over the EU's discriminatory bananas trading regime. In the agreement, the EU agreed not to reintroduce measures that discriminate among foreign banana distributors and to maintain a nondiscriminatory, tariff-only regime for the importation of bananas. The U.S.-EU agreement complements a parallel agreement, the Geneva Agreement on Trade in Bananas (GATB), between the EU and several Latin American banana-supplying countries (also signed in June 2010), which provides for staged EU tariff cuts to bring the EU into compliance with its WTO obligations.

The agreements marked the beginning of a process that, when completed, will culminate with the settling of all of the various banana disputes and claims against the EU in the WTO. The GATB entered into force on May 1, 2012, and certification by the WTO of the EU's new tariffs on bananas was completed on October 27, 2012. On November 8, 2012, the EU and the Latin American signatories to the GATB announced that they had settled their disputes and claims related to bananas. On January 24, 2013, the U.S.-EU bananas

agreement entered into force. The final step called for in the U.S.-EU agreement is settlement of the U.S. bananas dispute with the EU, provided certain conditions are met.

Concerns have been expressed by U.S. stakeholders about actions taken by Italian customs authorities, and related decisions taken by Italian courts, challenging the use of certain EU banana import licenses under pre-2006 EU regulations. The U.S. Government is pressing the European Commission to clarify its position on this matter.

Husked Rice Agreement

The United States has ongoing concerns regarding the operation of the U.S.-EU husked rice agreement, which has been in effect since 2005. Under the terms of this bilateral agreement, negotiated as a result of the EU's decision to modify the tariff concessions agreed to in the Uruguay Round, the applied tariff for husked rice imports from the United States is determined by the total quantity of husked rice (excluding basmati) imported by the EU, adjusted every six months. Discussions on this subject with the European Commission have focused on the annual increase in the import reference volume and the longer-term operation of the tariff adjustment mechanism set out in the agreement. The United States has sought a significant increase in the import reference quantity in the husked rice agreement. The longer-term U.S. objective is the elimination of EU tariffs on brown rice and other U.S. agricultural products in the T-TIP negotiations.

Meursing Table Tariff Codes

Many processed food products, such as confectionary products, baked goods, and miscellaneous food preparations, are subject to a special tariff code system in the EU. Under this system, often referred to as the Meursing table, the EU charges a tariff on each imported product based on the product's content of milk protein, milk fat, starch, and sugar. As a result, products that the United States and other countries might consider equivalent for tariff classification purposes sometimes receive different rates of duty in the EU depending on the particular mix of ingredients in each product. The difficulty of calculating Meursing duties imposes an unnecessary administrative burden on, and creates uncertainty for, exporters, especially those seeking to ship new products to the EU.

Subsidies for Fruit

The EU Common Market Organization (CMO) for fruit and vegetables came into effect on January 1, 2008. Implementing rules, covering fresh and processed products, are designed to encourage the development of producer organizations (POs) as the main vehicle for crisis management and market promotion. The CMO makes payments to POs for dozens of products, including peaches, citrus fruits, and olives. In 2013, after the end of a five-year transitional period, EU support for this sector was fully decoupled from production decisions. However, potential hidden subsidies remain an ongoing concern for U.S. producers. In their view, the decoupled Single Farm Payments are funded by the European Commission and paid to the Member States, then channeled through POs to producers. The United States continues to monitor and review EU assistance in this sector, evaluating potential trade-distorting effects.

EU Enlargement

In December 2006, the United States entered into negotiations with the EU, within the framework of GATT 1994 rules, regarding compensation for certain tariff increases related to Romania's and Bulgaria's EU accession on January 1, 2007. In late 2011, the United States concluded negotiation of a bilateral compensation agreement with the EU covering several agricultural products. The two sides signed the agreement in December 2012 and it entered into force on July 1, 2013. The agreement establishes or

increases EU tariff-rate quotas allocated to the United States for several agricultural products; however, an EU requirement that U.S. exports be accompanied by a certificate of origin issued by U.S. federal authorities has prevented U.S. firms from taking advantage to date of the new country-specific TRQ for food preparations.

Certification

In an attempt to "level the playing field," the EU is requiring animal welfare statements on official sanitary certificates. Although the United States supports efforts to promote animal welfare, the EU's certification requirements do not appear to advance any food safety or animal health objectives. The United States position is that official sanitary and phytosanitary certificates – the purpose of which is broadly limited to prevent harm to animal, plant, or human health and life from diseases, pests, or contaminants – should only include statements related to animal, plant, or human health, such as those recommended by the Codex, the World Animal Health Organization (OIE), and the International Plant Protection Convention.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2014, the European Commission continued implementation of its 2011 intellectual property rights (IPR) strategy that includes initiatives on enforcement and copyright, as well as a renewed effort to adopt an EU-wide patent regime. Although patent filing costs have decreased in the EU, patent filing and maintenance fees in the EU and its Member States remain significantly higher than in other countries, as well as the United States. The IPR strategy also included launching a green paper consultation into extending geographical indication (GI) protection for products other than agricultural products and food stuffs, which are currently eligible for GI protection in the EU.

The United States continues to have serious concerns with the EU's system that provides over-broad protection of GIs, including with respect to its negative impact on the protection of trademark and market access for U.S. products that use generic names. The EU adopted its current GI regulation for food products, Council Regulation (EC) 510/06, in response to findings by the WTO DSB in a case brought by the United States (and a related case brought by Australia) that the EU GI system impermissibly discriminated against non-EU products and persons. The DSB also agreed with the United States that the EU could not create broad exceptions to trademark rights guaranteed by the TRIPS Agreement. The United States continues to have concerns about this regulation and intends to monitor carefully both its implementation and current initiatives to modify it. These concerns also extend to Council Regulation (EC) 479/08, which relates to wines, and to Commission Regulation (EC) 607/09, which relates, *inter alia*, to GIs and traditional terms of wine sector products. The United States is carefully monitoring the implementation of each of these regulations.

Furthermore, some EU Member States that are party to the Lisbon Agreement are leading an initiative to hold a closed diplomatic conference of the World Intellectual Property Organization (WIPO) in May 2015 to expand the current Agreement's subject matter to include GIs. These negotiations raise serious trade and procedural concerns, including with respect to market access for U.S. producers, including with respect to protection for U.S. trademark holders and market access for U.S. exporters that use generic terms. During the October 2014 preparatory committee meeting for the Lisbon diplomatic conference, Lisbon Agreement members rejected the request from the United States and 14 other WIPO members that the draft rules of procedure be changed to allow full participation by all WIPO members. This refusal to allow all WIPO members to participate deviates from WIPO practice for the last 25 years.

With respect to copyright protection, the European Commission decided in December 2012 to initiate a two-part copyright program, set out in the Commission Communication entitled "Content in the Digital Single Market." Under the first part of that program, the Commission launched a stakeholder dialogue,

known as "Licenses for Europe," to address key copyright issues in the EU. The stakeholder dialogue was divided into four working groups: cross-border access and portability of services, user generated content and micro-licensing, audiovisual heritage, and text and data mining. In November 2013, stakeholders agreed to a series of pledges, contained in "Ten Pledges to Bring More Content Online." The second part of the program involves completing the Commission's review of the EU copyright legislation framework with a view to reaching a decision on whether to table legislative reform proposals. As part of this review, the Commission launched a public consultation to gather input from all stakeholders on the review of the EU copyright rules between December 5, 2013 and February 5, 2014 and was set to release a White Paper in summer of 2014. However, the paper has been delayed as a result of the transition to the new European Commission. The United States encourages the Commission to provide meaningful opportunities for U.S. stakeholder engagement in these Commission-led processes and urges that any outcomes of this program fully reflect the value of copyright industries to the EU, transatlantic, and global economies and continue to promote strong copyright protection and enforcement internally and internationally.

Member State Measures

While there have been improvements in some Member States, the United States continues to have concerns about IPR protection and enforcement in several Member States. The United States actively engages with the relevant authorities in these countries and will continue to monitor the adequacy and effectiveness of IPR protection and enforcement, including through the annual Special 301 review process.

Austria: Austria was not listed in the 2014 Special 301 Report. U.S. film and music copyright holders report, however, that while legal protections are strong in principle, procedural obstacles continue to limit efforts to effectively combat online piracy. In a positive development, the Vienna Trade Court ordered Austria's major cable and internet provider UPC (subsidiary of Liberty Global) and four other Internet service provider (ISPs) in October 2014 to block access to popular illegal video streaming sites. This follows an Austrian High Court ruling from June 2014 that web blocking of Internet content is legal when the content is not in conformity with national or EU laws.

Bulgaria: Bulgaria continues to be listed on the Watch List after it was added in the 2013 Special 301 Report. U.S. stakeholders report continued concerns about IPR enforcement, including with respect to piracy over the Internet. Stakeholders have also highlighted the need for Bulgaria to enhance the effectiveness of its patent and trademark enforcement system, including with respect to prosecutions and to address bad-faith trademark registration at the Bulgarian Patent Office. Bulgaria has an established process for administrative rulings and appeals in cases of patent and trademark infringement, although significant concerns remain regarding the decisions issued in those adjudicatory proceedings.

Czech Republic: The Czech Republic was not listed in the 2014 Special 301 Report. While sale of copyright-infringing media in physical form continues at a modest level in outdoor markets, rights-holding organizations did not identify any problematic physical markets during the 2015 Special 301 mid-cycle Notorious Markets review. Due to the advance of technology, digital piracy in the Czech Republic, as elsewhere, has migrated primarily to the online realm, where rights-holders have identified several "cyberlockers" that feature pirated material for download and streaming. Rights-holders have experienced positive results in a number of instances when they have gone to court - though websites often reappear under a new name.

Estonia: Estonia was not listed in the 2014 Special 301 Report. While the new draft IPR legislation is not in force yet, the U.S. software and entertainment industries have raised concerns that the draft law is too consumer-oriented and will not adequately protect IP. Also, according to industry reports, a lack of adequate resources continues to limit efforts by law enforcement agencies to effectively combat online piracy.

Finland: Finland remained on the Watch List in the 2014 Special 301 Report. The key concern cited in the report was the lack of product patent protection for certain pharmaceutical products and a regulatory framework that denied adequate protection for some process patents filed before 1995 and those that were pending in 1996.

Greece: Greece remained on the Watch List in the 2014 Special 301 Report. The United States acknowledges some improvements in IPR protection and enforcement in Greece, including actions taken against piracy over the Internet. However, inadequate IPR protection continues to pose barriers to U.S. exports and investment. Key issues cited in the 2014 Special 301 Report include widespread copyright piracy and weak and inconsistent IPR enforcement.

Hungary: Hungary was not listed in the 2014 Special 301 Report. Hungary and the United States have had an established bilateral Intellectual Property Agreement for over a decade. In 2012, Hungary joined the Patent Prosecution Highway (PPH) program, signing a Memorandum of Understanding with the United States. The PPH program is a process that allows a patent ruling in one country to begin a fast track process in another country for the same patent.

Italy: In 2014, Italy was removed from the Special 301 Watch List consequent to the Italian Communications Authority (AGCOM) having implemented Internet piracy regulations (a notice and take-down system) aimed at streamlining efforts to combat online piracy. The regulations took effect March 31, 2014. According to sources, the mechanism, while new and improvable, is working well and already bearing positive fruit in reducing online piracy in Italy.

Latvia: Latvia was not listed in the 2014 Special 301 Report. In recent years, Latvia has continued with its efforts to improve IPR protection and enforcement in its market, including amendments to its intellectual property criminal statutes that have simplified aspects of infringement cases and may result in more successful prosecutions of IPR violations. Concerns remain with respect to Latvian law, however, including regarding the ability to secure deterrent penalties under the Copyright Law, and the lack of provisions in the Public Procurement Law requiring use by government authorities of legitimate software. On enforcement, Latvia's police and prosecutors actively pursue IPR cases, but a lack of resources and severe backlogs in police forensics labs hamper their efforts.

Malta: Malta was not listed in the 2014 Special 301 Report. Although stakeholders report indicate that Malta's civil regime for copyright is generally adequate, they also report that Malta's criminal law is insufficient, including with respect to inadequate deterrence of IPR infringement. While the relevant provisions of the Maltese Criminal Code are generally viewed as satisfactory in the context of trademarks and designs, the Criminal Code provisions governing other intellectual property rights remain largely un-enforced and should be updated to reflect technological advances.

Portugal: Portugal was not listed in the 2014 Special 301 Report. Portugal regularly conducts inspections for illegal goods at street fairs, markets, and festivals. However, it does not have adequate mechanisms to effectively deter piracy over the Internet. In 2012, Portugal established an Intellectual Property Court with two dedicated judges, which by last year reduced the average decision time to 119 days. However, stakeholders have complained about the unavailability of injunctive relief while a case is pending, as well as the need to recover monetary damages through separate civil actions.

Romania: Romania remained on the Watch List in the 2014 Special 301 Report. While counterfeit physical goods, infringing optical discs, and street piracy continued to decline in 2013 and 2014, piracy over the Internet, especially peer-to-peer downloading, remains a serious concern. IPR enforcement also remains inadequate, with serious questions arising regarding Romania's commitments to such enforcement,

reflected in reduced cooperation among enforcement authorities, a decline in the number of enforcement actions and a lack of meaningful sanctions. Other enforcement concerns include the 2010 changes to the Penal Code, which provide for trial court adjudication of IPR cases, where the judges and prosecutors have substantially less IPR expertise, higher rates of turnover, judicial inefficiency, and only limited use of deterrent sentences.

Spain: Spain has been part of a Special 301 Out-of-Cycle Review in 2013 and 2014, after Spain was removed from the Watch List in the 2012 Special 301 Report. Spain was removed from the Watch List in recognition of efforts with respect to IPR protection and enforcement, including the December 2011 adoption of the Copyright Act, a law to combat copyright piracy over the Internet. In October 2014, Spain approved amendments to its Copyright Act in several areas, including with respect to the authority of the IP Commission, linking sites, and damages for infringement. Spain has also enhanced its enforcement against copyright infringement over the Internet. U.S. stakeholders, however, continue to seek greater efficiency and efficacy from the Spanish government in this regard. In addition, Spain is undertaking amendments to its Penal Code, including with respect to IPR provisions. The United States will continue to carefully monitor the Spanish government's enforcement of IP protections as piracy remains a significant problem.

Sweden: Sweden was not listed in the 2014 Special 301 Report. Sweden continues to grapple with widespread piracy on the Internet. While several major piracy websites left Sweden following the entry into force of the April 2009 law implementing the EU Enforcement Directive, some large piracy websites continue to reside in Sweden. In response, government enforcement efforts have shown positive results, and police and prosecutors are now working more efficiently to investigate and move cases to prosecution. Legal sales over the Internet have increased in recent years, in part because of these enforcement efforts. In November, rights-holders brought a case to Swedish courts requesting that Bredbandsbolaget (one of the major ISPs in the country) block customers' access to the Pirate Bay. This is the first major case in Sweden of this type, and rights-holders are generally optimistic about the direction of enforcement efforts.

SERVICES BARRIERS

Telecommunications

In September 2013, the European Commission presented its draft for a regulation "[l]aying down measures to complete the European single market for electronic communications and to achieve a Connected Continent." The proposal, often referred to as the Telecoms Single Market Regulation, includes new rules on net neutrality, network investments, spectrum management, and roaming, and would update the Common Regulatory Framework for Electronic Communications Networks and Services, last updated in 2009. The European Council agreed on a negotiating mandate on March 4, 2015, and so-called "trialogue" discussions between the European Parliament, Council, and Commission were scheduled to begin later that month.

Member State Measures

Germany: Despite increased competition in some sectors of Germany's telecommunications market, Deutsche Telekom (DT) retains a dominant position in a number of key market segments, including local loop and broadband connections. DT's competitors continue to call for more effective regulation of the competitive environment. At the end of 2013, Germany's Monopolies Commission published a report recommending that the government sell its direct and indirect stake in Deutsche Telekom. Since then, the German government has sold a minimal share and, as of September 2014, still held a 31.7 percent stake, with 14.3 percent in direct shares and 17.4 percent through the state-owned KfW-Bank.

Television Broadcasting and Audiovisual Services

The 2007 EU Directive on Audiovisual Media Services (AVMS) amended and extended the scope of the Television without Frontiers Directive (which covered traditional broadcasting, whether delivered by terrestrial, cable, or satellite means) to also cover audiovisual media services provided on-demand, including via the Internet. The AVMS established minimum content quotas for broadcasting that must be enforced by all EU Member States. EU Member State requirements are permitted to exceed this minimum quota for EU content, and several have done so, as discussed below. The AVMS does not set any strict content quotas for on-demand services, but it still requires Member States to ensure that on-demand services encourage production of, and access to, EU works. This could be interpreted to refer to the financial contribution made by such services to the production and rights acquisition of EU works or to the prominence of EU works in the catalogues of video on-demand services.

Member State Measures

Several EU Member States maintain measures that hinder the free flow of some programming or film exhibitions. A summary of some of the more significant restrictive national practices follows.

France: France continues to apply the AVMS in a restrictive manner. France's implementing legislation, which was approved by the European Commission in 1992, requires that 60 percent of programming be EU and 40 percent be French language. These requirements exceed those of the AVMS. Moreover, these quotas apply to both the regular and prime time programming slots, and the definition of prime time differs from network to network. The prime time restrictions pose a significant barrier to U.S. programs in the French market. Internet, cable, and satellite networks are permitted to broadcast as little as 50 percent EU content (the AVMS Directive minimum) and 30 percent to 35 percent French-language content, but channels and services are required to increase their investment in the production of French-language product. In addition, radio broadcast quotas that have been in effect since 1996 specify that 40 percent of songs on almost all French private and public radio stations must be in French.

Beyond broadcasting quotas, cinemas must reserve five weeks per quarter for the exhibition of French feature films. This requirement is reduced to four weeks per quarter for theaters that include a French short subject film during six weeks of the preceding quarter. Operators of multiplexes may not screen any one film with more than two prints, or through staggered and interlocking projection techniques, in such a way as to account for more than 30 percent of the multiplex's weekly shows. Theatrically released feature films are not allowed to be advertised on TV. France also maintains a four-month waiting period between the date a movie exits the cinema and the date when it can be shown on video-on-demand.

Italy: Broadcasting Law DL 44, which implements EU regulations, reserves 50 percent of the programming time (excluding sports, news, game shows, and advertisements) for EU content. Ten percent of transmissions (and 20 percent for state broadcaster RAI) must be reserved for EU content produced during the preceding five years. Within this quota, an undefined percentage of time must be reserved for Italian movies.

Poland: TV and radio broadcasters must adhere to content quotas in Poland. TV broadcasters must devote at least 33 percent of their broadcasting time each quarter for programming originally produced in the Polish language, except information services, advertisements, telesales, sports broadcasts, and TV quiz shows. Radio broadcasters are obliged to dedicate 33 percent of their broadcasting time each month, and 60 percent of broadcasting time between 5:00 a.m. and midnight, to Polish language programming. TV broadcasters must dedicate more than 50 percent of their broadcasting time quarterly to programs of EU origin, except information services, advertisements, telesales, sports broadcasts, and TV quiz shows. On-demand

audiovisual media services providers also must promote content of EU origin, especially content originally produced in Polish, and dedicate at least 20 percent of their catalog to EU content.

Spain: For every three days that a film from a non-EU country is screened, one EU film must be shown. This ratio is reduced to four days to one if the cinema screens a film in an official language of Spain and keeps showing the film in that language throughout the day. In addition, broadcasters and providers of other audiovisual media services annually must invest five percent of their revenues in the production of EU and Spanish films and audiovisual programs.

In 2010, the government revised the audiovisual law and imposed restrictions on non-EU ownership (limited to no more than 25 percent share) and leasing of AV licenses, and U.S. investors report that they have been negatively impacted. Following the 2010 amendment, several U.S. investors signed agreements with Spanish AV license holders to provide content for free-to-air TVs channels. These investments were disrupted by a November 2012 Spanish Supreme Court decision, however, which annulled the DTT broadcasting licenses of these Spanish firms on the basis that the government had not followed the proper public tender process in allocating the licenses in 2010. As of May 2014, all of the annulled DTT channels have ceased broadcasting, and the Spanish government will hold a tender process in summer 2015 to reallocate the channels. U.S. investors will not be able to participate directly in this tender process due to restrictions on foreign ownership. The United States continues to engage on these issues with the Spanish government.

Legal Services

Austria, Belgium, Bulgaria, Cyprus, Greece, Hungary, Lithuania, Malta, and Slovakia require EU nationality for full admission to the bar, which is necessary for the practice of EU and Member State law. In many cases, non-EU lawyers holding authorization to practice law in one Member State face more burdensome procedures to obtain authorization in another Member State than would a similarly situated lawyer holding EU citizenship.

Member State Measures

Bulgaria: The Bulgarian Bar Act allows law firms registered in the EU to practice in Bulgaria under their original name after they register with the local bar association. However, at least one of the partners has to be registered both in Bulgaria and in another EU Member State if the local partnership is to use an internationally recognized name.

Czech Republic: In contrast to EU-based law firms, U.S. law firms cannot establish Czech branches to practice law (*i.e.,* operate directly through their home legal entities). However, attorneys from U.S. law firms admitted as foreign lawyers may establish a business entity to engage in the practice of law under the U.S. company name.

Hungary: U.S. lawyers may provide legal services only under a "cooperation agreement" in partnership with a Hungarian law firm and can only provide information to their clients on U.S. or international law.

Portugal: Portuguese law requires that practicing lawyers be members of the Portuguese Bar Association. The Portuguese Bar Association requires that members graduate from a Portuguese or Brazilian law school. U.S. citizens with a law degree may apply as legal trainees if the law degree is recognized by a Portuguese law school and if the U.S. citizen has a valid Portuguese residence authorization. The successful completion of legal internship and the mandatory Bar Association exams are required for a U.S. citizen to practice law in Portugal.

Accounting and Auditing Services

Member State Measures

Austria: Tax advisors must hold Austrian or EU nationality to represent clients before tax authorities. Foreign tax advisors may not hold more than 25 percent of the equity of Austrian entities.

Portugal: Portuguese law requires that practicing accountants and auditors be accredited by one of two Portuguese accounting associations, which require legal residency. Portuguese language ability and citizenship of a country with a reciprocal agreement or EU citizenship are prerequisites for membership in the associations.

Czech Republic and Slovakia: the Czech Republic and Slovakia both maintain an equity cap requiring that 60 percent of the voting rights of companies providing auditing services be held by EU nationals.

Retailing

Member State Measures

EU nationality is required for operation of a pharmacy in Austria, France, Germany, Greece, and Hungary.

EU Enlargement

After each of the three most recent rounds of EU enlargement, the EU has submitted notifications to WTO Members concerning the modification of existing commitments under the GATS by the newly acceded EU Members. In accordance with GATS Article XXI, the EU was required to enter into negotiations with any other WTO Member that indicated that it was affected by the modification of existing commitments. In connection with the largest of these rounds of enlargement, the expansion to 25 members in 2004, the United States and EU successfully negotiated a compensation package, which was agreed to on August 7, 2006. To date, however, the European Commission has failed to secure the approval of all EU Member States, which is necessary to implement the agreement. The United States will continue to monitor this process to ensure the agreement is implemented as soon as possible.

INVESTMENT BARRIERS

Foreign investors in the EU are accorded national treatment in most sectors and, with few exceptions, EU law requires that any company established under the laws of one Member State must receive national treatment in all other Member States, regardless of the company's ultimate ownership. As discussed below, however, EU law does impose some restrictions on U.S. and other foreign investments and, in many instances, individual Member State policies and practices have had a more significant impact on U.S. investment than EU-level policies.

Member State Measures

Bulgaria: Weak corporate governance remains a problem in Bulgaria. Although legislative protection for minority shareholders has been improved through insolvency rules in Bulgaria's Commercial Code and changes to its Law on Public Offering of Securities, enforcement of these statutory provisions remains inadequate. A history of non-payment of contractual obligations, particularly in the energy sector, is a significant deterrent to investment. Foreign and local businesses have also identified corruption as a major obstacle to business and a deterrent to foreign investment in Bulgaria. Oligarchs exert influence over significant aspects of the economy and the political system. Politicians themselves often have substantial private business interests that are not publicly disclosed.

Cyprus: Cypriot law imposes significant restrictions on the foreign ownership of real property. Non-EU residents may purchase no more than two independent housing units (apartments or houses), or one housing unit and a small shop or office. Exceptions can be made for projects requiring larger plots of land, but are difficult to obtain and rarely granted. Only EU citizens have the right to register as construction contractors in Cyprus, and non-EU investors are not allowed to own a majority stake in a local construction company. Non-EU natural persons or legal entities may bid on specific construction projects, but only after obtaining a special license from the Cypriot Council of Ministers.

France: Pursuant to a November 2004 law that streamlined the French Monetary and Financial Code, the State Council has defined a number of "sensitive" sectors in which prior approval is required before foreign acquisition of a controlling equity stake is permitted. A December 2005 government decree (Decree 2005-1739) lists the 11 business sectors in which the French government will monitor, and can potentially restrict, foreign ownership through a system of "prior authorization." On May 14, 2014, the government issued decree 2014-479, expanding the list of strategic sectors to include energy, water, health, transportation, and telecommunications, as well as any installation, facility or structure "vital" within the meaning of the Defense Code. The decree affects both EU and non-EU foreign investors.

The government of France has expressed concern over the acquisition of "strategic" companies, whose stock prices fell steeply in the wake of the financial crisis. In late 2008, France established a strategic investment fund (Fonds Strategique d'Investissement – FSI) to assume a stake in companies with "key technologies." The fund is majority-owned and run as a "strategic priority" by the Caisse des Dépôts et Consignations (CDC), a state-sponsored financial institution and France's largest institutional investor. The government has also asked the CDC to work as a domestic buffer against foreign takeovers by increasing its stake in French companies. The government is also able to become directly involved in mergers and acquisitions by using its "golden share" in state-owned firms to protect perceived national interests.

Greece: All purchases of land in border areas and on certain islands require approval from the Ministry of Defense. The definition of "border area" is broader for non-EU purchasers of land, and obtaining approval for purchase is more burdensome. Greek authorities consider local content and export performance criteria when evaluating applications for tax and investment incentives, although such criteria are not prerequisites for approving investments.

Hungary: Since 2010, the Fidesz government has used its two-thirds majority in parliament to replace the constitution and pass several hundred laws – including many "cardinal" laws that require a two-thirds majority to repeal. U.S. investors have expressed concern about the impact of the volume and pace of these legislative changes on the predictability of Hungary's investment climate, as well as concern that future governments may be unable to change laws that require a two-thirds majority to repeal or amend. U.S. embassy officials have repeatedly raised concerns that these laws are frequently enacted with little time for debate and no consultation with affected businesses and stakeholders.

Some companies claim that recent "crisis taxes" target foreign-owned firms in a disparate way – either by hitting sectors dominated by foreign-owned firms, or by taxing larger foreign-owned firms at a far higher rate than smaller Hungarian firms –and there is uncertainty about which sectors could be targeted next, which undermines the business environment. Recent examples of these "crisis taxes" have been implemented retroactively, which has created an even greater sense of uncertainty within the business community.

Romania: Uncertainty and a lack of predictability in legal and regulatory systems pose a continuing impediment to foreign investment in Romania. Tax laws change frequently and many companies experience long delays in receiving VAT refunds to which they are legally entitled. Deadlines stipulated

by law for the processing and payment of refunds are often not respected. Companies have reported frequent instances in which the government has issued legal decrees or regulations affecting the business climate without following required transparency and public consultation procedures. Tort cases often require lengthy and expensive procedures, and judicial rulings are reportedly often inconsistent.

Slovenia: Weak corporate governance and a lack of transparency, particularly in the case of state-owned enterprises, continue to be a significant challenge in Slovenia. Potential U.S. investors have reported that opaque decision-making processes in the government's privatization program have discouraged investment.

GOVERNMENT PROCUREMENT

The EU is a signatory to the WTO Government Procurement Agreement (GPA). U.S. suppliers participate in EU Member States' government procurement tenders, but the lack of quality EU statistics that take into account the country of origin of winning bids makes it difficult to assess the level of U.S. and non-EU participation.

The EU Utilities Directive covers purchases in the water, transportation, energy, and postal services sectors. This Directive requires open, competitive bidding procedures, but discriminates against bids with less than 50 percent EU content for tenders that are not covered by an international or reciprocal bilateral agreement. The EU content requirement applies to foreign suppliers of goods and services in the following sectors: water (production, transport, and distribution of drinking water); energy (gas and heat); urban transport (urban railway, automated systems, tramway, bus, trolley bus, and cable); and postal services.

In 2014, the European Parliament approved three legislative proposals on public procurement including: (1) a revised Public Procurement Directive for general sectors; (2) a revised Public Procurement Directive for the utilities sectors; and (3) a new EU Public Procurement Directive on concessions contracts. A fourth proposal, aimed at regulating access of third-country goods and services to the EU public procurement market (relative to the access provided to EU goods and services in third-country public procurement markets), is still being debated in the European Parliament and in the Council. The Italian Presidency had hoped to move the file forward but failed because Member States could not find a common position. U.S. access to the EU's non-GPA covered procurement could be affected under this new regulation.

Member State Measures

Bulgaria: The public procurement process in Bulgaria is not always transparent, and stakeholders report that it is frequently discriminatory and unfair. There are persistent complaints that tenders are narrowly defined and that they appear tailored to a specific company. In certain cases the Bulgarian government has included mandatory specifications, which in practice could be met by only one of the bidders thus putting others at a disadvantage in winning the tender. In other cases companies are asked to provide superfluous certification documents in order to qualify as bidders on public procurement projects, and are asked to do so on unreasonably tight deadlines

Czech Republic: In 2012, the Czech government adopted a major public procurement reform bill which addressed some transparency and corruption concerns. The legislation also lowered the threshold for the application of procurement rules to CZK 1 million ($50,000). But in 2013, the Senate voted in an extraordinary session to restore the original, CZK 6 million ($300,000) threshold for construction contracts and CZK 2 million ($100,000) for other services. The law continues to require more than one bidder for all procurements and publication of tender specifications. The law also requires bidders to disclose more of their ownership structure in the bidding process. However, it maintains loopholes that could permit bidders to subcontract to anonymously held companies. In October 2014, an analysis of financing of all

political parties represented in the Chamber of Deputies between 2006 and 2013 (published by NGO Index) showed that sponsors of political parties received public contracts for 390 billion CZK ($20 billion). According to the study, some donor companies that received public contracts were registered overseas, did not declare ownership or had no employees. The Ministry of Regional Development is currently working on the new amendment to reflect/transpose requirements of EU Procurement Directive into the Czech legislation.

France: The February 2014 EU anti-corruption report emphasized France should root out corruption of public procurement contracts at the local level, calling on it to take action "to identify risks at local levels" and also "to set priorities for anti-corruption measures." France has taken some anti-corruption steps such as requiring electronic bid applications for any calls for tender over €90,000 to lower corruption risks and allows for improved quality control. However, French laws that make it a crime to breach public procurement rules rarely result in criminal charges and when they do, the punishment is not severe.

The French government continues to maintain ownership shares in several major defense contractors (EADS, now Airbus – 10.97 percent of shares; Safran – 22.4 percent of shares and 25.7 percent of voting rights; and Thalès – 36.65 percent of indirect share ownership). It is generally difficult for non-EU firms to participate in French defense procurement, and even when the competition is among EU suppliers, French companies are often selected as prime contractors.

Greece: Greece imposes onerous qualification requirements on companies seeking to bid on public procurement tenders. Companies must submit documentation from competent authorities indicating that they have paid taxes, have not been in bankruptcy, and have paid in full their social security obligations for their employees. All managing directors and board members of companies that want to participate in procurements must submit certifications from competent authorities that they have not engaged in fraud, money laundering, criminal activity, or similar activities. It is difficult for U.S. firms to comply with these requirements, because there are no competent authorities in the United States that issue these types of certifications.

Additionally, U.S. stakeholders have complained that procurements in Greece are not always transparent and that some tenders, such as for medical equipment to be installed in hospitals, contain technical specifications that favor specific Greek suppliers. The U.S. Government is continuing to engage with the Greek government on this issue. Greece often requires suppliers to source services and production locally or partner with Greek manufacturers as a condition for the awarding of some defense contracts.

Hungary: Inadequate transparency in public procurement continues to be a significant problem in Hungary. In January 2012 a new Public Procurement Act came into force with the government claiming that it would speed procurement and improve transparency. The new procurement law has been criticized by transparency watchdogs because state enterprises and ministries can conduct procurement without a public announcement for the purchase of goods or services up to HUF 25 million ($112,000) or for construction valued at less than HUF 150 million ($675,000). Analysts have also noted that larger contracts that would have required a public bid are now broken up into smaller contracts that fall under the thresholds. Hungarian companies, state-owned enterprises, or companies close to the government still appear to have an advantage over other players in public tenders.

Italy: Italy's public procurement practice often lacks transparency; this has created obstacles for some U.S. bidders. Laws implemented following a major 1992 corruption scandal somewhat reduced corruption, but stakeholders assert that it is still widespread, especially at the local level. In 2012, the Italian parliament approved an anticorruption bill that introduced greater transparency and more stringent procedures to the public procurement process. In 2013, additional implementing regulations were introduced to increase transparency, including measures regulating the conduct of civil servants. To increase transparency, the

Italian government has also started publishing information online about the use of public funds, including data on procurement. However, in 2014, a series of large corruption scandals have come to light leading to the arrests or investigations of hundreds of people mainly in Milan, Umbria and most recently in Rome. These recent corruption scandals show how deeply rooted corruption still is in public procurement. The GOI has now appointed a national anti-corruption commissioner and introduced draft legislation near the end of 2014 that would further increase penalties for corruption. The proposal will still need to be reviewed by parliament.

Lithuania: The public procurement process in Lithuania is not always transparent. There are persistent complaints that some tenders are so narrowly defined that they appear tailored to a specific company. The government has made procurement reform a top priority and is starting to improve transparency by implementing online public procurement of its central purchasing body, the central project management agency. In 2013, the government adopted legislation requiring all public procurement to occur through a centralized online portal by 2014 and all contracts to be published by 2015. In general, procurement documents are only available in Lithuanian.

Poland: U.S. firms report disappointment with the speed of changes in public procurement regulations in Poland. Company representatives note "lowest cost" is the main criterion Polish officials use to award contracts, often overlooking other important factors, like quality, company reputation, and prior experience in product and service delivery, in bid evaluation. U.S. firms also state the high cost of tender document preparation discourages participation in public tenders. Polish officials plan to comply with EU public procurement directives during 2015.

Portugal: U.S. firms report that the Portuguese government tends to favor EU firms, even when bids from U.S. firms are technically superior or lower in price. U.S. firms also report that they are more successful when bidding as part of consortia or as part of joint ventures with Portuguese or other EU firms.

Romania: Romania revised its public procurement law in 2013, exempting certain state owned enterprises from the public procurement law and allowing them to use nontransparent procedures for their procurements. In an effort to enhance absorption of EU funds, the government has simplified the procurement procedures for private sector beneficiaries. Romania, like all EU Member States, must transpose the new Procurement Directives into national legislation and to move away from the current practice of using the lowest price as the sole selection criterion, but it is delaying consultations with stakeholders. Romania requires offsets as a condition for the awarding of defense contracts.

Slovakia: U.S. stakholders cite corruption, inefficient government bureaucracy, inadequate transparency, unfair competition, and poor law enforcement as barriers to public procurement opportunities in Slovakia. Poor transport infrastructure is also often mentioned as an important technical barrier by potential foreign investors. The public procurement legislative framework lacks stability, with some 25 amendments in the past 7 years, and another amendment is currently being drafted.

Slovenia: As in previous years, U.S. firms continue to express concerns that the public procurement process is nontransparent. They also alleged short timeframes for bid preparation, tendering documentation that was difficult to understand, and opacity in the bid evaluation process. Slovenia's quasi-judicial National Revision Commission (NRC), which reviews all disputed public procurement cases, received multiple complaints. The NRC has the authority to review, amend, and cancel tenders, and its decisions are not subject to judicial appeal. In the instances where U.S. companies alleged improprieties in the procurement process, Slovenian authorities pointed them to the NRC, which has relied on an ambiguous "national interest" standard to steer tenders toward Slovenian firms, regardless of cost or doubts about the firms' ability to deliver and service their products.

SUBSIDIES

Government Support for Airbus

Over many years, the governments of Belgium, France, Germany, Spain, and the United Kingdom have provided subsidies to their Airbus-affiliated companies to aid in the development, production, and marketing of Airbus's large civil aircraft. These governments have financed between 33 percent and 100 percent of the development costs of all Airbus aircraft models (launch aid) and have provided other forms of support, including equity infusions, debt forgiveness, debt rollovers, research and development funding, and marketing assistance, in addition to political and economic pressure on purchasing governments. The EU's aeronautics research programs are driven significantly by a policy intended to enhance the international competitiveness of the EU civil aeronautics industry. EU Member State governments have spent hundreds of millions of euros to create infrastructure for Airbus programs, including €751 million spent by the city of Hamburg to drain the wetlands that Airbus is currently using as an assembly site for the A380 "superjumbo" aircraft. French authorities also spent €182 million to create the AeroConstellation site, which contains additional facilities for the A380. The Airbus A380, the beneficiary of more than $5 billion in subsidies, is the most heavily subsidized aircraft in history. Some EU Member State governments have also made legally binding commitments of launch aid for the new Airbus A350 aircraft, even though Airbus has barely begun to repay the financing it has received for the A380.

Airbus SAS, the successor to the original Airbus consortium, is owned by the Airbus Group, which is now the second largest aerospace company in the world. This entity was previously known as the European Aeronautic, Defense, and Space Company (EADS). The name change accompanies a reorganization of the company's ownership structure, resulting in the governments of Germany and France each owning up to 11 percent of the shares, Spain approximately 4 percent, and the remaining approximately 72 percent of shares trading on open markets. The reorganization also ended these governments' rights to veto strategic decisions and to appoint directors to the Airbus board. Instead, the governments only have the right to veto board members appointed by the company. The Airbus Group accounted for more than half of worldwide deliveries of new large civil aircraft over the last few years, and is a mature company that should face the same commercial risks as its global competitors.

On May 31, 2005, the United States requested establishment of a WTO panel to address its concern that EU Member State subsidies were inconsistent with the WTO Agreement on Subsidies and Countervailing Measures. The WTO established the panel on July 20, 2005. In 2010, the dispute settlement panel found in favor of the United States on the central claims, and the Appellate Body upheld the finding of WTO inconsistency in 2011. On December 1, 2011, the EU submitted a notification to the WTO asserting that it had taken appropriate steps to bring its measures into conformity with its WTO obligations. On December 9, 2011, the United States requested consultations with the EU to address its concern that the EU had failed to bring its Airbus subsidies into conformity with WTO rules. That dispute is currently before a WTO panel, which has indicated that it expects to complete its work by the end of 2014.

Government Support for Airbus Suppliers

Member State Measures

Belgium: The Belgian federal government coordinates with Belgium's three regional governments on the subsidies for Belgian manufacturers that supply parts to Airbus. Recently, Belgium had a €195 million support program for the A380 superjumbo, and a €175 million support program for the A350. Belgium has always claimed that these were refundable advances, structured in accordance with the 1992 bilateral agreement, and that they covered nonrecurring costs. Both in 2006 and in 2009, the EU Commission initially disputed that view, but later acquiesced. Industrial research or experimental development projects

linked to the A350 and A380 were cited as examples of projects that could benefit from the program. However, Eurostat, the EU Commission's statistical unit, notified the Belgian government in 2014 that these amounts should not be considered advances but subsidies, because they were never reimbursed. Beginning in 2015, Belgian federal and regional governments will have to include the Airbus subsidies as such in their budgets, something which they have never done before. For the A350 and A380 programs, the price distortion coming from Belgian subcontractors is estimated to be a minimum of €370 million.

France: In addition to the seed investment that the French government provided for the development of the A380 and A350 aircraft, France provides assistance in the form of reimbursable advances for the development by French manufacturers of products such as planes, aircraft engines, helicopters, and onboard equipment. In February 2013, the government confirmed €1.4 billion in reimbursable advances for the A350 over the 2009-2017 time period and a similar scheme for the helicopter X6 to be built by Eurocopter. At the same time, the government announced the implementation of tax and financial assistance for airline companies to restore their competitiveness. The government's 2014 budget included €136 million in reimbursable advances, and the same amount is expected in the 2015 budget. French appropriations for new programs included €87 million in support of research and development in the civil aviation sector in 2014. In 2015, such support is expected to decrease by 4.9 percent to €83 million.

In July 2008, Airbus, the parastatal Caisse des Dépôts et Consignations, and the Safran Group announced the launch of the Aerofund II equity fund, capitalized with €75 million destined for the French aeronautical sector. The equity fund's objective is to support the development of the small and medium sized subcontractors that supply the aeronautical sector. In March 2009, the state's Strategic Investment Fund (FSI) and Aerofunds I and II purchased a nearly 20 percent stake in Daher, a French company, for €80 million, to help that private aerospace group accelerate its development and seize strategic opportunities. Since its creation in 2008, Aerofund II has made investments in about ten companies, including helping to finance Mecachrome's purchase of Mecahers, and Prosnic's acquisition of Industron. The Fund also helped finance the sale of Esterel Technologies to the U.S. group Ansys in 2012. In 2013, Airbus, the Caisse des Dépôts et Consignations Entreprises, Safran group, and Eurocopter set up Aerofund III, an investment fund designed to raise €150 million for the French aeronautical sector. The goal of the investment fund, run by ACE Management, is to prolong Aerofund II with a target of raising a total of €300 million. In 2014, Aerofund III acquired stakes in AEDS, a firm producing joints and wire pullings; in Test & Services, a firm specializing in the development, production and maintenance of test equipment; and in Finaero, a company in the finishing of planes and helicopters.

Germany: In 2013, the German Ministry of Economic Affairs and Energy suspended the payment of the second tranche of a loan package to Airbus for the development of its latest wide-bodied A350 jetliner. Press reports indicate that the total A350 loan package is €1.1 billion and the outstanding amount equals €600 million. A Ministry spokesperson said that disbursement of the outstanding loan amount will only be possible with concrete commitments by Airbus to Germany on locations and jobs. These commitments have not been agreed upon by Airbus executives, according to recent press reports. In addition to the A350 loan package, Airbus continues to receive funds from the 2012–2015 aeronautics research program for a number of projects. In their 2013 coalition agreement, the German government pledged further support for the aeronautics program.

Spain: In July 2014, the European Commission authorized the Spanish state-owned industrial holding company Sociedad Estatal de Participaciones Industriales' (SEPI) and AIRBUS' rescue plan for ALESTIS Aerospace, a first level provider for Airbus, which supplies airframes for both commercial and military production. The Commission's decision about the validity of the agreements makes possible the future feasibility of ALESTIS. According to SEPI and Airbus, in order to develop the agreement, Spain's Ministry of Finance and Public Administrations authorized a settlement submitted by ALESTIS which includes a 7-

year, interest-free extension of the payment of ALESTIS' €176 million debt, both in its capacity as a common creditor and in regard to its patent terms. Additionally, the Spanish Ministry of Industry, Energy, and Tourism will disburse around €19 million as part of a collaboration agreement it has with ALESTIS for the development of the Airbus A350 XWB aircraft. After a shareholder restructuring, SEPI will subscribe and disburse a capital increase through a cash contribution amounting to €13.5 million, in exchange for receiving 24.3 percent of ALESTIS's capital. The final shareholder structure will be as follows: Airbus (62 percent), SEPI (24 percent), and Unicaja (14 percent). In the case of Airbus-Commercial, ALESTIS supplies parts and components for the A380, A330, A320, and A350 aircrafts, among others. Regarding Airbus Military programs, ALESTIS supplies parts and components for the CN235/C295 and A400M. It is also a supplier for Embraer and Boeing. Headquartered in Seville, ALESTIS has seven production facilities, six in Spain and one in Brazil, and employees approximately 1,600 people.

Government Support for Aircraft Engines

United Kingdom: Propulsion is an area considered important to the future of the United Kingdom aerospace industry, and the Department for Business, Innovation, and Skills (BIS) has extended support to Rolls-Royce for the development of environmentally friendly engine technologies. This funding is directed through established research funding channels, though the government has provided occasional direct support to Rolls-Royce over the past five years. The United Kingdom also provides repayable funds, known as Repayable Launch Investment (RLI), towards the design and development of civil aerospace projects in the United Kingdom. In 2011-2012 the United Kingdom RLI expenditure totaled £75 million ($120 million). BIS forecasts current commitments from 2012–2013 to 2014–2015 to be £160 million ($256 million) with a further £200 million ($320 million) forecasted beyond this period. Since 1997, the United Kingdom has invested nearly £1 billion ($1.6 billion) in RLI projects.

CUSTOMS ADMINISTRATION

Notwithstanding the existence of customs laws that govern all EU Member States, the EU does not administer its laws through a single customs administration. Rather, there is a separate agency responsible for the administration of EU customs law in each of the EU's 28 Member States. No EU institutions or procedures successfully ensure that EU rules on classification, valuation, origin, and customs procedures are applied uniformly throughout the 28 Member States of the EU, other than the Binding Tariff Information program offered at the EU level that provides advance rulings on tariff classification and country of origin. No EU rules require the customs agency in one Member State to follow the decisions of the customs agency in another Member State with respect to materially identical issues.

On some questions, where the customs agencies in different Member States administer EU law differently, the matter may be referred to the Customs Code Committee (CCC). The CCC is an entity established by the Community Customs Code to assist the European Commission. The CCC consists of representatives of the Member States and is chaired by a representative of the Commission. While a stated goal for the CCC is to help reconcile differences among Member State practices and thereby help to achieve uniformity of administration, in practice its success in this regard has been limited.

Not only are the CCC and other EU-level institutions ineffective tools for achieving the uniform administration and application of EU customs law, but the EU also lacks tribunals or procedures for the prompt review and EU-wide correction of administrative actions relating to customs matters. Instead, review is provided separately by each Member State's tribunals, and rules regarding these reviews vary from Member State to Member State. Thus, a trader encountering differing treatment in multiple Member States must bring a separate appeal in each Member State whose agency rendered an adverse decision.

Ultimately, a question of interpretation of EU law may be referred to the European Court of Justice (ECJ). The judgments of the ECJ have effect throughout the EU. However, referral of questions to the ECJ generally is discretionary, and ECJ proceedings can take years. Thus, obtaining corrections with EU-wide effect for administrative actions relating to customs matters is a cumbersome and frequently time-consuming process.

The United States has raised each of the preceding concerns with the EU in various fora, including the WTO Dispute Settlement Body. The concerns have taken on new prominence in light of the expansion of the EU and the T-TIP negotiations.

The European Commission has expressed its intent to modernize and simplify customs rules and processes. The Commission issued the Union Modernized Community Customs Code (UMCC) in November 2013, and sent it to the European Council and the European Parliament for co-decision under the ordinary legislative procedure. The UMCC is expected to enter into effect in 2016, once the UMCC-related Commission acts (delegated and implementing acts) are adopted and in force. The United States will monitor its implementation closely, focusing on its impact on lack of consistent treatment under EU customs law.

ELECTRONIC COMMERCE

The European Commission announced in 2014 that it would present a legislative proposal for the creation of a Digital Single Market, intended to eliminate internal market barriers within the EU's digital services economy.

Safe Harbor

The U.S.-EU Safe Harbor Framework, or "Safe Harbor," was negotiated between the Department of Commerce (DOC) and the European Commission in 2000 to enable U.S.-based companies in all sectors of the economy to receive personal data of EU citizens in compliance with the EU's1995 Data Protection Directive (1995/46). DOC administrators the Framework and enforcement is handled by the Federal Trade Commission. Today, more than 3,900 U.S.-based companies from all sectors are self-certified to the program, including major EU companies with subsidiaries in the United States. Companies that annually self-certify on a dedicated website (http://www.export.gov/safeharbor) may continue to receive personal data from the EU.

U.S. companies may also receive or transfer employee and customer information from the EU if they obtain approval from EU data protection authorities for binding corporate rules that allow global intra-company transfers. These requirements can be burdensome for many U.S. industries that rely on data exchange between the United States and the EU.

On November 27, 2013, following press disclosures on U.S. intelligence activities, the Commission issued a Communication on the Safe Harbor Framework, which made 13 recommendations for improvement, eleven of which are commercially focused and two of which relate to national security. DOC is discussing with EU counterparts and stakeholders potential ways to address the EU recommendations. The United States actively supports Safe Harbor and will work to ensure that it remains available to support transatlantic data flows, which are vital to both the U.S. and EU economies and continues to serve all stakeholders well.

Following the 2013 intelligence disclosures, U.S. companies have reported having greater difficulty winning contracts due to concerns over U.S. Government access to the data they hold. The United States is seeking to correct misconceptions about U.S. law and practice and to engage with EU stakeholders on how personal data is protected in the United States.

GHANA

TRADE SUMMARY

U.S. goods exports in 2014 were $1.1 billion, up 14.8 percent from the previous year. Ghana is currently the 78th largest export market for U.S. goods. Corresponding U.S. imports from Ghana were $271 million, down 25.8 percent. The U.S. goods trade surplus with Ghana was $856 million in 2014, an increase of $240 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Ghana was $3.6 billion in 2013 (latest data available), down from $3.6 billion in 2012.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Ghana has issued its own standards for most products under the auspices of its testing authority, the Ghana Standards Authority (GSA). The GSA has promulgated more than 444 Ghanaian standards and adopted more than 1,440 international standards for certification purposes. The Food and Drugs Authority is responsible for enforcing standards for food, drugs, cosmetics, and health items.

Some imports are classified as "high risk goods" (HRG) that must be inspected by GSA officials at the port to ensure they meet Ghanaian standards. The GSA has classified the HRG into 20 broad groups, including food products, electrical appliances, and used goods. The HRG classification is vague and confusing, and its unclear scope has raised numerous questions. For example, the category of "alcoholic and nonalcoholic products" could include anything from beverages to pharmaceuticals to industrial products. According to GSA officials, these imports are classified as high risk because of the "potential hazards" they pose, although "potential hazards" remains undefined. The stated target is mainly products from Asia because of concerns about poor quality.

HRG importers must obtain prior registration with GSA and GSA approval to import any listed HRG. The importer must submit to GSA a sample of the HRG, accompanied by a certificate of analysis (COA) or a certificate of conformance (COC) from accredited laboratories in the country of export. Most often, the GSA officials conduct a physical examination and check labeling and marking requirements to ensure that goods are released within 48 hours. Currently, the fee for registering the first three HRGs is GHS 50 (about $16) and GHS 20 (about $8) for each additional product. Any HRG entering Ghana without a COC or COA from an accredited laboratory is detained and subjected to testing by the GSA. The importer is required to pay the testing fee based on the number and kinds of parameters tested. The GSA publishes most fees on its website.

Expiration Date and Fat Content Requirements

The GSA requires that all food products carry expiration or shelf life dates and requires that the expiration date at the time it reaches Ghana should be at least half the shelf life. Goods that do not have half of their shelf life remaining are seized at the port of entry and destroyed. Questions have been raised regarding the consistency of this requirement with the Codex Alimentarius (Codex) Commission General Standard for Labeling of Pre-packaged Foods. The United States has raised this issue with the Ghanaian government in recent years. Ghana's position is that the expiration date measure is fully consistent with the Codex standard and that it protects exporters from claims of adverse health effects from spoilage.

To address human health risks, Ghana prohibits the importation of meat with a fat content by weight greater than 25 percent for beef, 25 percent for pork, 15 percent for poultry, and 30 percent for mutton. Imported turkeys must have their oil glands removed. Ghana also restricts the importation of condensed or evaporated milk with less than 8 percent milk fat by weight, and dried milk or milk powder containing less than 26 percent by weight of milk fat, with the exception of imported skim milk in containers.

IMPORT POLICIES

Tariffs

According to the WTO, Ghana's average unweighted most favored nation (MFN) applied tariff rate in 2013 was 12.8 percent. For agricultural goods, the average applied tariff was 17 percent, and for non-agricultural products, it was 12 percent. Starting in the first quarter of 2015, along with other Economic Community of West African States (ECOWAS) countries, Ghana was expected to apply a common external tariff (CET) with five bands. The five tariff bands are: zero duty on social goods (*e.g.*, medicine, publications); 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the government seeks to protect, such as poultry and rice. Ghana currently maintains 190 exceptions to the CET, and the highest applied tariff is 20 percent.

Ghana has bound all agricultural tariffs in the WTO at an average of 96.5 percent, more than five times the average level of its MFN applied rates on agricultural goods. On industrial goods, almost all of Ghana's tariffs are unbound at the WTO, such that Ghana could raise tariffs to any rate at any time without violating its WTO commitments, which contributes to uncertainty for traders.

Nontariff Measures

Importers are confronted by a variety of fees and charges in addition to tariffs. Ghana levies a 15 percent value-added tax (VAT) plus a 2.5 percent National Health Insurance levy on the duty-inclusive value of all imports and locally-produced goods, with a few selected exemptions. Starting in November 2014, Ghana added a 17.5 percent VAT-like tax to all refined petroleum products. In addition, Ghana imposes a 0.5 percent ECOWAS surcharge on all goods originating in non-ECOWAS countries and charges 0.4 percent of the free on board value of goods (including VAT) for the use of the Ghana Community Network, an automated clearing system.

Under the Export Development and Agricultural Investment Fund (EDAIF) Act, Ghana imposes a 0.5 percent duty on all non-petroleum products imported in commercial quantities. Ghana also applies a one percent processing fee on all duty-free imports. In July 2013, a Special Import Levy of one percent was imposed on the cost, insurance, and freight (CIF) value of goods under chapters 84 and 85 of the Harmonized System schedule which cover, *inter alia*, boilers and certain types of machinery, electrical machinery, mechanical appliances and recording devices, while the import levy applied to all other imports was set at two percent, except for some petroleum products and fertilizers. The EDAIF Act was amended in December 2013 to expand the scope of exemptions.

Imports are subject to an inspection fee of one percent of the CIF value of the goods. Importers have complained that the *ad valorem* fee is not based on the cost of the services rendered. Destination inspection companies (DICs) are licensed by the Ghanaian government, and inspection by the DICs accounts for the longest delays in import clearance.

A separate examination fee of one percent is applied to imported vehicles. Imported used vehicles that are more than 10 years old incur an additional tax ranging from 2.5 percent to 50 percent of the CIF value. The Customs Division of the Ghana Revenue Authority maintains a price list that is used to determine the value

of imported used vehicles for tax purposes. There are complaints that this system is not transparent because the price list used for valuation is not publicly available.

Between May and October each year, there is a temporary ban on the importation of fish, except on imports of canned fish, to protect local fishermen during their peak season.

Certificates are required for imports of food, cosmetics, and agricultural and pharmaceutical goods. Permits are required for poultry and poultry product imports. At the time the permit is issued, a quantity limit is imposed.

All communications equipment imports require a clearance letter from the National Communications Authority. Securing a clearance letter prior to importation can help avoid delays at the port of entry.

GOVERNMENT PROCUREMENT

Some large public procurements are conducted with open tendering and allow the participation of non-domestic firms; however, single source procurements are common on many government contracts. A guideline that applies to current tenders gives a margin of preference of 7.5 percent to 20 percent to domestic suppliers of goods and services in international competitive bidding. Notwithstanding the public procurement law, companies report that locally funded contracts lack full transparency. Supplier or foreign government subsidized financing arrangements appear in some cases to be a crucial factor in the award of government procurements. Allegations of corruption in the tender process are fairly common.

Ghana is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Ghana is not listed in the 2014 Special 301 Report. Ghana maintains laws that pertain to copyrights, trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications, and industrial designs. Ghana is a signatory to the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the World Intellectual Property Organization (WIPO) Internet Treaties (the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty), and the African Regional Industrial Property Organization.

Owners of intellectual property rights have filed very few trademark, patent, or copyright infringement cases in local courts. Companies that initiate cases continue to report prolonged waits for resolution, a possible factor in discouraging other companies from filing cases.

There continues to be virtually no government initiated enforcement of intellectual property rights. However, the Copyright Office, which is under the Attorney General's Office, periodically initiates raids on physical markets for pirated works. The Customs Service has also collaborated in the past with concerned companies to inspect import shipments.

SERVICES BARRIERS

Ghana requires a minimum rate of $0.19 per minute for terminating international calls into Ghana. All local and international calls are subject to a tax of $0.06 per minute.

INVESTMENT BARRIERS

Ghana's investment code excludes foreign investors from participating in eight economic sectors: petty trading; the operation of taxi and car rental services with fleets of fewer than 25 vehicles; lotteries (excluding soccer pools); the operation of beauty salons and barber shops; printing of recharge scratch cards for subscribers to telecommunications services; production of exercise books and stationery; retail of finished pharmaceutical products; and the production, supply, and retail of sachet water.

Foreign investors are required by law to have local partners in the insurance and extractive industries. In the insurance sector, Ghana limits foreign ownership to 60 percent, except for auxiliary insurance services. There is compulsory local participation in the extractive sector. By law, the government of Ghana acquires an automatic 10 percent of all interests in mining, oil, and gas ventures. The 2006 Minerals and Mining Law also allows the government of Ghana to negotiate any other form of participation.

In November 2013, local content regulations applicable to the oil and gas sector entered into force. The regulations include local ownership and content requirements for equity participation, procurement of supplies and equipment, and provision of services, as well as mandatory local equity participation in upstream activities and a requirement for the Minister of Petroleum's approval of all contracts, sub-contracts, and purchase orders above $100,000. The regulations establish a maximum penalty of a five-year jail sentence for non-compliance, and compliance with the requirements for local equity participation are complicated by a lack of transparency in the selection of equity partners and lack of clarity about the role of the Minister of Petroleum.

The Petroleum Commission applies registration fees and annual renewal fees on foreign oil and gas service providers, which, depending on a company's annual revenues, range from $70,000 to $150,000, compared to fees of between $5,000 and $30,000 for local companies.

Foreign investment projects must be registered with the Ghana Investment Promotion Center. While the registration process is designed to be completed within five business days, the process often takes significantly longer. Foreign investments are also subject to the following minimum capital requirements: $200,000 for joint ventures with a Ghanaian partner; $500,000 for enterprises wholly-owned by a non-Ghanaian; and $1,000,000 for trading companies (firms that buy or sell imported goods or services) wholly owned by non-Ghanaian entities. Trading companies are also required to employ at least 20 skilled Ghanaian nationals.

OTHER BARRIERS

Foreign investors have experienced difficulties and delays in securing required work visas for their non-Ghanaian employees. The process for obtaining required work permits can be unpredictable and take several months from application to delivery. Obtaining access to land may also be challenging for foreign investors. Non-Ghanaians are only permitted to access land on a long-term leasehold basis, and Ghana's complex land tenure system makes establishing clear title on real estate difficult.

Foreign investors in Ghana must contend with a highly regulated economy, a politicized business community, and a lack of transparency in certain government operations. Entrenched local interests can derail or delay new entrants. The political leanings of the Ghanaian partners of foreign investors are often subject to government scrutiny. Corruption among government and business figures also remains a concern. Ghanaian law enforcement and judicial bodies have robust legal powers to fight corruption in the country, but the government does not implement anticorruption laws effectively.

GUATEMALA

TRADE SUMMARY

U.S. goods exports in 2014 were $6.1 billion, up 9.0 percent from the previous year. Guatemala is currently the 41st largest export market for U.S. goods. Corresponding U.S. imports from Guatemala were $4.2 billion, up 1.1 percent. The U.S. goods trade surplus with Guatemala was $1.8 billion in 2014, an increase of $455 million from 2013.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services and includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Guatemalan sanitary and phytosanitary import requirements change frequently, often without prior WTO notification. As a result, U.S. agricultural exports are sometimes detained at port until a final permit or waiver is issued.

Guatemala fumigates more than 90 percent of U.S. agricultural products entering Guatemala. In fact, even though U.S. grain exports are fumigated while en route, almost all U.S. grain that entered Guatemala in 2013 and 2014 was re-fumigated in Guatemala. Guatemala's extensive fumigation of U.S. agricultural products results from the failure of the Guatemalan Ministry of Agriculture (MAGA) to publish an official quarantine pest list. The absence of such a list leads to arbitrary fumigation of shipments by Guatemalan authorities. These extra fumigations increase the cost of U.S. agricultural exports to Guatemala. Use of the fees generated by the fumigations, by the Regional Inspection Agency, and MAGA, is not transparent. The United States has engaged with Guatemala regarding fumigation issues.

In July 2014, MAGA implemented a regulation that requires exporters to pay for MAGA officials to inspect processing and storage facilities in the country of origin or country of export. The regulation applies to exporters of all fresh animal and vegetative food (including seafood products) imported by Guatemala. MAGA did not notify the new system through the WTO and has not responded to inquiries by the United States regarding the new regulation. The United States will continue to raise this issue with Guatemala.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Guatemala applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions.

Under the CAFTA-DR, however, 100 percent of U.S. consumer and industrial goods enter Guatemala duty free as of 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Guatemala duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

In addition, more than half of U.S. agricultural exports enter Guatemala duty free under the CAFTA-DR. Guatemala will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). 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. Guatemala will liberalize trade in white corn through continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Nontariff Measures

All CAFTA-DR countries, including Guatemala, committed to improve transparency and efficiency in administering customs procedures. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods.

Guatemala's denial of claims for preferential treatment for U.S. products under the CAFTA-DR continues to be an occasional source of difficulty in exporting to Guatemala. U.S. companies have raised concerns that the Guatemalan Customs Administration (part of the Superintendence of Tax Administration, as well as the Food Safety Office in MAGA and the Food Control Office in the Ministry of Health, have not provided adequate advance notice regarding administrative changes in documentation requirements for imported shipments, such as information required for Certifications of Origin or Certificates of Free Sale. The United States has raised this issue with the Customs Administration and other Guatemalan governmental units and received assurances that future changes would be communicated in advance. Customs information is available on the tax and customs website: http://portal.sat.gob.gt/sitio/.

The Ministry of Health's Food Control Office in Guatemala began enforcing the requirement for "consularization" of Certificates of Free Sale in July 2013. This requirement applies with respect to processed food products that need to be registered every five years in Guatemala. U.S. products are denied registration in Guatemala if the Certificate of Free Sale is not "consularized" at a Guatemalan Consular office in the United States. This "consularization" requirement raises concerns in light of market access commitments under the CAFTA-DR.

In addition, stakeholders report that Guatemalan customs authorities occasionally challenge declared tariff classifications, including for products for which the tariff classifications should be straightforward, and attempt to reclassify the products so that they are subject to a higher tariff. These practices raise concerns that the Customs Administration might be denying U.S. products the preferential treatment under the CAFTA-DR and instead imposing tariffs and other retroactive charges as a means of increasing revenue. The United States will continue to raise these concerns with Guatemala.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases as well as timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Guatemalan government entities, including government ministries and sub-central and state-owned entities, on the same basis as Guatemalan suppliers. The anticorruption provisions of the Agreement require each

government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties.

Recent reforms of Guatemala's Government Procurement Law simplified bidding procedures, eliminated the fee previously charged to suppliers for bidding documents, and provided an additional opportunity for suppliers to raise objections to the bidding process. Foreign suppliers must submit their bids through locally-registered representatives, a process that can place foreign bidders at a competitive disadvantage.

Some U.S. companies have complained that the procurement process is not transparent, highlighting instances in which a Guatemalan government entity subject to CAFTA-DR obligations makes a direct purchase without issuing a tender or when a CAFTA-DR covered entity does not provide the required minimum 40 days from the notice of procurement for interested parties to prepare and submit bids. There has also been a growing number of complaints from U.S. stakeholders regarding an increasing tendency by some government entities to undertake major procurements through unusual special-purpose mechanisms, such as on an emergency basis, enabling the procuring entity to make a direct purchase from a preselected supplier and avoid competitive bidding through the public tender process, structuring the requirements of the tender in such as a way so as to favor a particular foreign company, or nontransparent or inconsistent decisions. The United States will continue to monitor Guatemala's government procurement practices, and to raise concerns as appropriate, to ensure they are applied consistent with CAFTA-DR obligations.

Guatemala is not a signatory to the WTO Agreements on Government Procurement**.**

EXPORT SUBSIDIES

Under the CAFTA-DR, Guatemala may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (***e.g.***, the export of a given level or percentage of goods). However, the CAFTA-DR permitted Guatemala to maintain such measures through December 31, 2009, provided that it maintained the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures. The U.S. Government is working with the Guatemalan government to ensure compliance with its CAFTA-DR obligations.

Guatemala currently employs an export incentive program in the "Law for the Promotion and Development of Export Activities and Drawback." Guatemala provides tax exemptions and duty benefits to companies that import over half of their production inputs/components and export their completed products. Investors are granted a 10-year exemption from both income taxes and the Solidarity Tax, which is Guatemala's temporary alternative minimum tax. Additionally, companies are granted an exemption from the payment of tariffs and value-added taxes on imported machinery, and a one-year suspension (extendable to a second year) of the same tariffs and taxes on imports of production inputs and packing material. Taxes are waived when the goods are re-exported.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Guatemala remained on the Watch List in the 2014 Special 301 Report, in large part because pirated and counterfeit goods, including counterfeit and substandard medicines, continue to be widely available in Guatemala. Enforcement efforts are hampered by limited resources and the need for better coordination among all enforcement agencies. Trademark squatting, government use of unlicensed software, and the operation of Guatemala's judicial system were also noted as significant areas of concern. In addition, certain recent rulings by Guatemalan administrative authorities granting requests to register Geographical Indications (GIs) have caused concern, because in some cases they may effectively preclude U.S. exporters

from using what appear to be generic or common terms when identifying their goods in Guatemala's market.

In late 2014, the Guatemalan Congress reversed positive steps taken toward fulfilling Guatemala's CAFTA-DR obligation to join the International Convention for the Protection of New Varieties of Plants (UPOV Convention). It is unclear if the Guatemalan Congress will work on the creation of a new UPOV implementing bill to comply with this obligation. The United States will continue to engage Guatemala on these and other concerns, including through the Special 301 process and will continue to monitor Guatemala's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Professional Services

Some professional services may only be supplied by professionals with locally recognized academic credentials. Public notaries must be Guatemalan nationals. Foreign enterprises may provide licensed professional services in Guatemala only through a contract or other relationship with an enterprise established in Guatemala.

Telecommunications

In April 2014, the Guatemalan Congress approved a new telecommunications law to strengthen the country's data transmission infrastructure. Some stakeholders have raised concerns that the conditions imposed appear to discriminate against small and new suppliers. The Constitutional Court provisionally suspended some provisions of the law in June 2014 as a result of challenges to certain parts of the law but has not issued a final ruling as of December 2014 and the Guatemalan Telecommunications regulatory authority is currently implementing the provisions in the law that have not been suspended.

INVESTMENT BARRIERS

Some U.S. companies operating in Guatemala have raised concerns that complex and unclear laws and regulations constitute practical barriers to investment. Resolution of business and investment disputes through Guatemala's judicial system is extremely time-consuming, and civil cases can take many years to resolve. Administrative and judicial decision making appear at times to be inconsistent, nontransparent, and very time-consuming. In addition, government institutions in Guatemala can be prone to third-party influence. U.S. firms and citizens have found corruption in the government, including in the judiciary, to be a significant concern and a constraint to investment.

Delays and uncertainty in obtaining licenses from relevant Guatemalan authorities for exploration and operation in extractive industries has the effect of inhibiting current and potential investments from U.S. firms.

The United States continues to engage with Guatemala to ensure fair and transparent treatment for U.S. companies in commercial and investment-related cases, consistent with CAFTA-DR provisions.

HONDURAS

TRADE SUMMARY

U.S. goods exports in 2014 were $5.9 billion, up 10.4 percent from the previous year. Honduras is currently the 42nd largest export market for U.S. goods. Corresponding U.S. imports from Honduras were $4.6 billion, up 2.2 percent. The U.S. goods trade surplus with Honduras was $1.3 billion in 2014, an increase of $458 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Honduras was $901 million in 2013 (latest data available), up from $849 million in 2012. U.S. FDI in Honduras is led by the manufacturing sector.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006, for the Dominican Republic in 2007, and for Costa Rica on January 1, 2009. The CAFTA-DR significantly liberalizes trade in goods and services and includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Honduras applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

Under the CAFTA-DR, as of 2015, 100 percent of U.S. consumer and industrial goods enter Honduras duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Honduras duty free and quota free, creating opportunities for U.S. fiber, yarn, fabric, and apparel manufacturers.

In addition, more than half of U.S. agricultural exports currently enter Honduras duty free. Honduras will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2023 for rice and chicken leg quarters, and 2025 for dairy products). 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. Honduras will liberalize trade in white corn through continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including Honduras, committed to improve transparency and efficiency in administering customs procedures. All CAFTA-DR countries, including Honduras, also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and all CAFTA-DR countries agreed to share with each other information to combat illegal trans-shipment.

Honduras established the Presidential Commission for the Modernization of Customs Services (COPREMSA) to improve the transparency and efficiency of customs procedures. COPREMSA's board of public and private sector representatives is developing more efficient permitting (licensing) processes

and deploying interoperable management systems. The United States supports COPREMSA's work through the Pathways to Prosperity "Customs Modernization and Border Management" program.

The Dirección Ejecutiva de Ingresos (DEI), the Honduran customs and tax authority, has assumed responsibility for verification of origin. The DEI verifies that claims of origin comply with the requirements of the CAFTA-DR and other international agreements. DEI has implemented a much stricter and more rigorous approach to customs compliance in the last year. Honduran importers are charged a duty and fines whenever DEI does not accept the claim of origin. U.S. exporters and Honduran importers report that DEI has also begun to charge duties, as well as fines for minor errors that would have been overlooked in the past, and that DEI does not always make clear which information in a claim of origin is in error.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurements covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on the procurements of most Honduran government entities, including those of key ministries and state-owned enterprises, on the same basis as Honduran suppliers. The anticorruption provisions in the CAFTA-DR require the Honduran government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties. Implementation of the CAFTA-DR eliminated the requirement that U.S. firms act through a local agent (with at least 51 percent Honduran ownership) to participate in public tenders.

Since the CAFTA-DR came into effect, Honduran government agencies have routinely declared "emergencies" to circumvent competitive bidding procedures for public procurements, including for large infrastructure projects. Further, information on public tenders frequently is not available in a timely fashion and official bidding processes are not always followed. The United States will continue to monitor Honduras' government procurement practices to ensure they are applied in a manner consistent with CAFTA-DR obligations.

Honduras is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

Honduras currently employs the following export incentive programs: Free Trade Zone of Puerto Cortes (ZOLI), Export Processing Zones (ZIP), and Temporary Import Regime (RIT).

Honduras provides tax exemptions to firms in free trade zones. Under the CAFTA-DR, Honduras may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). However, Honduras may maintain such duty waiver measures for such time as it is an Annex VII country for the purposes of the WTO Agreement on Subsidies and Countervailing Measures.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Honduras did not appear on the Watch List or Priority Watch list in the 2014 Special 301 Report. Although Honduras maintains its intellectual property rights (IPR) prosecutor's office as an independent entity within the Public Ministry, and despite some successes in seizing counterfeit goods, the United States remains concerned about effective IPR enforcement in Honduras given that its IPR enforcement office lacks necessary personnel and resources to wage a truly effective campaign. Reports of cable signal theft are an additional and growing concern. The United States has engaged extensively with Honduras as it prepared

legislative amendments governing protections for geographical indications, and has stressed the need for use of CAFTA-DR consistent protections and processes, including providing public notice and opportunity for opposition and cancellation, and transparency and impartiality in decision making. The United States will continue to monitor Honduras' implementation of its IPR obligations under the CAFTA-DR.

INVESTMENT BARRIERS

Honduran law places certain restrictions on foreign ownership of land within 40 kilometers of the coastlines and national boundaries. However, foreigners are allowed to purchase properties (with some acreage restrictions) in designated tourism zones established by the Ministry of Tourism in order to construct permanent or vacation homes.

Inadequate land title procedures have led to numerous investment disputes involving U.S. nationals who are landowners in Honduras. Resolving disputes in court can be very time consuming. There have been claims of widespread corruption in land sales and property registration and in the dispute resolution process, including claims against attorneys, real estate companies, judges, and local officials. The property registration system is highly unreliable, which represents a major impediment to investment. In addition, the lack of implementing regulations can lead to long delays in the awarding of titles in certain regions. An especially problematic area has been the north coast, in particular the Bajo Aguan Valley.

OTHER BARRIERS

Some U.S. firms and citizens have reported corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in Honduras. These reports suggest that corruption is pervasive in government procurement, issuance of government permits, real estate transactions (particularly land title transfers), and the regulatory system. The telecommunications, health, and energy sectors appear to be particularly problematic. The Hernández Administration has undertaken several measures in an effort to address these concerns, including pursuing indictments against former government officials; signing international transparency initiatives, such as the Construction Sector Transparency Initiative; and dedicating resources to bolster existing commitments under initiatives such as the Open Government Partnership, and Extractive Industry Transparency Initiative.

When undertaking large-scale, national capital investments, Honduras relies on its principal public-private partnership mechanism, the Commission for the Promotion of Public Private Partnerships (COALIANZA). By its own estimate, COALIANZA currently is responsible for projects worth approximately US$4 billion. However, lack of transparency into COALIANZA's processes, its omission from the national budget, and a series of personnel improprieties have diminished its public standing and raised concerns about its efficacy and making it difficult for business to participate in such investments. In response to these concerns, the Honduran National Congress passed reforms to the COALIANZA's enabling legislation that require greater oversight from the Ministry of Finance and devolve its authority to generate its own revenue.

HONG KONG

TRADE SUMMARY

U.S. goods exports in 2014 were $40.9 billion, down 3.5 percent from the previous year. Hong Kong is currently the 10th largest export market for U.S. goods. Corresponding U.S. imports from Hong Kong were $5.8 billion, up 1.9 percent. The U.S. goods trade surplus with Hong Kong was $35.1 billion in 2014, a decrease of $1.6 billion from 2013.

U.S. exports of services to Hong Kong were $9.1 billion in 2013 (latest data available), and U.S. imports were $7.2 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were $32.9 billion in 2012 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were $4.9 billion.

The stock of U.S. foreign direct investment (FDI) in Hong Kong was $58.8 billion in 2013 (latest data available), up from $54.9 billion in 2012. U.S. FDI in Hong Kong is led by the nonbank holding companies, and wholesale trade sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Hong Kong implemented a positive pesticide maximum residue limit list regulation in August 2014. Food containing a pesticide not on the list will be prohibited from import or sale unless it is shown that consumption of the food would not be dangerous or prejudicial to health. The United States continues to work with the Hong Kong food safety authority to include additional U.S. approved pesticides on the list.

IMPORT POLICIES

Hong Kong is a special administrative region (SAR) of the People's Republic of China, and the Hong Kong Basic Law provides for a high degree of autonomy in all matters but defense and foreign affairs. For trade, customs, and immigration purposes, Hong Kong is an independent administrative entity with its own tariffs, trade laws, and regulations, and is a separate Member of both the WTO and APEC. The Hong Kong government pursues a market-oriented approach to commerce. Hong Kong is a duty-free port, with few barriers to trade in goods and services and few restrictions on foreign capital flows and investment.

COMPETITION POLICY

The Legislative Council passed Hong Kong's first comprehensive competition law in June 2012, after six years of public consultation and study. Broadly speaking, the new Competition Ordinance (Ordinance) addresses anticompetitive agreements and abuses of market power that prevent, restrict, or distort competition. The Ordinance includes additional prohibitions on certain mergers and acquisitions that could substantially lessen competition in Hong Kong. However, this merger and acquisition rule applies only to the telecommunications sector. The maximum penalties under the Ordinance are 10 percent of the company's turnover obtained in Hong Kong for each year of violation, up to a maximum of three years, and disqualification from direct or indirect involvement in the management of a company for up to five years. The law exempts 575 of Hong Kong's 581 statutory bodies from its coverage.

The government established a Competition Commission (Commission) and a Competition Tribunal (Tribunal) in 2013. The Commission is empowered to investigate anticompetitive conduct and promote

public understanding of the value of competition. The Tribunal is in charge of hearing and adjudicating cases brought before it by the Commission after due investigation. In October 2014, the Commission launched a two-month public consultation on six draft regulatory guidelines under the Competition Ordinance. The Commission will submit the guidelines to the Legislative Council (LegCo) for discussions in early 2015, with the expectation that the Ordinance will come into full force in the third quarter of 2015. In November 2014, LegCo passed amendments to the Ordinance, empowering the Tribunal to prohibit persons from leaving Hong Kong and to award interest on debts and damages for which judgment is given.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Hong Kong provides robust intellectual property rights (IPR) protection and enforcement. Hong Kong has strong laws in place, a dedicated and effective enforcement capacity, a judicial system that supports enforcement efforts with deterrent fines and prison sentences, and youth education programs that discourage IPR-infringing activities. Hong Kong remains vulnerable, however, to some forms of IPR infringement, such as online copyright piracy facilitated by the rapid growth of unauthorized file sharing over peer-to-peer networks and end-user business software piracy.

Although the Hong Kong Customs and Excise Department (HKCED) routinely seizes IPR infringing products arriving from mainland China and elsewhere, stakeholders report that counterfeit pharmaceuticals, luxury goods, and other infringing products continue to enter Hong Kong, destined for both the local market and places outside of Hong Kong. During the period between February and April 2014, HKCED carried out a special operation targeting the sale of counterfeit and infringing goods on the Internet. Customs officers arrested 45 people, and seized 11,796 counterfeit and infringing goods, including handbags, clothing, sunglasses, shoes, and socks. Between January and November 2014, HKCED seized 63,000 infringing products (worth $0.77 million) – such as electronic goods, clothing, leather goods and pirated optical discs. Most of the seized goods were destined for the United States and European countries. In June 2014, HKCED arrested nine people in a ground-breaking raid to curb the distribution of TV set-top boxes used to circumvent digital copyright.

In June 2012, the Legislative Council shelved a bill to amend the 1997 Copyright Ordinance, after lengthy debate. The government drafted proposed amendments in 2010 and introduced to the Legislative Council in June 2011, after industry groups failed to reach agreement on a voluntary framework to address online infringement. At the time, the government said it was shelving the bill to concentrate on passing urgent social and livelihood-related bills before the legislative session ended in July 2012. In addition, there was concern that the bill did not adequately protect parody. In November 2013, the Hong Kong government completed a four month public consultation on a copyright exception for parody. In June 2014, the Hong Kong government introduced the digital copyright bill in LegCo for first and second readings. The new bill has proposed to give exemptions from criminal and civil liabilities for parody, satire, caricature, pastiche, quotation, and comment on current events. While a Bills Committee of LegCo is scrutinizing the bill, it is expected that LegCo will hold a vote on it in mid-2015.

In February 2011, the government initiated a dialogue to elicit views from the public on whether to create an original patent grant system in Hong Kong to replace the re-registration system based on patents granted in the United Kingdom, the EU, and mainland China. Public consultations concluded in December 2011. In February 2013, the government announced three measures to further development of the Hong Kong patent system: (1) introducing an original grant patent system with examination supported by China's State Intellectual Property Office, while maintaining the current re-registration system; (2) retaining the short-term patent system with refinements; and (3) developing, over a longer term, a regulatory regime on patent agency services. The Intellectual Property Department is working on an implementation plan for the new system, which is expected to come into force sometime in 2016 or 2017. In November 2014, a working group on IP trading consisting of government representatives and stakeholders completed its study on

promoting Hong Kong as a regional IP trading hub. The working group submitted its recommendations to the Hong Kong government in March 2015.

OTHER MEASURES

The Hong Kong government published a draft *Code of Marketing and Quality of Formula Milk and Related Products and Food Products for Infants & Young Children* in October 2012. The Code provides that manufacturers and distributors not market infant formula (for example, through advertising) and limit marketing of other non-formula complementary food products intended for Hong Kong-based infants and young children up to 36 months of age. We are continuing to engage with the Hong Kong government on this measure, including with respect to whether it is more restrictive than relevant international standards.

INDIA

TRADE SUMMARY

U.S. goods exports in 2014 were $21.6 billion, down 1.0 percent from the previous year. India is currently the 18th largest export market for U.S. goods. Corresponding U.S. imports from India were $45.2 billion, up 8.1 percent. The U.S. goods trade deficit with India was $23.6 billion in 2014, an increase of $3.6 billion from 2013

U.S. exports of services to India were $13.5 billion in 2013 (latest data available), and U.S. imports were $19.0 billion. Sales of services in India by majority U.S.-owned affiliates were $17.8 billion in 2012 (latest data available), while sales of services in the United States by majority India-owned firms were $10.1 billion.

The stock of U.S. foreign direct investment (FDI) in India was $24.3 billion in 2013 (latest data available), up from $22.8 billion in 2012. U.S. FDI in India is led by the professional, scientific and technical services, manufacturing, and finance and insurance sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The United States discusses TBT matters with India during TBT Committee meetings at the World Trade Organization (WTO), as well as on the margins of these meetings. U.S. Government officials also discuss such matters with Indian officials under the United States-India Trade Policy Forum (TPF) (which last met in November 2014), the TPF's Tariff and Non-tariff Barriers and Agriculture Focus Groups, the United States-India Commercial Dialogue and the High-Technology Cooperation Group.

Cosmetics – Registration Requirements

U.S. stakeholders have raised concerns regarding India's "Drugs and Cosmetics (Amendment) Rules of 2007," which introduced a new registration system for cosmetic products. In 2008, India notified the measure, and the United States submitted comments including concerns raised by U.S. stakeholders through India's TBT Inquiry Point.

In response to U.S. comments, India's Ministry of Health (MoH) made a number of clarifications and modifications to the proposed measure in 2009 and, in July 2010, issued "Guidelines on Import and Registration of Cosmetics" which, following an extension, companies were required to implement by April 1, 2013. These guidelines provide additional clarity, such as (1) clarifying the definition of "brand"; (2) allowing different manufacturing units involved in manufacturing and supplying the brand to be listed under a single registration; (3) applying a single registration fee to all product lines of the same brand; and (4) providing a fast track review of products currently on the market. On December 31, 2014, the MoH invited comments on a new draft of the Drugs and Cosmetics (Amendment) Bill 2015. U.S. stakeholders continue to express concerns regarding the need for an adequate compliance period and India's refusal to permit the use of stickers to provide country-specific information, among other issues.

Food – Package Size and Labeling Requirements

The government of India mandated standard retail package sizes for certain foods and beverages effective November 1, 2012, via amendment to the Legal Metrology (Packaged Commodities) Rules, 2011. This

rule has not been notified to the WTO, nor is there any reference to a specific comment period for domestic stakeholders. As the United States does not impose specific standards for packaging size, and U.S. package sizes tend to be in English rather than metric units, the list of package sizes effectively bars many U.S.-origin products from entering India. Attempts to import such products have resulted in rejection at the port of entry. This is having a negative effect on trade, with numerous U.S. brands effectively excluded from the Indian market. The United States has repeatedly raised concerns about these standards in various bilateral and multilateral fora and continues to work with India to ensure that U.S. brands have access to the Indian market.

While the requirement for standard retail package sizes has not been removed, other issues related to packaging and labelling requirements were advanced during the November 2014 TPF. In the TPF joint statement, India "noted the potential reconciliation of the definition of wholesale pack between Departments, forthcoming rules to allow stickering of maximum retail prices at the port, and timely implementation efforts concerning these issues."

Foods Derived from Biotech Crops

India effectively prohibits the importation of food and agricultural products containing ingredients derived from biotech crops, except for soybean oil. Importers or the foreign exporter must have a particular biotech event approved by the Indian government before imports may begin. In February 2014, India resumed certain previously discontinued biotech regulatory processes and has approved open field trials for over 200 cultivars. While resumption of regulatory processes is a positive development, these processes remain slow, opaque, and subject to political influences. India's biotech rules have not been notified to the WTO. In the event that biotech products are approved for import in the future, questions about jurisdictional authority and unclear labeling requirements for packages containing "genetically modified" foods between the FSSAI and the Ministry of Consumer Affairs could also effectively ban U.S. biotech products from the Indian market. The United States raised the labeling issue with both the FSSAI and the Department of Consumer Affairs in 2014, but has not received clarification.

Livestock Genetics

The Department of Animal Husbandry, Dairying and Fisheries (DADF) of the Ministry of Agriculture imposes restrictions on imports of livestock genetics, requiring progeny testing and establishing quality standards (Revised Guidelines for Import/Export of Bovine Germplasm). These restrictions have not been notified to the WTO. Importation of animal genetics also requires a "no objection certificate" (NOCs) from the state government. The entire procedure for obtaining import permission takes four months, and requires, in addition to the NOC from the state, an import permission from the Directorate General of Foreign Trade and an import permit from the DADF. Neither the burdensome progeny testing, nor the NOC, are required of domestic producers of animal genetics. The United States has objected to these requirements in technical meetings with the DADF but has not received a substantive response.

Telecommunications Equipment – Security Regulations

In 2009 and 2010, India promulgated a number of regulations negatively impacting trade in telecommunications equipment, including mandatory transfer of technology and source codes as well as burdensome testing and certification requirements for telecommunications equipment. While India rolled back most of these measures in response to international stakeholders, India retains the objective of testing all "security-sensitive" telecommunications equipment in India with a current start date of April 1, 2015. However, the criteria have yet to be published and India's domestic security testing capacity is currently very limited, and it is unclear whether that capacity will increase sufficiently by the deadline. U.S. Government officials and U.S. stakeholders have continued to press India to reconsider the domestic testing

policy and to adopt the international best practice of using international common criteria and accepting products tested in any accredited laboratory in India or elsewhere.

Electronics and Information Technology Equipment – Safety Testing Requirements

U.S. electronics and information and communications technology (ICT) goods manufacturers have raised concerns about the Indian Department of Electronics and Information Technology's September 2012 order that mandates compulsory registration for 15 categories of electronic and ICT goods. The policy, which entered into force in January 2014, mandates that manufacturers register their products with laboratories affiliated or certified by the Bureau of Indian Standards (BIS), even if they are certified by internationally recognized laboratories. The government of India has never articulated how such a domestic certification requirement advances India's legitimate public safety objectives, and it added an additional 15 categories of electronics and ICT goods to the list in late 2014.

India currently has seven government and private laboratories accredited by BIS for testing and certification – far fewer than can accommodate the high volume of electronic goods the country imports. As a result, the ICT industry faces significant delays in product registration due to lack of government testing capacity, a cumbersome registration process, and tens of millions of dollars in additional compliance costs, which includes factory level as well as component level testing. Accordingly, enforcing these requirements could result in hundreds of millions of dollars' worth of U.S. exports being locked out of the Indian market, causing great concern for U.S. companies.

The domestic testing requirement is particularly burdensome for Highly Specialized Equipment, including servers, storage, printing machines, and ICT products that are installed, operated, and maintained by professionals who are trained to manage the product's inherent safety risks. These products pose little risk to the general consumer public. U.S. companies have incurred significant expenses due to testing samples being destroyed during the safety testing process in Indian laboratories. Indian laboratories have also indicated that they do not have the capacity to test some products that require industrial power supply, exceed household or office voltage, or are very large in size and weight. Moreover, exporters are forced to leave their products in these laboratories for extended and undefined periods of time.

The United States has been actively raising this issue bilaterally, including during meetings on the margins of the TPF, and multilaterally in the WTO TBT Committee in 2014, and will continue to discuss with the government of India in 2015.

Sanitary and Phytosanitary Barriers

The United States has raised concerns about India's SPS-related trade restrictions in bilateral and multilateral fora including the Agriculture Focus Group of the TPF, the WTO SPS Committee, and Codex Alimentarius (Codex). The United States will continue to make use of all available fora with a view to securing the entry of U.S. dairy, poultry, pork, and other agricultural products into the Indian market.

Food – Product Testing

The Food Safety and Standards Authority of India's (FSSAI) Authorized Officer at the Mumbai Sea Port and Airport posted a notice in 2013 stating that "100 percent samples" will be drawn from all imported agricultural consignments effective from September 13, 2013. This notice appears to broaden a 2004 Ministry of Commerce and Industry list of "high risk" food items, imports of which are subject to 100 percent sampling. FSSAI has not formally announced this notice via press release or other advisory, nor has India notified it to the WTO. Importers have expressed concerns about both the increase in cost of testing and increased detention of cargoes for indeterminate periods of time, which is particularly costly

with respect to perishable products. FSSAI officials have indicated that they are considering introduction of risk- and science-based sampling, but have not divulged a timeline for that.

Food – Product Approval

In May 2013, the FSSAI issued an advisory on new procedural guidelines for approval of food products, effective immediately. These guidelines were not notified to the WTO and apply to both domestic and imported foods. These guidelines supersede all preceding advisories and apply to approvals of food products for which standards are not specified under the Food Safety and Standards Act, 2006. In response to U.S. inquiries regarding the functions of the Product Approval Screening Committee, Indian officials responded that the objective of the Committee is to ensure that only products safe for human consumption enter or are sold in India; that decisions on product approval are time specific; and that FSSAI has authority to recall a product from the market based on information indicating that the product or an ingredient is not fit for human consumption. An online "Food Product Approval System" was launched on September 9, 2014, which, *inter alia*, allows applicants to track the progress of their applications. Product approval is required for changes in recipes for food products, meaning that the addition or deletion of individual ingredients requires a new application.

Dairy Products

Since 2003, India has imposed unwarranted SPS requirements on dairy imports, which have essentially precluded U.S. access to India's dairy market, one of the largest in the world. For example, India requires the U.S. Government to certify that any milk destined for India has been treated to ensure the destruction of paratuberculosis, which according to India, is linked to Crohn's Disease. Despite repeated requests from the United States, India has not provided scientific evidence to substantiate this assertion, and has declined to take into account evidence to the contrary submitted by the United States. The United States maintains that the presence of paratuberculosis in dairy products does not pose a human health risk and that India should not make elimination of this bacterium a condition for issuing a sanitary export certificate for U.S. dairy products. In addition, India has insisted on religious grounds that source animals must have never received any non-vegetarian feeds, which is not scientifically justified.

Pork

The Indian import certificate for pork requires that importers make an attestation that the imported pork does not contain any residues of pesticides, drugs, mycotoxins, or other chemicals above the maximum residue levels prescribed in international standards. However, these certificates fail to identify specific compounds and their corresponding international limits. India also limits pork imports to meat derived from animals that were never fed ruminant derived protein, requires attestations that are not consistent with international requirements, and prohibits imports of pork products obtained from animals raised outside the United States even if they were legally imported into the United States before slaughter. Further, veterinary certificates are valid for only six months, and a separate import permit must be obtained for each imported lot.

India also imposes onerous disease-freedom requirements which restrict the importation of U.S. pork into India. In June 2010, the United States requested India to provide a risk assessment for the importation of pork into India. The government of India advised during the October 2010 United States-India agricultural trade talks that the Ministry of Agriculture's technical committee on pork was scheduled to submit its report very shortly. However, after four years the United States has received no response from India's pork importation review committee.

Poultry and Swine

Since 2007, India has banned imports of U.S. poultry, swine, and related products due to the detection of low pathogenic avian influenza in the United States. The United States has repeatedly raised concerns about India's measures in the WTO SPS Committee, has discussed these concerns bilaterally with India, and in 2012 filed a dispute settlement case at the WTO. In 2014, the WTO panel hearing the dispute issued a report finding that India's avian influenza measures breach numerous provisions of the WTO SPS Agreement. India has appealed the panel's report.

Plant Health

India maintains zero-tolerance standards for certain plant quarantine pests, such as weed seeds and ergot, resulting in blocked U.S. wheat and barley imports. Bilateral discussions to resolve these issues, including at the senior official level, have achieved little success to date.

The Government of India's requirement of methyl bromide (MB) fumigation at the port of origin as a condition for the import of pulses is not feasible in the United States due to the phase out of MB due to its demonstrated negative impact on the environment. In August 2004, the United States requested that India permit entry of consignments of U.S. peas and pulses subject to inspection and fumigation at the port of arrival. India has granted a series of extensions allowing MB fumigation on arrival, but has offered no permanent solution. The most recent extension expires on March 31, 2015, and efforts are still underway to reach a permanent resolution.

IMPORT POLICIES

The United States has actively sought bilateral and multilateral opportunities to open India's market, and the government of India has pursued ongoing economic reform efforts. India's new government, which took office in 2014, has discussed accelerating economic reforms in 2015. Nevertheless, U.S. exporters continue to encounter tariff and nontariff barriers that impede imports of U.S. products into India.

Tariffs and other Charges on Imports

The structure of India's customs tariff and fees system is complex and characterized by a lack of transparency in determining net effective rates of customs tariffs, excise duties, and other duties and charges. The tariff structure of general application is composed of a basic customs duty, an "additional duty," a "special additional duty," and an education assessment ("cess").

The additional duty, which is applied to all imports except for wine, spirits, and other alcoholic beverages, is applied on top of the basic customs duty, and is intended to correspond to the excise duties imposed on similar domestic products. The special additional duty is a four percent *ad valorem* duty that applies to all imports, including alcoholic beverages, except those imports exempted from the duty pursuant to an official customs notification. The special additional duty is calculated on top of the basic customs duty and the additional duty. In addition, there is a three percent education cess (surcharge) applied to most imports, except those exempted from the cess pursuant to an official customs notification. India charges the cess on the total of the basic customs duty and additional duty (not on the customs value of the imported product). A landing fee of one percent is included in the valuation of all imported products unless exempted through separate notification.

While India publishes applied tariff and other customs duty rates applicable to imports, there is no single official publication publically available that includes all relevant information on tariffs, fees, and tax rates on imports. However, as part of its computerization and electronic services drive, India initiated a web-

based Indian Customs Electronic Commerce/Electronic Data Interchange Gateway, known as ICEGATE (http://icegate.gov.in). It provides options for calculating duty rates, electronic filing of entry documents (import goods declarations) and shipping bills (export goods declarations), electronic payment, and online verification of import and export licenses. In addition to being announced with the annual budget, India's customs rates are modified on an *ad hoc* basis through notifications in the Gazette of India and contain numerous exemptions that vary according to the product, user, or specific export promotion program, rendering India's customs system complex to administer and open to administrative discretion.

India's tariff regime is also characterized by pronounced disparities between bound rates (*i.e.*, the rates that under WTO rules generally cannot be exceeded) and the most favored nation (MFN) applied rates charged at the border. According to the WTO, India's average bound tariff rate was 48.6 percent, while its simple MFN average applied tariff for 2013 was 13.5 percent. Given this large disparity between bound and applied rates, U.S. exporters face tremendous uncertainty because India has considerable flexibility to change tariff rates at any time. In addition, while India has bound all agricultural tariff lines in the WTO, over 30 percent of India's non-agricultural tariffs remain unbound, (*i.e.*, there is no WTO ceiling on the rate.)

Despite its goal of moving toward Association of Southeast Asian Nations (ASEAN) tariff rates (approximately 5 percent on average), India has not systematically reduced the basic customs duty in the past five years. India also maintains very high tariff peaks on a number of goods, including flowers (60 percent), natural rubber (70 percent), automobiles and motorcycles (60 percent to 75 percent), raisins and coffee (100 percent), alcoholic beverages (150 percent), and textiles (some *ad valorem* equivalent rates exceed 300 percent). Rather than liberalizing its customs duties, India instead operates a number of complicated duty drawback, duty exemption, and duty remission schemes for imports. Eligibility to participate in these schemes is usually subject to a number of conditions.

U.S. companies also have objected to the increase in 2014 of tariffs on categories of telecommunications equipment. As part of the 2014-2015 Union Budget, the government of India issued Customs Notification 11/2014. This notification increased tariffs from 0 percent to 10 percent on four broad categories of telecommunications equipment and technologies, including switches, Voice over Internet Protocol equipment and phones, and certain networking equipment. The notification also specifies that products using certain technologies, such as Multiple Input/Multiple Output and Long Term Evolution, would be subject to duties. The United States urged India in 2014 to eliminate the new 10 percent duty on these products to ensure compliance with India's international trade obligations, including its commitments under the Information Technology Agreement.

The United States requested in 2014 that India reduce its very high basic customs duty on drug formulations and eliminate its basic customs duty for all life-saving drugs, as well as any finished medicines listed on the World Health Organization's list of essential medicines (http://www.who.int/medicines/publications/essentialmedicines/en/index.html). The United States also requested that India eliminate the 7.5 percent basic customs duty, additional duty, and special additional duty for medical equipment and devices, such as pacemakers, coronary stents and stent grafts, and surgical instruments; and for parts of medical devices, such as medical grade polyvinyl chloride sheeting for the manufacture of sterile Continuous Ambulatory Peritoneal Dialysis bags for home dialysis. The United States will continue to encourage India to reduce these high tariffs on healthcare products.

Many of India's bound tariff rates on agricultural products are among the highest in the world, ranging from 100 percent to 300 percent. India's average bound tariff for agricultural products is 118.3 percent. While many Indian applied tariff rates are lower (averaging 33.5 percent on agricultural goods in 2013), they still present a significant barrier to trade in agricultural goods and processed foods (*e.g.*, potatoes, apples, grapes, canned peaches, chocolate, cookies, and frozen French fries and other prepared foods used in quick-service

restaurants). The large gap between bound and applied tariff rates in the agriculture sector allows India to use tariff policy to make frequent adjustments to the level of protection provided to domestic producers, creating uncertainty for traders. For example, in January 2013, India issued a customs notification announcing an immediate doubling of the tariff on imports of crude edible oils.

Imports are subject to state level value-added or sales taxes and the Central Sales Tax as well as various local taxes and charges. India allows importers to apply for a refund of the special additional duty paid on imports subsequently sold within India and for which the importer has paid state level value-added taxes. Importers report that the refund procedures are cumbersome and time consuming. In addition, U.S. stakeholders have identified various state-level taxes and other charges on imported alcohol that appear to be higher than those imposed on domestic alcohol. The central government has taken steps and continues to work with state governments to adopt a national goods and services tax (GST) that would replace most indirect taxes, including various charges on imports. Implementation of a national GST will first require amending the Indian Constitution. In 2014, India's new government stated that achieving this reform is a priority.

Import Licenses

India maintains a "negative list" of imported products subject to various forms of nontariff regulation. The negative list is currently divided into three categories: banned or prohibited items (*e.g.*, tallow, fat, and oils of animal origin); restricted items that require an import license (*e.g.*, livestock products and certain chemicals); and "canalized" items (*e.g.*, some pharmaceuticals) importable only by government trading monopolies and subject to cabinet approval regarding import timing and quantity. India, however, often fails to observe transparency requirements, such as publication of timing and quantity restrictions in its Official Gazette or notification to WTO committees.

For purposes of entry requirements, India has distinguished between goods that are new, and those that are secondhand, remanufactured, refurbished, or reconditioned. India allows imports of secondhand capital goods by the end users without an import license, provided the goods have a residual life of five years. India's official Foreign Trade Policy categorizes remanufactured goods in a similar manner to secondhand products, without recognizing that remanufactured goods have typically been restored to original working condition and meet the technical and safety specifications applied to products made from virgin materials. Refurbished computer spare parts can only be imported if an Indian chartered engineer certifies that the equipment retains at least 80 percent of its life, while refurbished computer parts from domestic sources are not subject to this requirement. India requires import licenses for all remanufactured goods. U.S. stakeholders report that meeting this requirement, like other Indian import licensing requirements, has been onerous. Problems that stakeholders have reported with the import licensing scheme for remanufactured goods include: (1) excessive details required in the license application; (2) quantity limitations set on specific part numbers; and (3) long delays between application and grant of the license.

India subjects imports of boric acid to stringent restrictions, including arbitrary import quantity limitations and conditions applicable only to imports used as insecticide. Traders (*i.e.*, wholesalers) of boric acid for non-insecticidal use cannot import boric acid for resale because they are not end-users of the product and consequently cannot obtain NOCs from the relevant Indian government ministries and departments or import permits from the Ministry of Agriculture. NOCs are required before applying for import permits from the Ministry of Agriculture's Central Insecticides Board & Registration Committee. Meanwhile, local refiners continue to be able to produce and sell boric acid for non-insecticidal use subject only to a requirement to maintain records showing they are not selling to end users who will use the product as an insecticide.

Customs Procedures

U.S. exporters have raised concerns regarding India's application of customs valuation criteria to import transactions. India's valuation procedures allow Indian customs officials to reject the declared transaction value of an import when a sale is deemed to involve a lower price than the ordinary competitive price, effectively raising the cost of exporting to India beyond applied tariff rates. U.S. companies have also faced extensive investigations related to their use of certain valuation methodologies when importing computer equipment. Companies have reported being subjected to excessive searches and seizures of imports.

Furthermore, as explained above, India does not assess the basic customs duty, additional duty, and special additional duty separately on the customs value of a given imported product. Rather, India assesses each of these duties cumulatively; that is, the additional duty is assessed on the sum of the actual (or transaction) value and the basic customs duty, while the special additional duty is assessed on the sum of the actual (or transaction) value, the basic customs duty, and the additional duty. This raises concerns about the potential for importers paying higher duties than they should be liable for on the basis of the actual value of their imported product.

India's customs officials generally require extensive documentation, inhibiting the free flow of trade and leading to frequent and lengthy processing delays. In large part, this is a consequence of India's complex tariff structure, including the provision of multiple exemptions which vary according to product, user, or intended use. While difficulties persist, India has shown improvement in this area through the automation of trade procedures – including through the ICEGATE (http://icegate.gov.in) portal discussed above – and other initiatives.

GOVERNMENT PROCUREMENT

India lacks an overarching government procurement policy, and as a result, its government procurement practices and procedures vary among the states, between the states and the central government, and among different ministries within the central government. Multiple procurement rules, guidelines, and procedures issued by multiple bodies have resulted in problems with transparency, accountability, competition, and efficiency in public procurement. A World Bank report stated that there are over 150 different contract formats used by the state owned Public Sector Units, each with different qualification criteria, selection processes, and financial requirements. The government also provides preferences to Indian Micro, Small and Medium Enterprises, and to state owned enterprises. Moreover, India's defense "offsets" program requires companies to invest 30 percent or more of the value of contracts above 3 billion rupees (approximately $56 million) in Indian produced parts, equipment, or services. It is not uncommon for the Defense Ministry to request significant changes to previously accepted offset agreements.

India's National Manufacturing Policy calls for increased use of local content requirements in government procurement in certain sectors (*e.g.*, ICT and clean energy). Consistent with this approach, India issued the Preferential Market Access (PMA) notification, which requires government entities to meet their needs for electronic products in part by purchasing domestically manufactured goods.

India is not a signatory to the WTO Government Procurement Agreement, but is an observer to the WTO Committee on Government Procurement.

EXPORT SUBSIDIES

India maintains several export subsidy programs, including exemptions from taxes for certain export-oriented enterprises and for exporters in Special Economic Zones, as well as duty drawback programs that

appear to allow for drawback in excess of duties levied on imported inputs. India also provides pre-shipment and post-shipment financing to exporters at a preferential rate. Numerous sectors (*e.g.*, textiles and apparel, paper, rubber, toys, leather goods, and wood products) receive various forms of subsidies, including exemptions from customs duties and internal taxes, which are tied to export performance.

India not only continues to offer subsidies to its textiles and apparel sector in order to promote exports, but it has also extended or expanded such programs and even implemented new export subsidy programs that benefit the textiles and apparel sector. As a result, the Indian textiles sector remains a beneficiary of many export promotion measures (*e.g.*, Export-Oriented Units, Special Economic Zones, Export Promotion Capital Goods, Focus Product, and Focus Market Schemes) that provide, among other things, exemptions from customs duties and internal taxes based on export performance.

India's Foreign Trade Policy 2009-2014 outline a special initiative to increase agricultural exports, including a scheme called Vishesh Krishi Gram Upaj Yojana (VKGUY – "Special Agriculture Produce Scheme") aimed at boosting exports of fruits, vegetables, flowers, some forest products, and related value-added products. Under the plan, exports of these items qualify for a duty-free credit that is equivalent to 5 percent of their free-on-board (FOB) export value. The credit is freely transferable and can be used to import a variety of inputs and capital goods. To mitigate the negative impact of global economic conditions on exports, the government has made exports of several additional agricultural products eligible under VKGUY, such as corn, barley, soybean meal, marine products, meat and meat products, skimmed milk powder, and tea.

The government of India has permitted exports of certain agricultural commodities from government public-stockholding reserves at below the government's costs. In August 2013, for example, the government authorized two million tons of wheat exports from government held stocks. It also lowered the minimum price at which those stocks could be sold to $260 per ton FOB, significantly below the government's acquisition cost of $306 per ton, plus storage, handling, inland transportation cost, and other charges for exports. The United States has raised this issue in the WTO Committee on Agriculture along with other interested Member countries. While the government of India did not reach this export volume for 2014 or authorize additional volumes for exports due to lower global wheat prices, the United States continues to monitor this practice. Other WTO Members have also questioned the government of India in the WTO Committee on Agriculture on India's subsidy for exports of raw sugar.

AGRICULTURE PROGRAMS

India provides a broad range of assistance to its agricultural sector, including credit subsidies, debt forgiveness, and subsidies for inputs, such as fertilizer, fuel, electricity, and seeds. These subsidies lower the cost of production for India's producers, and have the potential to distort the market for which imports seek to compete. In addition, agricultural producers of 24 products benefit from the government program to purchase food products from farmers at minimum support prices (MSP). Rice and wheat are the most commonly supported, and account for the largest share of products procured by the government. High guaranteed MSP prices and extensive government procurement distorts domestic market prices and incentivizes the over production of rice and wheat, which restricts demand for imports.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

India remained on the Priority Watch List in the 2014 Special 301 Report because of concerns regarding weak protection and enforcement of intellectual property rights (IPR). USTR also conducted an Out-of-Cycle Review of India's IPR environment focused on the level of government engagement with the United States on IPR issues. Finally, the United States and India committed to establish an annual high-level

Intellectual Property (IP) Working Group based on the common recognition of the need to foster innovation in a manner that promotes economic growth and job creation.

Although there has been some recent progress with respect to certain IPR enforcement, there have also been a number of IPR developments that have raised concern from stakeholders, including the prior grant of one compulsory license by the government of India as well as revocations and other challenges to patents, particularly patents for pharmaceutical products. Current Indian law suggests that the lack of local manufacturing in India may be considered in reviewing a request for a compulsory license, and India's National Manufacturing Policy suggests curtailing patent rights to facilitate technology transfer in the clean-energy sector. Furthermore, in April 2013, the Indian Supreme Court stated that India's Patent Law creates a second tier of requirements for select technologies, like pharmaceuticals, an interpretation that may have the effect of limiting the patentability of a wide array of potentially beneficial innovations.

The United States also urges India to provide an effective system for protecting against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical and agricultural products. Additionally, India's 2012 Copyright Law amendments have not effectively implemented the WIPO Internet Treaties, including with respect to the protection against circumvention of technological protection measures.

India is in the process of undertaking an examination of its current IPR environment, including by developing a National IPR Policy to provide more clarity for stakeholders. However, India has yet to undertake substantive amendments to its IPR legal regime that would lead to improvements in its IPR environment. The United States remains concerned that measures such as compulsory licensing, patent revocation, and non-transparent and unpredictable price controls may create an atmosphere of uncertainty for IPR owners and disincentivize new and additional investment from foreign rights holders in India. The United States will continue to urge India to take steps to address specific concerns.

SERVICES BARRIERS

The Indian government has a strong ownership presence in major services industries such as banking and insurance. Foreign investment in businesses in certain major services sectors, including financial services and retail, is subject to limitations on foreign equity. Foreign participation in professional services is significantly restricted, and in the case of legal services, prohibited entirely.

Insurance

Foreign investment in the insurance sector has long been limited to 26 percent of paid-up capital. In March 2015, India's Parliament passed legislation to raise the cap on foreign investment to 49 percent, albeit only with Indian management and control.

Banking

Although India allows privately held banks to operate in the country, the banking system is dominated by state owned banks, which account for roughly 76 percent of total banking assets and 84 percent of all Indian bank branches. The market participation by foreign banks in India is largely controlled by the Reserve Bank of India (RBI). As of March 2013, India had 26 public sector banks, 20 private Indian-origin banks, 43 foreign banks and over 100 smaller, regional banks and credit cooperatives, with a combined network of over 100,000 branches. Foreign banks with a combined 327 branch offices constitute approximately 0.40 percent of the total bank branches in India, including four U.S. banks with a total of 49 branches. Under India's branch authorization policy, foreign banks are required to submit their internal branch

expansion plans on an annual basis, and their ability to expand is hindered by nontransparent quotas on branch office expansion.

Foreign banks also face restrictions on direct investment in Indian private banks. Unlike domestic banks, foreign banks are not authorized to own more than five percent of an Indian private bank without approval by the RBI. Total foreign ownership of any private bank from all sources (foreign direct investment, foreign institutional investors, and nonresident Indians) cannot exceed 74 percent. In addition, voting rights for any shareholders in private banks are capped at 10 percent.

RBI released framework guidelines in 2013 governing the establishment of wholly-owned subsidiaries by foreign banks in India. These guidelines contain several provisions that U.S. stakeholders have requested that the government of India clarify. According to the guidelines, foreign banks present in India prior to 2010 will have the option to subsidiarize or continue to operate as branches. However, the guidelines incentivize foreign banks to subsidiarize by offering Indian subsidiaries of foreign banks treatment similar to domestic banks when it comes to opening branches.

The passage of certain amendments to the Banking Regulation Act allows Indian business conglomerates and non-bank financial institutions to establish new private banks. However, the RBI restricted total foreign shareholding in any bank established by such entities to 49 percent for the first five years, after which the limit would be the same as that applicable to foreign ownership of other private banks, *i.e.*, 74 percent.

Audiovisual Services

U.S. companies continue to face difficulties with India's "Downlink Policy." Under this policy, international content providers that transmit programming into India using satellite must establish a registered office in India or designate a local agent. U.S. companies have reported that this policy is overly burdensome and can result in having a taxable presence in India. India also requires that foreign investors have a net worth of Rs. 50 million (approximately $800,000) in order to be allowed to downlink one content channel. A foreign investor must have an additional Rs. 25 million (approximately $400,000) of net worth for each additional channel that the investor is allowed to downlink.

The Telecommunications Regulatory Authority of India has introduced new regulations on content aggregation and distribution that eliminates bundling of channels and certain types of distribution partnerships. Content aggregation is commonly used internationally as it allows niche and foreign content to be bundled into and sold by domestic partners without a large local presence or sales force. The new regulations are particularly difficult for small and international content providers as the result is that these companies must directly sell content to cable TV operators, among which there are 60,000 local cable operators, radio, and TV broadcasters.

There are also a number of limits on foreign ownership in the audiovisual sector: cable news (49 percent); FM radio (20 percent); head-end in the sky (74 percent); direct-to-home (DTH) broadcasting (49 percent); teleports (49 percent); news broadcasting (26 percent); and newspapers (26 percent). India also maintains one of the highest entertainment tax rates in Asia and the nature and extent of tax varies widely across states, ranging from 14 percent to 167 percent. There is also pending litigation related to audiovisual services, including the acquisition of content and telecasting rights and advertising revenue of foreign telecasting companies that is causing uncertainty for companies considering market entry.

Accounting

Foreign accounting firms face obstacles to entering the Indian accounting services sector. Foreign accounting firms may only practice in India if their home country provides reciprocity to Indian firms. Only

accounting firms structured as partnerships under Indian law may supply financial auditing services, and only Indian-licensed accountants may be equity partners in an Indian accounting firm.

Legal Services

The Bar Council of India (BCI) is the governing body for the legal profession in India. Membership in the BCI is mandatory "to practice law" in India, but is limited to Indian citizens. Foreign law firms are not allowed to open offices in India. The Madras High Court has determined that foreign lawyers are permitted to advise clients on foreign law and international legal issues (*e.g.*, in connection with international arbitrations) on a "temporary" basis; the BCI is currently challenging this decision.

Architecture

Although Indian companies continue to demand high quality U.S. design for new buildings and infrastructure development, foreign architecture firms are finding it increasingly difficult to do business in India due to the legal environment. An ambiguous Indian legal regime for architectural and related services has resulted in court cases against foreign design firms seeking to perform work in India and harassment of potential clients of foreign design firms. This legal regime causes significant losses of business for U.S. companies.

Telecommunications

India eliminated a 74 percent cap on FDI in Indian wireless and fixed telecommunications providers in August 2013, though government approval is required for FDI above 49 percent. U.S. companies note that India's initial licensing fee (approximately $500,000 for a service-specific license, or $2.7 million for an all India Universal License) for telecommunications providers serves as a barrier to market entry for smaller market players.

The government of India continues to hold equity in multiple telecommunications firms. It holds a 26 percent interest in VSNL, the leading provider of international telecommunications services; a 56.25 percent stake in Mahanagar Telephone Nigam Ltd. (MTNL), which primarily serves Delhi and Mumbai; a 100 percent stake in Bharat Sanchar Nigam Ltd. (BSNL), which provides domestic services throughout the rest of India; a 100 percent stake in Bharat Broadband Nigam Limited, which is a special purpose vehicle company set up to establish, manage, and operate the government-funded National Optical Fibre Network; a 100 percent stake in Telecommunications Consultants India Limited, a telecommunications engineering and consulting company; and a 100 percent stake in Indian Telephone Industries Limited, an equipment manufacturer, which in turn holds a 49 percent stake in India Satcom Limited. These ownership stakes have caused private carriers to express concern about the fairness of India's general telecommunications policies. For example, valuable wireless spectrum was set aside for MTNL and BSNL instead of being allocated through competitive bidding. Although MTNL and BSNL did not pay a preferential price for their spectrum, they received their spectrum well ahead of privately owned firms.

India has amended the licenses required for telecommunications service providers with a view to addressing security concerns posed by telecommunications equipment. These amendments, however, contain provisions of concern to the United States, including: (1) a requirement for telecommunications equipment vendors to test all imported ICT equipment in laboratories in India with several deadline extensions now pushing compliance into mid-2015; (2) a requirement to allow both the telecommunications service provider that contracted with the vendor, as well as Indian government agencies, to inspect the vendor's manufacturing facilities and supply chain and to perform security checks for the duration of the contract to supply equipment to the telecommunications service provider; and (3) a provision imposing on vendors, without the right to appeal and other due process guarantees, strict liability and possible "blacklisting for

doing business in the country" if the vendor has taken "inadequate" precautionary security measures. In September 2013, India obtained Common Criteria (CC) "authorizing nation" status for ICT product testing, as a result of which Indian testing will be recognized by other CC countries as long as Indian testing laboratories adhere to specified standards. However, India has not revoked a domestic testing requirement for imported ICT equipment currently scheduled to take effect on April 1, 2015, including from other CC "authorizing nations." Government officials have indicated that they expect to introduce requirements for India-specific domestic testing for foreign telecommunications equipment and other security-sensitive products even if the equipment has been subjected to the internationally accepted CC testing and approved.

U.S. satellite operators have long raised concerns about the closed and protected satellite services market in India. Even though current Indian regulations do not preclude the use of foreign satellites, India's regulations provide that "proposals envisaging use of Indian satellites will be accorded preferential treatment." In addition, foreign satellite capacity must, in practice, be made available through the Indian Space Research Organization (ISRO), effectively requiring foreign operators to sell capacity to a direct competitor, which imposes a mark-up on the service and provides no added value. U.S. companies have noted that this requirement creates additional costs, allows ISRO to negotiate contract terms with the goal of moving the service to one of its satellites once capacity is available, and puts ISRO in a position of being able to determine the market growth rate. Although the Telecom Regulatory Authority of India (TRAI) has in the past recommended that India adopt an "open skies" policy and allow competition in the satellite services market, no measures have been adopted to date to implement TRAI's recommendations for further liberalization.

Distribution Services

India allows foreign ownership up to 100 percent in retailers selling a single brand of product, subject to case-by-case government approval and contingent on, among other things, a requirement to source at least 30 percent of the value of products sold from Indian small and medium sized enterprises (although the government has, in practice, permitted the local-sourcing requirement to be met by purchases from any Indian firm). Foreign investors not willing or able to comply with these requirements are subject to a foreign ownership cap of 51 percent.

India permits up to 51 percent foreign ownership in companies in the multi-brand retail sector, but leaves to each Indian state the final decision on whether to authorize such FDI in its territory. In addition, where such FDI is allowed, the policy imposes conditions on entry, including requirements to: invest at least approximately $100 million, of which at least 50 percent must be in "back-end infrastructure" (*e.g.,* processing, distribution, quality control, packaging, logistics, storage, and warehouses) within three years of the initial investment; open stores only in cities that have been identified as eligible by the respective state government; and source at least 30 percent of the value of products sold, from "Indian 'small enterprises' which have a total investment in plant [and] machinery not exceeding" $2 million.

FDI in single-brand and multi-brand retail "by means of [electronic] commerce" is explicitly prohibited.

Indian states have periodically challenged the activity of direct selling (the marketing and selling of products to consumers away from fixed locations) as violations of the Prize Chits and Money Circulation Schemes (Banning) Act of 1978 (Prize Chits Act), creating uncertainty for companies operating in the direct selling industry. This central government legislation contains no clear distinction between fraudulent activities such as Ponzi schemes, on the one hand, and legitimate direct-selling operations, on the other hand. Enforcement of the Prize Chits Act is reserved to the states, which have adopted varying implementation guidelines and taken unexpected enforcement actions on the basis of the ambiguous provisions of the Act. In May 2014, the Chief Operating Officer of a direct selling company was arrested

by Indian state police for violations under the Prize Chits Act. He was freed on bail after two months; the case remains under adjudication in Indian courts.

Stakeholders have asked the Indian Department of Industrial Policy and Promotion to issue guidance establishing a definition of direct selling and clarifying ambiguities, including uncertainty related to commissions earned in connection with the sale of products. In 2012, the Ministry of Finance issued draft guidelines designed to guide the preparation of state measures implementing the Prize Chits Act. Rather than clarifying the distinction between fraudulent schemes and legitimate business operations, however, the draft guidelines contained provisions making many standard direct selling activities, including activities that go to the core of the direct selling business model, inconsistent with the Prize Chits Act.

Education

Foreign suppliers of higher education services interested in establishing a presence in India face a number of barriers, including: a requirement that representatives of Indian states sit on university governing boards; quotas limiting enrollment; caps on tuition and fees; policies that create the potential for double-taxation; and difficulties repatriating salaries and income from research.

INVESTMENT BARRIERS

India continues to regulate FDI by sector. The Indian Department of Industrial Policy and Promotion (DIPP) periodically revises FDI policies through consolidated press notes. The most recent revision of the Consolidated FDI Policy was made effective from April 2014, and the next revision is expected to be released in April 2015, though it is not uncommon for DIPP to issue amendments to the Policy throughout the year.

In August 2014, the government of India cleared a proposal to allow 100 percent FDI in railway infrastructure through the automatic route (*i.e.*, without any prior government review). It also raised the FDI cap in the defense sector to 49 percent from 26 percent through the automatic route, and for investments exceeding 49 percent, the Cabinet Committee on Security will review applications on a case-by-case basis. The FDI cap increase in the defense sector, however, was accompanied by a provision stating that foreign investors may not control joint ventures manufacturing defense equipment.

OTHER BARRIERS

In 2010, India issued guidelines for the Jawaharlal Nehru National Solar Mission (JNNSM) which aims to bring 20,000 megawatts (MW) of solar based electricity online by 2022, as well as promote solar module manufacturing in India. In November 2014, Prime Minister Modi raised this target to 100,000 MW. The JNNSM is broken down into three multi-year phases and further divided into batches. Phase-I required all solar photovoltaic (PV) projects to use domestically manufactured solar modules and later expanded this to include solar cells. Furthermore, all solar thermal projects were required to meet a 30 percent local content threshold under both parts of Phase I. Phase-II (2013-2017), Batch I, which was initiated in October 2013, called for 750 MW of Grid Connected Solar, of which half (375 MW) must use domestically produced solar cells and modules. Moreover, under Phase II, Batch 1, this local content requirement (LCR) expanded to cover solar thin film technologies as well, which comprise the majority of the components made in the United States. The other 375 MW is open to any source regardless of origin. State-level projects are not obligated to abide by LCRs. The government of India is offering a number of incentives such as long-term contractually guaranteed rates to project developers who agree to use locally-sourced equipment. In 2013, the U.S. Government filed a WTO complaint (dispute DS456) challenging the LCRs in Phase-I. In February 2014, the U.S. Government expanded the complaint regarding similar LCRs in Phase-II. Consultations on these measures with the government of India failed to address U.S. concerns. In May

2014, the WTO established a panel to hear the U.S. legal challenge against the LCRs under the JNNSM. These proceedings are ongoing.

India has steadily increased export duties on iron ore and its derivatives. In February 2011, India increased the export duty on both iron ore fines and lumps from 5 percent and 15 percent, respectively, to 20 percent on both, and increased that export duty to 30 percent in January 2012. In February 2012, India changed the export duty on chromium ore from Rs. 3,000 (approximately $56) per ton to 30 percent *ad valorem*, an increase at current chromium ore price levels. In recent years certain Indian states and stakeholders have increasingly pressed the central government to ban exports of iron ore. India's export duties affect international markets for raw materials used in steel production.

In the agriculture sector, India has established tariff-rate quotas for corn and dairy products. Access to the tariff-rate quotas is complicated by requirements on who can be the end user of the imported products. These requirements often lead to low quota fill rates.

INDONESIA

TRADE SUMMARY

U.S. goods exports in 2014 were $8.3 billion, down 8.4 percent from the previous year. Indonesia is currently the 35th largest export market for U.S. goods. Corresponding U.S. imports from Indonesia were $19.4 billion, up 2.6 percent. The U.S. goods trade deficit with Indonesia was $11.0 billion in 2014, an increase of $1.3 billion from 2013.

U.S. exports of services to Indonesia were $2.2 billion in 2013 (latest data available), and U.S. imports were $692 million. Sales of services in Indonesia by majority U.S.-owned affiliates were $3.2 billion in 2012 (latest data available), while sales of services in the United States by majority Indonesia-owned firms were $85 million.

The stock of U.S. foreign direct investment (FDI) in Indonesia was $12.8 billion in 2013 (latest data available), down from $13.6 billion in 2012. U.S. FDI in Indonesia is led by the mining sector.

Overview

In recent years, Indonesia has enacted numerous regulations on imports that have increased the burden for U.S. exporters. Import licensing procedures and permit requirements, product labeling requirements, pre-shipment inspection requirements, local content and domestic manufacturing requirements, and quantitative import restrictions impede U.S. exports.

Numerous other measures have been adopted or are being considered in the context of draft legislation, including new food and quarantine laws. In January 2014, Indonesia's legislature, the Dewan Perwakilan Rakyat (DPR), passed a new industry law (3/2014) outlining a master plan for national industrial development and tariff and non-tariff measures to protect domestic industries, citing protection of natural resources, national interest, and strategic importance. In February 2014, the DPR passed a comprehensive trade law (7/2014), which outlines the government's broad powers to oversee trade, including the ability to limit exports and imports in order to protect domestic interests. To date, only some of the implementing regulations had been published for both the trade and industry laws.

The Indonesian government has increasingly adopted such measures as it pursues the objective of self-sufficiency. The United States will continue to press Indonesia to resolve U.S. concerns regarding these measures.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Toys – Standards and Testing Requirements

In April 2014, Indonesia began enforcing a new mandatory toy regulation – Ministry of Industry Regulation 24 of 2013. Under the regulation, Indonesia will accept test reports from foreign International Laboratory Accreditation Cooperation-accredited laboratories for a two-year period, subject to further registration and sampling requirements, after which the regulation will require a bilateral mutual recognition agreement to avoid in-country testing.

U.S. stakeholders remain concerned about the frequency of testing requirements, which is on a per-shipment basis for imports and every six months for domestic products. They also are concerned about specific technical requirements, such as for formaldehyde, which are not based on the latest ISO standard; as well as burdensome documentation requirements. In addition, U.S. stakeholders are concerned about a lack of coordination of Indonesia National Standard (SNI) registration and pre-shipment inspection. U.S. stakeholders have asked the Ministry of Industry to reduce the inspection frequency once an importer demonstrates a history of compliance along the lines of the U.S. Consumer Product Safety Commission's post-market surveillance approach. Since the regulation came into effect, importers have reported that the import testing and registration process has increased from 15 days to an average of 80 to 90 days. The United States has raised concerns over this regulation bilaterally and in the WTO Committee on Technical Barriers to Trade and will continue to work to address concerns with Indonesia on this issue.

Cell Phones, Handhelds, Tablets and Laptops

Indonesia has issued a number of measures that make it more difficult to import cellular and WiFi-equipped products. In late 2012, Indonesia issued Ministry of Trade (MOT) Regulation 82, which was subsequently amended by MOT Regulation 38 in 2013, and Ministry of Industry (MOI) Regulation 108. Under these measures, in order to obtain an import license, companies must provide product identification numbers for each imported item, and receive: (1) an import certification from MOI; (2) a certification for telecommunication device and equipment from the Ministry of Communication and Information Technology; and (3) a label in Bahasa. Companies are unable to provide identification numbers months in advance and, as such, therefore often need to apply for both licenses on a per shipment basis. (*See Import Licensing Section for information on the import licensing requirements in these regulations*.)

Wireless equipment certification

The Ministry of Communication and Information Technology published Postel Regulation 5 in 2013, which imposes strict testing requirements on the cellular and WiFi equipped products, as well as notebooks and personal computers. This measure requires imported cell phones, tablets, handhelds, laptops, and other equipment with Bluetooth or wireless LAN features to be tested at the device level rather than the more common modular level. While similar devices produced locally face the same testing requirements, Indonesia requires that tests must be conducted in Indonesian test labs. Since full implementation began in January 2014, U.S. companies have reported some delays in product testing due to testing capacity constraints.

Bahasa Indonesia Labeling Requirements

In late 2013, Indonesia's Ministry of Trade issued regulation Ministry of Trade 67/2013 on the "Obligation to Affix Indonesian-Language Labels on Goods." The regulation requires the use of pre-approved Bahasa Indonesia-language labels on a wide range of products, including various information and communications technology products, building materials, motor vehicle goods, household products, and apparel and textiles, that are distributed or sold in Indonesia. The regulation also requires that labels be "embossed or printed on the goods, or wholly attached to the goods" and must be attached "upon entering the customs territory" of Indonesia. The new regulation removed the option of using stickers and attaching them in the customs territory, and as a result significantly increased the costs for foreign goods entering the Indonesian market, without a clear benefit to consumer health or safety. In fall 2014, Indonesian officials clarified that "permanent stickers" are permitted.

Halal

In September 2014, Indonesia passed a law governing halal products (33/2014). The law makes halal certification mandatory for all food, beverage, drugs, cosmetics, chemicals, and organic and agricultural biotech products sold in Indonesia, as well as machinery and equipment used in processing these products, subject to further implementing regulations. Companies have three years from October 2014 to comply with the new law. In the meantime, companies have been instructed to follow existing Indonesia Ulama Council (MUI) halal-certification procedures. The new law also states that the Indonesian government will establish a new institution called the Halal Product Guarantee Agency to issue halal certificates. Once formed, this agency will assume the role currently fulfilled by the MUI. As of March 2015, implementation of the halal law remained uncertain, partly due to resource restraints.

Under the Ministry of Agriculture's Regulation 84 of 2013, Indonesia imposed additional regulations that appear to impede imports of poultry products. These include the requirement that all poultry-slaughter facilities in the country of origin meet an Indonesian halal standard in order for facilities to be eligible to export to Indonesia. As a result, even poultry slaughter facilities in the United States that meet a halal standard by a halal certification body in the United States are banned from shipping to Indonesia, as exports are only allowed from countries with 100-percent halal poultry slaughter.

Prepackaged and Fast Foods – Labeling of Sugar, Salt and Fat Requirements

In April 2013, the Indonesian Ministry of Health issued Regulation 30/2013 on the inclusion of sugar, salt, and fat content information on labels for prepackaged and fast foods. The regulation also requires inclusion of a health message affixed to labels for processed and fast foods. Indonesia failed to notify the regulation to the WTO TBT Committee until after it was finalized and effective. The United States supports Indonesia's regulatory and public health effort to improve nutritional literacy and raise awareness among Indonesians about healthy lifestyle choices, but is concerned about the lack of an open public consultation process regarding this measure. U.S. stakeholders have raised concerns regarding the need for further technical clarification and implementing guidance -- including acceptable methods for the required nutrient conformity tests -- and whether tests performed by foreign laboratories or by companies' "in-house" laboratories would be acceptable. Indonesia's strict testing procedure may not allow *de minimis* variations between batches and would possibly lead to unnecessary shipment-by-shipment inspections for label conformity. The United States submitted written comments on the regulation and cited concerns with the regulation at all three WTO TBT Committee meetings in 2014 and will continue to engage with Indonesia on it. As much as $418 million in U.S. prepackaged food exports to Indonesia could be affected by the regulation.

Sanitary and Phytosanitary Barriers

Beef and Pork

Indonesia does not recognize the equivalence of the U.S. food safety inspection system for beef and pork. Instead, Indonesia requires each U.S. meat establishment seeking to export to Indonesia to complete an extensive questionnaire that includes proprietary information, and to be inspected by Indonesian inspectors before it can ship meat to Indonesia. The United States has raised concerns about the establishment questionnaires and approval system with Indonesia repeatedly, including at the WTO Committee on Sanitary and Phytosanitary matters and at meetings of the United States-Indonesia Council on Trade and Investment, and will continue to raise concerns in WTO and bilateral fora.

Animal-Derived Products

Indonesia's animal health and husbandry law (Law 18/2009, as amended by Law 41/2014) requires companies that export animal-derived products, such as dairy and eggs, to Indonesia to complete a pre-registration process with the Indonesian Ministry of Agriculture. The law allows imports of these products only from facilities that Indonesian authorities have individually audited and approved. The law and associated implementing regulations, issued in 2011, impose overly-burdensome auditing and inspection requirements. To date, Indonesia has not notified the law to the WTO. Following an audit of the U.S. food safety system as it applies to dairy products in 2011, Indonesia agreed to a simplified questionnaire for U.S. dairy facilities seeking to pre-register for review and approval. The United States is continuing to work with Indonesia to further to improve the system under which U.S. establishments are made eligible to export dairy products to Indonesia.

Poultry

In December 2014, Indonesia banned all poultry imports from the United States due to the detection of high pathogentic avian influenza (HPAI) in backyard flocks in Washington and Oregon. This action is inconsistent with World Organization for Animal Health (OIE) guidelines, which recommend that countries take regional approaches to imposing trade restrictions on poultry and poultry products from countries which have detected HPAI in commercial or backyard flocks. The United States will continue to press Indonesia to limit poultry restrictions to only specific zones per OIE guidelines. Due to other restrictions on poultry (*see Import Licensing for Agricultural Products section below*), the United States can only ship live poultry to Indonesia. (*For other restrictions, see information regarding import licensing and halal requirements.*)

Horticulture

In 2014, the Ministry of Agriculture notified an amendment to Regulation 88 "Food Safety Control Over Import and Export of Fresh Food of Plant Origin" to the WTO SPS Committee. Under the proposed amended regulation, exporting countries would continue to be required to have a recognized food safety control system or registered food safety testing laboratories to export covered horticulture products. Exporters to Indonesia also would have to use a barcode tracking system. Although Indonesia allows the United States access through Jakarta's Tanjung Priok port, this rule could restrain trade with Indonesia in these products. (*See Customs Barriers section for more information.*)

IMPORT POLICIES

Tariffs

In 2013, Indonesia's average most-favored-nation applied tariff was 6.9 percent. Indonesia periodically changes its applied rates. Since December 2011, oilseeds have since alternated between 5 percent and zero, and are currently at zero. As of November 2014, wheat is subject to a 5-percent duty. In 2009, 2010, and 2011, Indonesia increased its applied tariff rates for a range of goods that compete with locally manufactured products, including electronic products, electrical and non-electrical milling machines, chemicals, cosmetics, medicines, iron wire and wire nails, and a range of agricultural products including milk products, animal and vegetable oils, fruit juices, coffee, and tea.

Indonesia's simple average bound tariff of 37 percent is much higher than its average applied tariff. Most Indonesian tariffs are bound at 40 percent, although bound tariff levels exceed 40 percent or remain unbound on automobiles, iron, steel, and some chemical products. In the agricultural sector, tariffs on more than 1,300 products have bindings at or above 40 percent. Tariffs on fresh potatoes, for instance, are bound

at 50 percent, although the applied rate is 20 percent. The high bound tariff rates, combined with unexpected changes in applied rates, create uncertainty for foreign companies seeking to enter the Indonesian market.

U.S. motorcycle exports remain severely restricted by the combined effect of a 60 percent tariff, a luxury tax of 75 percent, a 10 percent value-added tax, and the prohibition of motorcycle traffic on Indonesia's highways. Indonesia applies a tariff of Rp 125,000 (approximately $15) per liter on distilled spirits.

Luxury Taxes

Luxury goods (defined as goods not considered necessities), imported or locally produced, may be subject to a luxury tax of up to 200 percent. Currently, however, there are no luxury goods subject to the 200 percent rate, and the applied luxury tax rates generally range from 10 percent to 75 percent, depending on the product.

According to Indonesian Government Regulation No. 22 of 2014, issued in March 2014, the current highest tax rate applied is 125 percent for special luxury cars. However, under Regulation 41/2013, the luxury goods sales tax base rates are lowered for motor vehicles that meet certain environmental requirements. Luxury sales tax are reduced by up to 100 percent for certain motor vehicles meeting the following criteria: having an internal combustion engine with a cylinder capacity up to 1,200 cc and a fuel consumption rate of at least 20 kilometers per liter of fuel; or having a compression ignition engine (diesel or semi-diesel) with a cylinder capacity of up to 1,500 cc and a fuel consumption rate of at least 20 kilometers per liter of fuel. A luxury tax reduction of 50 percent is granted for motor vehicles using advanced technology diesel or petrol engines, biofuel engines, hybrid engines, or compressed natural gas (CNG) or liquefied gas for vehicles (LGV) dedicated engines, with fuel consumption of more than 28 kilometers per liter of fuel or other equivalent. A luxury tax reduction of 25 percent is granted for motor vehicles that use advanced technology diesel or petrol engines, dual petrol-gas engines (CNG kit converter or LGV), biofuel engines, hybrid engines, or CNG or LGV dedicated engines, with fuel consumption ranging from 20 kilometers per liter to 28 kilometers per liter of fuel.

Although Indonesia has eliminated its luxury tax on imported distilled spirits, the current excise tax regime imposes higher excise taxes on imported spirits than on domestic spirits.

Import Licensing

Indonesian importers must comply with numerous and overlapping import licensing requirements that impede access to Indonesia's market. Under MOT Regulation 27/2012 as amended by Regulation 59/2012, all importers are required to obtain an import license as either importers of goods for further distribution or as importers for their own manufacturing, but they cannot obtain license for both activities. Companies that operate under an import license for their own manufacturing are allowed to import finished products provided they are "market test" products or complementary goods. The decrees also require companies to demonstrate a "special relationship" with the foreign exporting company. The "special relationship" must be consularized by the Indonesian Embassy located in the country in which the foreign company is located. Only then may the companies import products from more than one section of the HS tariff code.

In addition, the Indonesian government imposes non-automatic import licensing requirements on a broad range of products, including electronics, household appliances, textiles and footwear, toys, food and beverage products, and cosmetics. The measure, originally known as Decree 56 in 2009, has been extended twice by the Ministry of Trade, most recently in December 2012 through MOT Regulation 83/2012, which will remain in effect until December 31, 2015. The decree also requires pre-shipment verification by designated companies (known in Indonesia as "surveyors") at the importers' expense and limits the entry

of imports to designated ports and airports. Indonesia informally limits application of the decree to "final consumer goods." While the Indonesian government appears to exempt selected registered importers from certain requirements of this decree, the approval process to qualify as a registered importer is opaque, ill-defined, and potentially discriminatory. The United States continues to seek withdrawal of the measure.

In July 2014, MOT issued Regulation 36/2014 which amended Regulation 83/2012 by adding two additional ports in Indonesia (Bitung Seaport and Cikarang Dry Port) to receive the import of food and beverages, apparel, and electronics. The regulation also requires the surveyor to verify the import permit license at the port of origin.

MOT Regulation 82 of 2012, as amended by Regulation 38 of 2013 and Ministry of Industry Regulation 108, in effect since January 2013, imposes burdensome import licensing requirements for cell phones, handheld computers, and tablets. Under Regulation 82, importers of cell phones, laptop computers, and tablets can no longer sell directly to retailers or consumers. In addition, importers must have at least three years of experience and must use at least three distributors to qualify for a MOT importer license. In addition, an amendment issued in 2013 (MOT Regulation 38/2013) requires an importer to commit to establish an "industry" (e.g. manufacturing) within three years of obtaining its import permit. In addition, MOI is informally limiting imports under existing licenses (issued under MOI Regulation 108) to protect locally manufactured cell phones, handheld computers, and tablets. (*See above TBT section for related information*.)

Indonesia maintains other additional non-automatic licensing requirements on textiles, clothing, and other "made-up goods" such as curtains and blankets, which limit market access for a wide range of products. Only approved local producers are authorized to import products, and these products are permitted for use only as inputs in domestic production, not for resale or transfer. Approval must be obtained for both the quantity and timing of imports. The United States continues to press Indonesia to eliminate these requirements.

Import Licensing for Agricultural Products

Import licensing requirements also apply to horticultural products. In August 2013, Indonesia adopted two ministerial regulations on the importation of horticultural products. These regulations are Ministry of Agriculture Regulation 86/2013 (replacing Regulation Nos. 47/2013, 60/2012, and 3/2012) and MOT Regulation 47/2013 (amending Regulation No 16/2013, which replaced Regulation Nos. 60/2012 and 30/2012). The regulations require Indonesian importers to obtain three permits in order to import horticultural products: (1) a Registered Importer and/or a Producer Importer designation from MOT; (2) an Import Recommendation of Horticultural Products (RIPH) from the Ministry of Agriculture; and (3) an Import Approval (SPI) from MOT. Additionally, before applying for recognition as a Registered Importer or Producer Importer, an importer must obtain an Importer Identification Number (General or Producer) and must prove that it has met certain criteria set by the Ministry of Trade.

Importer designations and approvals are issued on a biannual basis and are valid for one six-month period. RIPHs specify, *inter alia*, the product name, HS code, country of origin, manufacturing location (for industrial materials), and entry point for all horticultural products the applicant wishes to import. After securing an RIPH, an importer must obtain an SPI from MOT before importing horticultural products. An SPI specifies the total quantity of a horticultural product (by tariff classification) that an importer may import during the period for which the SPI is valid. Importers cannot amend existing SPIs or apply for additional ones outside the application window. Furthermore, importers must import at least 80 percent of the quantity specified on their SPI, or risk losing the right to import in the future.

Indonesia adopted similar rules for the importation of animals and animal products (Ministry of Agriculture Regulation 139/2014 (replacing Regulations 84/Permentan/PD.410/8/2013. 96/Permentan/PD.410/9/2013. and 110/Permentan/PD.410/9/2014) and MOT Regulation 46/2013 (replacing Regulation 22/M-DAG/PER/5/2013)). These regulations require importers seeking to import animals or animal products to obtain: (1) a Registered-Importer Animal and Animal Product determination from MOT; (2) a Recommendation from the Ministry of Agriculture; and (3) an Import Approval from MOT. To obtain a Registered Importer determination, the importer must be certified as a business establishment, possess a trading license and importer identification number, and meet other requirements. In addition, Indonesia requires importers of beef to purchase local beef in order to obtain an import Recommendation from the Ministry of Agriculture.

Recommendations and SPIs for animals and animal products are issued quarterly. Recommendations may be valid for up to the remainder of the current year, and SPIs are valid for a fixed term of three months, which restricts exports of U.S. beef products, as shipping times from the United States to Indonesia are long. The Directorate of Veterinary Public Health and Postharvest issues Recommendations, and importers may apply for SPIs only after obtaining a Recommendation for a given product. Recommendations specify, *inter alia*, the name, tariff category, entry point, country of origin, and intended use (which the regulations limit to certain sectors) of the product(s) to be imported. SPIs specify the quantity of each product that may be imported. Importers must demonstrate actual importation of at least 80 percent of the quantity specified in their SPI from the previous year, or risk losing their Registered Importer designation.

Similar to the prior import regulations, the new import regulations restrict the import of poultry and poultry products. The regulations governing animals and animal products maintain a positive list of products that may be imported with a permit. The regulations provide for the import of whole fresh or frozen poultry (chicken, turkey, or duck) carcasses but not for the import of poultry parts, resulting, in effect, in a ban on the import of poultry parts. Additionally, although the regulations provide for the import of whole chicken carcasses, in practice, Indonesia does not issue import permits covering these products. This practice was expanded to whole duck and turkey carcasses; Indonesia has not issued import permits for these products since December 2013.

The licensing regimes for horticultural products and animals and animal products have significant trade-restrictive effects on imports, and the United States has repeatedly raised its concerns with Indonesia bilaterally and at the WTO. Indonesia failed to address these concerns. As a result, in January 2013, the United States requested consultations with Indonesia under the WTO's dispute settlement procedures. After the consultations failed to resolve the concerns, the United States requested establishment of a WTO dispute settlement panel, and a panel was established in April 2013. In August 2013, New Zealand joined the dispute by filing its own request for consultations to address Indonesia's measures. At the same time, the United States filed a revised consultations request to address recent modifications to Indonesia's measures and to facilitate coordination with co-complainant New Zealand. The United States and New Zealand held consultations with Indonesia in September 2013 and June 2014, but were unable to resolve the issue.

Indonesia imposes additional import licensing and registration requirements apply to other agricultural products, including animals and animal products, sugar, and dairy. In late 2014, the United States learned that the Indonesian Ministry of Agriculture was moving towards issuing regulations regarding import licenses for dairy products. U.S. exporters have expressed concern that this move could result in further limits on dairy imports into Indonesia.

Pharmaceutical Market Access

The United States continues to have serious concerns about barriers to Indonesia's market for pharmaceutical products. Ministry of Health Decree No. 1010/MENKES/PER/XI/2008 requires foreign pharmaceutical companies either to manufacture locally or to entrust another company that is already registered as a manufacturer in Indonesia to obtain drug approvals on its behalf. Among its requirements, Decree 1010 mandates local manufacturing in Indonesia of all pharmaceutical products that are five years past patent expiration. It also contains a technology transfer requirement. A subsequent pair of regulations, Regulation 1799 and Indonesian Food and Drug Regulatory Agency's (BPOM) updated regulation on drug registration (most recently revised in Regulation 27 of 2013), provide additional information about the application of the local manufacturing requirements and lay out several exceptions to local manufacturing and technology transfer requirements. The United States remains concerned by Indonesian government statements indicating that Indonesia failed to abide by Indonesian legal procedures in issuing a compulsory license decree in 2012, and indicating that Indonesian patent law does not require individual merits review in connection with the grant of compulsory licenses. The United States will continue to monitor the implementation of these regulations.

The Indonesian Parliament passed a bill requiring Halal certification of pharmaceuticals as well as other products in September 2014. The United States will continue to monitor the status of the implementing regulations for this bill, including the potential impact on market access for affected products.

The innovative pharmaceutical industry has also raised concerns regarding the transparency of and opportunity for meaningful stakeholder engagement regarding the Indonesian pricing and reimbursement system. In particular, stakeholders report a lack of clarity and certainty regarding how pharmaceutical products are selected for listing on the Indonesian National Formulary (FORNAS) and whether and for how long such products will remain on the FORNAS. The United States will continue to follow this issue and request that the Ministry of Health have quarterly meetings with U.S. stakeholders to discuss these issues.

Quantitative Restrictions on Imports

Under current regulations, when submitting an Import Approval application to MOT, an importer must request the quantity of a product that it will be permitted to import. The Indonesian government has stated that it will approve any quantity requested, with the caveat that an importer must import at least 80 percent of the approved amount or lose the right to import in the future.

The Indonesian government has also stated that the import of many agricultural products, including meat and some horticultural products, will be subject to a reference price system, whereby imports will be permitted as long as domestic prices are above a set target price. In the event that prices fall below a set target price, the Indonesian government reserves the right to stop ("postpone") imports. As of December 2014, Indonesia has not yet suspended imports under this provision.

Since the removal of quotas on meat and horticultural products in August 2013, exporters have reported that meeting the 80-percent import requirement is burdensome and adds unnecessary risk. For example, the Indonesian government has shown little flexibility in accommodating importers that were unable to import their required volume within the duration of the Import Recommendation of Horticultural Products due to acts beyond their control, such as shipping delays and production shortages in the country of origin. In addition, U.S. companies have reported that the import approval process is burdensome and lacks transparency.

Indonesia imposes an "unofficial" restriction on corn imports. Since 2012, only feed millers can import corn. They must apply for an import permit from the Ministry of Agriculture. The import permit specifies

the volume of corn that can be imported. The import volume is set based on the level of domestic feed production.

Indonesia bans salt imports during the harvest season. It requires salt importers to be registered and to purchase domestic supplies as well as imports. Indonesia also maintains a seasonal ban on imports of sugar, in addition to limiting the annual quantity of sugar imports based on domestic production and consumption forecasts. Indonesia bans exports of raw and semi-processed rattan.

Indonesia applies quantitative limits on the importation of wines and distilled spirits. Companies seeking to import these products must apply to be designated as registered importers authorized to import alcoholic beverages, with an annual company-specific quota set by the Ministry of Trade.

Product Registration

Indonesia's food and drug agency (BPOM) reportedly has improved the efficiency of its product registration system through the implementation of an e-registration system for low-risk products. Still, concerns remain about proposed changes to the registration requirements and submission process that would can further complicate the process. U.S. stakeholders continue to express concern about the process to obtain product registration numbers (known as ML registration numbers). The United States will continue to monitor developments in this area.

Customs Barriers

U.S. firms continue to report that Indonesian customs relies on a schedule of reference prices to assess duties on some imports, rather than using actual transactions as required by the WTO Agreement on Customs Valuation. Indonesian Customs makes a valuation assessment based on the perceived risk status of the importer and the average price of a same or similar product imported during the previous 90 days.

U.S. horticulture exports can use Tanjung Priok port, despite an earlier Ministry of Agriculture announcement that the port would be closed to imports, because of U.S.-country recognition status for fresh foods of plant origin. Australia, New Zealand, and Canada have also been allowed to continue using Tanjung Priok. In January 2013, the Ministry of Agriculture renewed the U.S.-country recognition status for two years.

The United States submitted an application for another renewal in December 2014. In February 2015, Indonesia's suspended the renewal process in an overreaction to the *Listeria* outbreak on caramel covered apples in the United States. Further, Indonesia is requiring additional certificates of analysis for U.S. apple products. The United States will continue to work with the Indonesian government to ensure that it completes the renewal of the country recognition in a timely manner and that U.S. exports continue to have access to Indonesia through the Port of Jakarta in the interim.

State Trading

The National Logistics Agency maintains exclusive authority to import standard unbroken rice. Indonesia cited "food security" and price management considerations as the principle objectives of the authorization, but the Indonesian government separately detailed its aspirations for food self-sufficiency. The National Logistics Agency is not allowed to import rice before, during, or immediately after the main harvest period (January and February). This requirement effectively prohibits any rice imports during the first quarter of the year. Private firms are only allowed to import broken rice for processing and specialty rice varieties, such as basmati, jasmine, and sushi rice for retail or food service. Importers of broken and specialty rice must obtain a special importer identification number from the Ministry of Agriculture.

EXPORT RESTRICTIONS AND TAXES

Indonesia's 2009 mining law requires companies to process ore locally before shipping it abroad. Indonesia has implemented this law through a series of regulations, including January 2014 regulations that ban the export of over 200 mineral ores, including nickel and bauxite. U.S. stakeholders have expressed serious concern about the potential impact these measures, which could have on their operations.

Indonesia provisionally allows the export of eight concentrates associated with these mineral ores (including copper, lead and iron), subject to a prohibitive export tax that increases every six months through the end of 2016, at which time the export of the mineral ore concentrate will be banned altogether. Under a regulation issued in July 2014, if a company makes certain commitments with respect to the construction of a smelter in Indonesia, it will be assessed significantly reduced duties during this transition period. Once the smelter achieves an advanced stage of construction, these duties will be eliminated. In addition to these measures, Indonesia has put in place certain verification and inspection procedures with respect to the export of mineral ores. The United States will continue to raise concerns about these issues with the Indonesian government.

Indonesia imposes a progressive export tax on cocoa and palm oil exports. The cocoa export tax rate ranges from a 5 percent to 15 percent and is calculated based on a monthly average of export prices. As of October 2014, the Indonesian government no longer imposes export taxes on crude palm oil. Indonesia also effectively bans the export of steel scrap and bans exports of raw and semi-processed rattan. The Indonesian government is considering imposing export taxes on other products, including coconut, base metals, and coal.

GOVERNMENT PROCUREMENT

Indonesia grants special preferences to encourage domestic sourcing and to maximize the use of local content in government procurement. It also instructs government departments, institutes, and corporations to utilize domestic goods and services to the maximum extent feasible. Presidential Regulation 54/2010 requires procuring entities to seek to maximize local content in procurement, use foreign components only when necessary, and designate foreign contractors as subcontractors to local companies. Presidential Regulation 2/2009 stipulates that all state administrations should "optimize" the use of domestic goods and services and give price preferences for domestic goods and providers. Ministry of Industry Regulation 15/2011 provides for the creation of an Accelerated Use of Local Product National Team to optimize local product use in the procurement of goods and services.

Indonesia's 2012 Defense Law mandates priority for local materials and components and requires defense agencies to use locally produced defense and security goods and services whenever available. In addition, when an Indonesian government entity procures from a foreign defense supplier due to lack of availability from an Indonesian supplier, there is a requirement for trade balancing, incorporation of local content, and/or offset production. The amount of domestic value or local content required starts at 35 percent, and increases by 10 percent increments every five years until the value of local content is equal to 85 percent. The 35-85 percent domestic value must then be compensated by "counter-trade agreements," incorporation of local content, or offset production. Forthcoming implementing regulations will also include a series of "multipliers" that will increase the calculated final value of a given offset component based on a determination from the Defense Industry Policy Committee. The implementing regulations for the 2012 Defense Law are contained in Presidential Decree 76/2014, but numerous details, including specifics for multiplier values, remain undetermined. Calculations for the value of local content can include design, engineering, intellectual property rights, raw materials, facilities/infrastructure costs, education and training, labor costs, and after-sales service.

Indonesia is an observer but not a member of the WTO Agreement on Government Procurement. Observers have no obligations under the agreement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Indonesia remained on the Priority Watch List in the 2014 Special 301 Report. Key concerns in Indonesia include continuing widespread copyright piracy and trademark counterfeiting, an inadequate number of criminal prosecutions, and non-deterrent penalties for those who are convicted. Counterfeiting activity extends to products that present serious risks to human health and safety, such as pharmaceutical products. U.S. stakeholders report that one of its most significant frustrations remains the nontransparent court system, which also impedes the ability of rights holders to obtain information about cases directly affecting their interests. A new law in Indonesia that updates its 2002 Copyright Act includes some positive aspects, such as making duplication by video camera in movie theaters explicitly illegal, providing for the criminalization of illegal uploading and downloading of copyrighted material for commercial purposes, and introducing landlord liability for knowingly allowing the sale of copyright-infringing materials. However, the legislation removes certain key legal authorities that had previously been available to enforcement officials in favor of a complaint-based system. The United States is working with the Indonesian government to develop a mutually agreed Intellectual Property Action Plan to address deficiencies in IPR protection and enforcement, public education and outreach.

SERVICES BARRIERS

Legal Services

Only Indonesian citizens may be licensed as lawyers in Indonesia. Foreign lawyers may work in Indonesia as "legal consultants" with the approval of the Ministry of Justice and Human Rights. A foreign law firm seeking to enter the market must establish a partnership with a local firm.

Express Delivery and Logistics Services

Indonesia maintains restrictions on the provision of postal services, broadly defined to include courier, express delivery, and other logistics services. The law requires that postal service suppliers be majority-owned by Indonesians and that foreign suppliers limit their activities to provincial capitals with international airports and seaports. Under Regulation No. 15/2013, only an Indonesian legal entity can apply for a license and any foreign ownership of a company offering postal services must be limited to a maximum 49 percent.

Health Services

The negative list of foreign investment restrictions allow for 67-percent foreign ownership of private specialist hospitals in all regions of Indonesia. However, foreign ownership is prohibited for health research centers, private maternity hospitals, and general or public hospitals.

Financial Services

Nonbank financial service suppliers may do business in Indonesia as a joint venture or be partially owned by foreigners, but cannot operate in Indonesia as a branch of a foreign entity. A single entity, either foreign or Indonesian, may own no more than 40 percent of an Indonesian bank. The Financial Services Authority (OJK) may grant exceptions and allow for greater than 40-percent ownership of Indonesian banks in certain

cases. In December 2013, Bank Indonesia adopted a new regulation, No. 15/49/DPKL, restricting foreign ownership in private credit reporting firms to 49 percent.

In September 2014, the DPR passed the Bill on Insurance. The new law will require all insurance companies to incorporate locally as Indonesian corporate entities (Perseroan Terbatas or 'PT'). All foreign ownership of 'PT' insurance companies will be by publicly traded shares, so there will be no direct foreign ownership of corporate assets. While the Bill on Insurance does not contain an explicit cap on foreign equity ownership, OJK is expected to issue regulations lowering the foreign ownership cap for insurance companies from its current level of 80 percent. All insurers in the Indonesian market will also be required to join the Indonesian deposit insurance agency.

In late 2014, OJK issued a circular letter requiring insurance companies operating in the Indonesian market to cede 100 percent (up from the current 5 percent to 15 percent) of reinsurance to domestic reinsurance companies for all common lines of insurance such as vehicle, homes, business, and life insurance, and at least 25 percent on certain other lines of insurance. The circular also includes requirements for retention and retrocession. According to the circular, these changes were to be made starting January 1, 2015 for all new business, as well as existing contracts that extend beyond 2015. In late December 2014, OJK issued a draft regulation and requested stakeholder comments by January 26, 2015. OJK has indicated that they are planning on finalizing the regulation this year and that it could go into effect January 1, 2016. The United States will continue to engage Indonesia on this issue.

Energy Services

Article 79 of Presidential Regulation No. 35/2004, which regulates contractor activities in the upstream oil and gas sector, provides that contractors must "prioritize" the use of domestic services, including energy-related services, as well as technologies and engineering and design capabilities (see below).

Maritime Cabotage

Indonesia's 2010 Law No. 17 on Shipping requires all vessels operating in Indonesian waters to be Indonesian flagged. Indonesian law further limits foreign ownership of Indonesian-flagged vessels to 49 percent. However, the Indonesian shipbuilding industry does not have the capacity to build the variety of specialty ships its economy requires and is unlikely to have such capacity in the near to medium term. Full implementation of the law would be particularly problematic for foreign investors in Indonesia's energy and telecommunications sector, which would no longer be permitted to bring in the sophisticated rigs and specialized vessels needed to develop large upstream projects.

In response to concerns raised by the United States and other countries, the Ministry of Transportation issued Regulation No. 48/2011 allowing certain classes of non-transportation vessels to be eligible for a three-month renewable waiver from the domestic flagged-vessel requirements when there is no suitable Indonesian-flagged vessel available. In early 2014, the Ministry of Transportation issued Regulation No. 10/2014 to provide further exemptions to Law 17/2010 through the end of 2014 and extended the waiver period to six months for non-transport foreign vessels engaged in oil and gas surveying, drilling, offshore construction, dredging, salvage, and other under water work. Under the regulation, treatment of other categories of specialty foreign vessels will be decided on a case by case basis for waivers of up to three months. The United States will continue to press Indonesia on this issue to provide a longer-term solution for foreign-flagged specialty ship operators and their customers.

Audit and Accounting Services

Foreign public accounting firms must be affiliated with a local public accounting firm to conduct business in Indonesia. A foreign accounting firm must use the name of its local affiliate in addition to the foreign firm's name in presentations and disclosures. Indonesia allows a maximum of 10-percent foreign national staff for each level of management in the affiliated local accounting firm. In affiliated accounting firms, the ratio of foreign audit signing partners to local signing partners cannot exceed one to four.

Film

The 2009 Law on Film imposes a 60-percent local content requirement for local exhibitors and, to achieve that quota, also includes the authority to implement unspecified import restrictions, prohibitions against the dubbing of foreign films, and prohibitions against foreign companies distributing or exhibiting films. The law also restricts vertical integration across segments of the film industry, but the integration restriction has not been fully implemented to date.

The temporary postponement of a 2008 regulation requiring all local and imported movies, both theatrical prints and home video copies, to be replicated locally, with penalties on exhibitors for failing to do so, was replaced by consecutive one-year suspensions issued by the Minister of Culture and Tourism. In January 2015, the Tourism Ministry suspended the regulation for another year. The Indonesian Government has said that film policy will move from the Ministry of Tourism in 2015. However, it remains unclear whether it will fall under the Ministry of Education and Culture or the newly formed Creative Industry Agency. The United States continues to advocate for the permanent suspension and repeal of this regulation.

Construction, Architecture, and Engineering

Prior to November 2014, foreign construction firms were only allowed to be subcontractors or advisors to local firms in areas where the Indonesian government believed that local firms are unable to do the work. Government Regulation 10/2014 now permits the reverse relationship, *i.e.*, where the Indonesian government believes that a local firm is not capable of managing an entire project on its own, the local firm may now serve as subcontractor or advisor to a foreign construction firm. The foreign firm would work together with a 100 percent locally owned firm, or if it is a joint venture, then the local ownership should be at least 65 percent. There are a number of conditions to this regulation, including that the construction project should be worth at least Rp100 billion (or a minimum of Rp20 billion for a consultation project), that it should be a high-tech construction project, and that the risk ratio should be high.

Education

Indonesia limits foreign investment in primary, secondary, and tertiary educational institutions through special licenses. Foreign investment in non-formal education is limited to 49 percent. A foreign national may provide educational services at the tertiary level only if authorized by the Ministry of Education and the Ministry of Manpower. Authorization is granted on a case-by-case basis and only when there are no Indonesian instructors capable of filling the position.

Indonesia also issued a regulation overseeing the classification of schools. In May 2014, the Ministry of Education and Culture issued Regulation 31/2014 which provides that, starting December 1, 2014, every international school and National Plus School must become a "Satuan Pendidik Kerjasama" (SPK – 'Education Unit Partnership') which prohibits independent international schools. International schools must now be administered by partner institutions from overseas (or Foreign Educational Institutions already accredited or recognized in Indonesia) and can no longer use the word "international" in their names, among other requirements.

Franchising

Indonesia's MOT made three major regulatory changes in the franchising sector in recent years that threaten to have a significant chilling impact on future operations of foreign franchisors. In August 2012, Indonesia promulgated MOT regulation No. 53/2012, which establishes a local content requirement obliging an Indonesian franchisee to source 80 percent of its equipment and inventory domestically, unless a waiver is granted. While implementing rules remain vague, this sourcing requirement could have a significant negative impact in the development of new franchising agreements in Indonesia. This new requirement is not expected to be fully enforced against existing licensed franchisees until 2017.

In October 2012, MOT issued Regulation 68/2012 restricting the number of outlets that can be owned by a modern retail franchisee, such as supermarkets, to 150 before it must sub-franchise a portion of additional units to another local sub-franchisee. In February 2013, MOT issued regulation 7/2013 restricting the number of outlets that can be owned by a food and beverage franchisee to 250. In 2014, MOT issued amendments - Regulations 57/2014 and 58/2014 – to the existing franchising requirements. These revised regulations grandfather in franchisors or franchisees of restaurants, cafés, and bars that already have more than 250 outlets, but the existing requirements will still apply to newcomers or those that do not already have more than 250 outlets.

In December 2013, MOT issued Regulation 70/2013, building on the localization requirements of the above regulations and requiring modern retail establishments, such as shopping centers, minimarkets, and hypermarkets, to sell 80 percent domestic product. The regulation also limits the stock of these establishments to a maximum of 15 percent private label products. Retailers must comply with these regulations by June 2016. For stand-alone brand or specialty stores, MOT may provide exceptions to the requirement that retailers sell 80-percent domestic products based on the following criteria: (1) products requiring uniformity of production and sourcing from a global supply chain; (2) products with "world famous" or premium branding that are not yet produced in Indonesia; or (3) products from certain countries sold to meet the needs of their citizens living in Indonesia.

INVESTMENT BARRIERS

Indonesia's investment climate continues to be characterized by legal uncertainty, economic nationalism, and the disproportionate influence of local business interests. Indonesian government requirements often compel foreign companies to do business with local partners and to purchase goods and services locally.

Indonesia's 2007 Investment Law significantly increased the number of sectors in which foreign investment is restricted and increased foreign equity limitations in sectors such as telecommunications, pharmaceuticals, film and creative industries, and construction. Pursuant to presidential regulation, Indonesia continues to review the Investment Law and its Negative Investment List of restricted sectors.

In April 2014, Indonesia issued a revised Negative Investment List. The new Negative Investment List eases foreign investment restrictions in several sectors, including land transportation, pharmaceutical manufacturing, and infrastructure investments made under public-private partnership agreements, while further closing other sectors, such as e-commerce, distribution and warehousing, and various areas of oil, gas, and mining services.

In early 2014, Indonesia announced it would terminate its bilateral investment treaties (BITs) by permitting the more than 60 agreements to expire as soon as the agreements allow. While Indonesia may seek to renegotiate its agreements, it has not yet determined a timeline or consulted with its partners on this. The United States does not have a BIT with Indonesia.

Energy and Mining

Over the past several years, the Indonesian government has introduced regulatory changes to increase government control and local-content levels in the energy and mining sectors. The regulatory changes have raised costs for foreign businesses and questions about the sanctity of contracts already in force with the Indonesian government.

In the oil and gas sector for example, Government Regulation 79/2010 allows the Indonesian government to change the terms of certain existing production sharing contracts, eliminate the tax deductibility of certain expenses, change the terms and criteria for cost recovery, and place limits on allowable costs for goods, services, and salaries. Criminalization of the civil production sharing contract added to uncertainty in 2013, as U.S. company contractors and employees were convicted, fined, and imprisoned for doing work that was approved and defended in court by relevant government regulators. In 2014, the Indonesian Supreme Court heard appeals on several of these cases; rather than overturning the lower courts' decisions, the Supreme Court lengthened the imprisonment sentences.

Article 79 of Presidential Regulation No. 35/2004, which regulates contractor activities in the upstream oil and gas sector, provides that contractors must "prioritize" the use of domestic services, including energy-related services, as well as domestic technologies and engineering and design capabilities. Foreign energy and energy services companies have noted that these local preference policies severely undermine their ability to efficiently and profitably operate in the Indonesian market.

In 2011, Indonesia's oil and gas regulator tightened rules relating to how such content is measured with respect to oil and gas projects. Once fully implemented, the new criteria are intended to achieve an average of 91 percent local content by 2025, up from 61 percent in 2012. Moreover, under the new rules, the goods and services of companies without majority Indonesian shareholding can no longer qualify as "local" content. As a result, foreign energy service companies have been placed at a disadvantage *vis-à-vis* majority Indonesian-owned companies, which can more easily meet local content requirements, but are often less able to meet the technical requirements of a project. The Indonesian House of Representatives continues to pressure the oil and gas regulator to maintain or increase the local content requirements, leading to increased uncertainty in the market. The United States will continue to monitor developments in this area.

Since 2013, upstream oil and gas regulator SKK Migas, through policy PTK 51 of 2013, has ceased cost recovery reimbursement to oil and gas companies with whom disputes arise with respect to reimbursement amounts. At the same time, the Indonesian government increased pressure on oil and gas companies to repatriate export earnings into Indonesian state-owned banks, per Bank of Indonesia Regulation 13 of 2011 as amended by Regulation 14 of 2012, subjecting such earnings to Indonesian banking law and regulations despite production sharing contracts that allow companies to retain such earnings abroad. In addition, Regulation 31/2013 promulgated by the Ministry of Energy and Mineral Resources limits the amount of time expatriates can work in Indonesia's oil and gas sector to four years and sets an age limit of those expatriates at 55 years old, requirements that U.S. companies believe will significantly affect staffing patterns and technical capacity.

Indonesia's 2009 Mining Law created a system for granting mining concessions based on licenses, though some companies still operate on existing contracts of work. While the law gives local governments authority to issue mining licenses, Regulation 24/2012 returned authority to the central government for issuing licenses to companies with any foreign ownership. The law and its implementing regulations impose onerous requirements on companies doing business in the mining sector, including local content requirements, domestic sale requirements, and a requirement to process raw materials in Indonesia prior to export. Because the mining licenses are subject to future regulatory requirements, permitting, and tax

changes, they provide significantly less certainty than the contract of work system. However, the Indonesian government is requiring companies with contracts of work to renegotiate those existing contracts in order to increase government royalty rates, increase local content requirements, require domestic smelting of minerals, decrease the size of mining areas, and make other changes that significantly alter the economic potential of these projects. An implementing regulation of the law also restricted foreign ownership in the sector to 49 percent within 10 years of the start of production. In October 2014, with Regulation 77/2014, the Indonesian government eased the foreign ownership restrictions to 60 percent for companies that smelt domestically and 70 percent for companies that operate underground mines. The United States will continue to press Indonesia on this range of issues.

In September 2014, the Indonesian legislature passed the Provincial Administration Law. The law greatly reduces the authority of the regional governments in tendering concessions, and issuing licenses and approvals in the mining and oil and gas sectors and thus has the potential to streamline various processes. Several provisions of the law, however, are inconsistent with or contradict the 2009 Mining Law. Until amendments are enacted or other measures taken to clarify these discrepancies, the coexistence of the two laws contributes to regulatory uncertainty for investment in the mining sector.

Telecommunications

Telecommunications providers face myriad investment restrictions in a regime notable for its confusing system for classifying services and a track record of backsliding from steps toward liberalization. The Negative Investment List, updated through Government Decree No. 39/2014, caps foreign ownership at 65 percent for fixed and wireless network services and 49 percent for Internet and multimedia-based communication service providers (down from 65 percent). Previously, the foreign-ownership limitation on suppliers of fixed services was 95 percent.

U.S. stakeholders have raised concerns about local content requirements in the telecommunications sector. Ministry of Communication and Information Technology regulations, Regulation 07/2009 and Regulation 19/2011, require that equipment used in wireless broadband services contain local content of at least 30 percent for subscriber stations and 40 percent for base stations, and that all wireless equipment contain 50 percent local content within five years. Indonesian telecommunication operators are also required, pursuant to Decree 41/2009, to expend a minimum of 50 percent of their total capital expenditures for network development on locally sourced components or services.

In 2014, the Ministry of Industry adopted Regulation 69/2014 for the 4G spectrum, requiring 30-percent local content for the network base stations and devices that use the spectrum in three years. Ministry of Communication and Information Technology officials have confirmed that Indonesia is pursuing local content requirements for its 4G network and 4G-enabled devices but that the policy is still being developed, which will include revising MOI Regulation 69/2014. Further, under Government Regulation No. 82/2012, Indonesia may require certain companies operating in Indonesia to build or hire data and disaster recovery centers inside Indonesia. The U.S. Government continues to engage the Indonesian government on these issues.

OTHER BARRIERS

Although the Indonesian government and the Corruption Eradication Commission continue to investigate and prosecute high-profile corruption cases, many investors consider corruption a significant barrier to doing business in Indonesia. Other barriers to trade and investment include poor coordination within government, the slow pace for land acquisition for infrastructure development projects, poor enforcement of contracts, an uncertain regulatory and legal framework, and lack of transparency in the development of laws and regulations. The ongoing process of transferring investment-related decisions from central to

provincial and district governments, while helping reduce some bureaucratic burdens, has led to inconsistencies between national and regional or local laws. U.S. companies seeking legal relief in contract disputes have reported that they are often forced to litigate spurious counterclaims and report growing concern about criminalization of contract issues.

IRAQ

TRADE SUMMARY

U.S. goods exports in 2014 were $2.1 billion, up 4.2 percent from the previous year. Corresponding U.S. imports from Iraq were $13.7 billion, up 3.0 percent. The U.S. goods trade deficit with Iraq was $11.6 billion in 2014, an increase of $320 million from 2013. Iraq is currently the 61st largest export market for U.S. goods.

The flows of U.S. foreign direct investment (FDI) in Iraq was $1.8 billion in 2013, up from $468 million in 2011 (FDI flows for 2012 have not been published).

Membership in the World Trade Organization

Iraq is not presently a member of the World Trade Organization (WTO). In 2004, the WTO established a Working Party to examine the terms and conditions for Iraq's accession to the WTO. Iraq submitted its Memorandum on the Foreign Trade Regime in September 2005. The Working Party met for a second time in April 2008 to continue the examination of Iraq's foreign trade regime, but has not met since. The United States continues to play a role in providing technical assistance for Iraq's preparations for WTO accession negotiations.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Iraq's mandatory technical regulations are often based on standards that are technologically obsolete. Although Iraq is in the process of updating its standards and increasing its participation in international bodies that develop standards, its adoption of modern international standards is still limited.

Sanitary and Phytosanitary Barriers

On May 5, 2013, Iraq's Advisory Committee for Food Safety issued Decision 183, which declared U.S. beef ineligible for import due to bovine spongiform encephalopathy (BSE) concerns. The United States requested that Advisory Committee rescind its decision and lift the ban on U.S. beef. In March 2014, the government of Iraq agreed to lift the ban, but imposed restrictions on the cut and age of beef imports. Moreover, the government of Iraq refuses to accept USDA form 9060-5, USDA's standard meat and poultry export certificate, which had been accepted prior to the ban. Additionally, Iraq requires U.S. exporters to comply with cumbersome precertification and consularization requirements, adding costs and delays.

IMPORT POLICIES

Tariffs

On January 2, 2014, Iraq started the first phase of implementation of a 2010 tariff law, which replaces the across-the-board 5 percent tariff rate enacted a decade ago by the Coalition Provisional Authority with a much broader scale of some lower, but mostly higher, tariff rates. The law establishes rates on agricultural goods ranging from zero (for seeds), to 50 percent (for pork products, sugar, and tobacco), to 80 percent (for water and beverages). Tariffs on industrial goods range from duty free (some stones, minerals, organic and inorganic chemicals, dyes, rubber, wood pulp, some paper, locomotives, and aircraft), 5 percent to 15 percent (pharmaceuticals), 10 percent to 20 percent (apparel), 30 percent (bicycles, motorcycles, various

electrical goods, electronic, information technology goods, and finished plastics), and 40 percent (carpets). Calculating the tariff rates remains a challenging process, involving cross-referencing a December 10, 2013 Council of Ministers decree with the 2010 tariff law and factoring in temporary tariff ceilings, if any. Most non-luxury imports receive a tariff waiver and are taxed at the previous 5 percent tariff rate. The Iraqi government has stated that it intends to implement fully the 2010 tariff law in phases, but it has not decided the timing or details of the next phases. The Kurdistan Regional Government applies the Iraqi government's new tariff regime as well. U.S. companies that produce goods in Greater Arab Free Trade Area (GAFTA) member countries report that they generally do not receive preferential tariff rates under GAFTA when importing products into Iraq.

Customs

U.S. companies doing business in Iraq consistently identify complex customs regulations as an impediment to trade with, and operations in, Iraq. Goods imported for sale in Iraq as well as items and equipment necessary for companies' own operations face long and unpredictable delays clearing customs

Companies exporting to Iraq face lengthy and burdensome delays and must expend funds and manpower to obtain Certificates of Origin (COOs) for their products. To obtain a COO, U.S. companies must obtain clearances from a local chamber of commerce, the governor of the relevant State, and the U.S. Department of State, as well as the approval of the Commercial Attaché's Office at the Iraqi Embassy in Washington D.C. Imports of foodstuffs require additional approvals from the Iraqi Consular Section in Washington and face complex and inconsistently enforced labeling requirements. The Iraqi COO requirement is especially onerous for complex equipment that includes parts from many countries. The U.S. Government is working to assist the government of Iraq in eliminating these kinds of measures and continues to stress to the government of Iraq that many countries in the region have stopped requiring COOs or limited their use for only those products for which preferential tariffs under preferential trade arrangements are sought. These kinds of measures appear to reflect antiquated trade policies and overlapping ministerial jurisdictions, rather than deliberate efforts to discriminate against foreign imports.

GOVERNMENT PROCUREMENT

There are significant challenges to the Iraqi central government's ability to tender. The Iraqi government faces institutional capacity problems on issues including due diligence and project awards, approvals, implementation, financing, and payment. Many U.S. companies report that the tender process differs greatly depending upon the ministry involved and bidders often complain that award decisions are not transparent. The United States is providing technical assistance to address some of these weaknesses. The Provincial Powers Law, as amended in 2013, gave provincial governorates funds and authority to tender local projects. Capacity varies among provinces and could complicate procedures for U.S. investors. Corruption across government institutions remains a concern.

For information on Iraqi government procurement policies related to the Arab League Boycott, please see the Arab League Boycott section.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Iraq currently does not have adequate statutory protection for intellectual property rights (IPR). The government of Iraq is in the process of developing a new IPR law to address certain obligations in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs). The draft law covers patents, trademarks, and copyrights. Strong implementing regulations will be needed to consolidate IPR protection and enforcement functions, which are currently spread across several ministries, into a "one-stop" IPR office. The Central Organization on Standards and Quality Control (COSQC), an agency within the

Ministry of Planning, handles the patent registry and the industrial design registry; the Ministry of Culture handles copyrights, and the Ministry of Industry and Minerals houses the office that registers trademarks. The new draft law has been stalled in the constitutional review process since mid-2007. The government of Iraq's ability to enforce and protect IPR remains very limited.

INVESTMENT BARRIERS

In 2014, the National Investment Law was formally amended, in an effort to clarify the role of the National Investment Commission and the steps involved in obtaining a formal investment license, a process that is currently a source of delay and confusion in the approval of investment projects. More generally, potential investors face laws, regulations, and administrative procedures that continue to make Iraq's overall regulatory environment opaque. Obtaining licenses in the Iraqi Kurdistan Region (IKR), for example, requires application at branch offices in each governorate, while Iraqi government line ministries may require additional approvals which can delay or prevent potential investments in a particular province from moving forward. Although Provincial Investment Commissions (PICs) and a National Investment Commission (NIC) are charged with assisting investors, their staff often lack training and expertise, and are still establishing their operations to serve as effective "one-stop shops" for investors to ease their entrance into the Iraqi market.

Iraq's Legislative Action Plan for the Implementation of WTO Agreements (the legislative "road map" for Iraq's eventual WTO accession) requires the establishment of competition-related laws that are critical to facilitating trade and investment. The Council of Representatives passed a Competition Law in 2010; however, the Competition Commission authorized by this law has yet to be formed. Without this Commission, investors do not have recourse against unfair business practices such as price-fixing by competitors, bid rigging, or abuse of dominant position in the market.

OTHER BARRIERS

Transparency

The way in which the Iraqi government promulgates regulations is often opaque and arbitrary. For example, while regulations imposing taxes on citizens or private businesses are required to be published in the official government gazette, there is no corresponding requirement for the publication of ministry-level regulations, which can result in uncertainty for investors.

ISRAEL

TRADE SUMMARY

U.S. goods exports in 2014 were $15.1 billion, up 9.6 percent from the previous year. Israel is currently the 23rd largest export market for U.S. goods. Corresponding U.S. imports from Israel were $23.1 billion, up 1.1 percent. The U.S. goods trade deficit with Israel was $8.0 billion in 2014, a decrease of $1.1 billion from 2013.

U.S. exports of services to Israel were $4.7 billion in 2013 (latest data available), and U.S. imports were $5.1 billion. Sales of services in Israel by majority U.S.-owned affiliates were $3.0 billion in 2012 (latest data available), while sales of services in the United States by majority Israel-owned firms were $2.9 billion. The stock of U.S. foreign direct investment (FDI) in Israel was $9.5 billion in 2013 (latest data available), up from $8.7 billion in 2012. U.S. FDI in Israel is led by the manufacturing sector.

The United States-Israel Free Trade Agreement

Under the United States-Israel Free Trade Agreement (FTA), signed in 1985, the United States and Israel agreed to implement phased tariff reductions culminating in the complete elimination of duties on all products by January 1, 1995. While tariffs on non-agricultural goods traded between the United States and Israel have been eliminated as agreed, tariff and nontariff barriers continue to affect a significant number of key U.S. agricultural product exports.

To address the differing views between the two countries over how the FTA applies to trade in agricultural products, in 1996 the United States and Israel signed an Agreement on Trade in Agricultural Products (ATAP), which established a program of gradual and steady market access liberalization for food and agricultural products effective through December 31, 2001. Negotiation and implementation of a successor ATAP was successfully completed in 2004. This agreement was effective through December 31, 2008, and granted improved access for select U.S. agricultural products. The ATAP has been extended six times, most recently through December 31, 2014, to allow time for the negotiation of a successor agreement. The ATAP provides U.S. food and agricultural products access to the Israeli market under 1 of 3 different categories: unlimited duty-free access, duty-free tariff-rate quotas (TRQs), or preferential tariffs, which are set at least 10 percent below Israel's most-favored nation rates.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Israel has developed a comprehensive and complicated regulatory system that regulates local production as well as imports of agricultural goods. This regulatory system is developed and managed by agencies from several different ministries such as the Ministry of Economy (Standards Institute of Israel), Ministry of Health (Food Control Services), and the Ministry of Agriculture (Veterinary Services and the Plant Protection Service). The Israeli regulatory system often adheres to the European regulatory standard, which results in added costs to U.S. exports to Israel.

Sanitary and Phytosanitary Barriers

Negotiations continue on a mutually-agreed protocol that would allow market access for U.S. beef and beef products. Israel's Veterinary Service is currently reviewing the latest proposed health certificate, and has informed the United States that they are preparing an "import protocol," since U.S. beef does not meet

Israeli maximum residue level (MRL) requirements. With an approved health certificate, the USDA estimates U.S. beef exports could potentially reach $120-150 million annually with full market access, in addition to $25-$30 million of live cattle for fattening.

IMPORT POLICIES

Agriculture

U.S. agricultural exports that do not enter duty free under WTO, FTA, or ATAP provisions face restrictions, such as a complicated TRQ system and high tariffs. These products include higher value goods that are sensitive for the Israeli agricultural sector, such as dairy products, fresh fruits, fresh vegetables, almonds, wine, and some processed foods. According to industry estimates, the elimination of levies on processed foods, including a broad range of dairy products, could result in increased sales by U.S. companies in the range of $30 million to $55 million. The removal of quotas and levies on dried fruits could result in an increase in sales by U.S. exporters of up to $12 million. U.S. growers of apples, pears, cherries, and stone fruits estimate that the elimination of Israeli trade barriers would lead to an increase of $5 million to $15 million in export sales of these products. Industry estimates that full free trade in agriculture could also result in U.S. cheese exports increasing significantly. Similarly, industry estimates that removing levies on food product inputs used in U.S.-based restaurant chains operating in Israel could save these chains millions of dollars annually and lead to their expansion in Israel.

Customs Procedures

Some U.S. exporters have reported difficulty in claiming preferences for U.S. goods entering Israel under the FTA, specifically related to the presentation of certificates of origin to Israeli customs authorities. Although the U.S. Government has engaged in discussions with Israel to clarify and resolve this issue, no resolution had been reached.

GOVERNMENT PROCUREMENT

Israel has offset requirements that it implements through international cooperation (IC) agreements. Under IC agreements, foreign companies are required to offset government contracts by agreeing to localization commitments to invest in local industry, co-develop or co-produce with local companies, subcontract to local companies, or purchase from Israeli industry. Israel is a signatory to the WTO Agreement on Government Procurement (GPA). Since January 1, 2009, the IC offset percentage for procurements covered by Israel's GPA obligations has been 20 percent of the value of the contract; for procurements excluded from GPA coverage, the offset is 35 percent, and for military procurements the offset is 50 percent.

U.S. suppliers suspect that the size and nature of their IC proposals can be a decisive factor in close tender competitions, despite an Israeli court decision that prohibits the consideration of offset proposals in determining the award of a contract. Small and medium-sized U.S. exporters are often reluctant to commit to make purchases in Israel in order to comply with the IC requirements, and, as a result, their participation in Israeli tenders is limited. As part of the revised GPA, which entered into force in 2014, Israel committed to phase out its offsets on procurement covered by the GPA.

In addition, the inclusion of unlimited liability clauses in many government tenders discourages U.S. firms from competing. When faced with the possibility of significant legal costs for unforeseeable problems resulting from a government contract, most U.S. firms are forced to insure against the risk, which raises their overall bid price and reduces their competitiveness.

The United States-Israel Reciprocal Defense Procurement Memorandum of Understanding (MOU), extended in 1997, is intended to facilitate defense cooperation in part by allowing companies from both countries to compete on defense procurements in both countries on as equal a basis as possible, consistent with national laws and regulations. The MOU, which has benefited Israeli defense industries by opening up the U.S. procurement market to Israeli products, has not significantly opened the market for U.S. suppliers interested in competing for Ministry of Defense (MOD) procurements funded by Israel.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The United States removed Israel from the Special 301 Report in 2014. Israel has passed patent legislation that satisfies the remaining commitments Israel made in a Memorandum of Understanding (MOU) from 2010 concerning several longstanding issues regarding Israel's intellectual property rights (IPR) regime for pharmaceutical products. These issues included improving data protection, the terms of patents for pharmaceutical products, and provisions on the publication of patent applications in Israel.

The United States remains concerned with the limitations of Israel's copyright legislation and its interpretation of its commitments for data protection on biologic pharmaceuticals. Israel has continued enforcement efforts over IPR infringement.

SERVICES BARRIERS

Telecommunications

Only two selected private Israeli broadcast TV channels and a few private radio stations are allowed to carry advertising. There are a few designated broadcast channels that received broadcast licenses and advertising privileges in exchange for certain local investment commitments. Israeli law largely prohibits other broadcast channels, both public and private, from carrying advertisements. Foreign channels that air through the country's cable and satellite networks are permitted to carry advertising aimed at a foreign audience.

Israel does not have an independent regulator for the telecommunications sector. In most cases, the Ministry of Communications is the lead agency for telecommunication issues.

ELECTRONIC COMMERCE

While Israel is one of the world's leaders in internet and technological innovation it ranks very low among OECD countries in the use and availability of internet services. Several barriers exist that deter e-commerce including higher online prices than retail stores, lack of variety, internet security, and complicated delivery methods which sometimes add hidden or unexpected fees and charges to merchandise purchased outside of Israel.

There are two laws which govern electronic consumer contracts: Standard Form Contract Law and the Consumer Protection Law. A comprehensive electronic commerce bill was published in 2008 but was not passed by the Parliament. Israel's Electronic Signature Bill legislated in 2001 regulates signatures on electronic media. Loopholes in the law allow the consumer to decline to pay for any merchandise for which he or she did not physically sign, which serves as a disincentive to the establishment of online businesses. The Ministry of Justice maintains a register of entities authorized to issue electronic certificates attesting to the signature of the sender of an electronic message. The Registrar of Databases, which falls under the authority of the Ministry, requires that any firm or individual holding a client database secure a license to do so.

JAPAN

TRADE SUMMARY

U.S. goods exports in 2014 were $67.0 billion, up 2.7 percent from the previous year. Japan is currently the fourth largest export market for U.S. goods. Corresponding U.S. imports from Japan were $133.9 billion, down 3.3 percent. The U.S. goods trade deficit with Japan was $67.0 billion in 2014, a decrease of $6.4 billion from 2013.

U.S. exports of services to Japan were $46.3 billion in 2013 (latest data available), and U.S. imports were $30.0 billion. Sales of services in Japan by majority U.S.-owned affiliates were $77.6 billion in 2012 (latest data available), while sales of services in the United States by majority Japan-owned firms were $107.6 billion.

The stock of U.S. foreign direct investment (FDI) in Japan was $123.2 billion in 2013 (latest data available), down from $125.3 billion in 2012. U.S. FDI in Japan is led by the finance/insurance, manufacturing, and wholesale trade sectors.

Overview

Japan is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Japan, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

In addition to the TPP negotiations, the United States also will continue to address trade-related concerns and issues with Japan through bilateral, as well as other fora.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Food Safety

Beef and Beef Products

In December 2003, Japan banned U.S. beef and beef products following the detection of an animal positive for bovine spongiform encephalopathy (BSE) in the United States. Following partial market re-openings in July 2006 and February 2013, the United States is currently eligible to export beef, beef offal, and ground beef from cattle less than 30 months of age. Processed beef products from cattle less than 30 months of age and all products from animals 30 months of age and older remain banned.

U.S. beef exports to Japan have grown significantly since the 2013 market access expansion, reaching $1.58 billion in 214. The United States continues to urge Japan to fully open its market, including for products from animals of all ages, consistent with OIE guidelines.

Food Additives

Japan's regulation of food additives has restricted imports of several U.S. food products, especially processed foods. Many additives that are widely-used in the United States and other markets are not permitted in Japan. In addition, U.S. manufacturers have raised concerns about the length of Japan's approval process for indirect food additives (*i.e.*, additives that do not remain in food when consumed, such as solvents).

In 2002, Japan created a list of 46 food additives that would be subject to an expedited approval process. All have been approved, with the exception of four, which the United States understands that Japan is currently reviewing. The United States has urged Japan to complete the reviews and to develop a meaningfully expedited process for reviewing all future requests for food additive approvals.

Gelatin and Collagen

Japan banned the importation of U.S. ruminant-origin gelatin and collagen for human consumption (along with the importation of most other ruminant origin tissues from the United States) following the detection of a BSE-positive animal in the United States in December 2003. In November 2014, Japan revised domestic regulations to allow importation of pharmaceutical grade gelatin from cattle bones. On January 8, 2015, Japan notified the WTO of proposed revisions to regulations on imported ruminant-origin gelatin and collagen for human consumption as well as ruminant-origin bone chips for the production of gelatin and collagen for human consumption. The United States will continue to work with Japan to re-open the Japanese market for U.S. ruminant-origin gelatin, collagen, and bone chips consistent with science and OIE guidelines.

Pre- and Post-Harvest Fungicides

Japan classifies fungicides that are applied pre-harvest as pesticides, and fungicides that are applied post-harvest as food additives; each designation requires a separate review. As a result, registrants of fungicides that may be used both pre- and post-harvest must ensure that two reviews are performed, a process that is redundant and that can take as long as six years to complete. The lengthy review process for post-harvest fungicides deters registrants from pursuing approval for new and safe products. Japan's requirement that post-harvest fungicides be classified as food additives does not have a significant impact on domestic producers, as Japanese farmers do not generally apply fungicides after harvest.

The United States is requesting that Japan streamline the review process for agricultural chemicals, including fungicides, applied both as pesticides (pre-harvest application) and as food additives (post-harvest application). The United States remains concerned that Japan requires products treated with a post-harvest fungicide to be labeled at the point of sale with a statement indicating that they have been so treated. This unnecessary labeling requirement dampens demand for the products.

Maximum Residue Limits

Prior to 2013, Japan refused to accept an application for an import tolerance for a pesticide or fungicide until the agrochemical was approved for use in a major supplier country. This policy caused a significant time lag between U.S. approval of a chemical and Japan's establishment of an import tolerance for that chemical substance. Starting in mid-May 2013, however, Japan began accepting an import tolerance

application for a pesticide or fungicide regardless of whether a maximum residue limit (MRL) for that pesticide or fungicide has been set in the application source country (as long as that country's core risk assessment has been completed). With this change in policy, agrochemical companies submitting registration applications with the U.S. EPA may apply simultaneously for establishment of import tolerances in Japan, moving forward the time of approval by up to 12 months when compared to the previous process.

In July 2009, the United States and Japan concluded a memorandum of understanding (MOU) on MRLs that changed the way in which Japan handles MRL violations. Pursuant to the MOU, Japan established a mechanism under its import and food monitoring policy for shippers to address violations quickly. While there has been improvement in how Japan handles MRL violations, the United States remains concerned that Japan's procedures still require industry-wide enhanced surveillance of shipments of a product after a single violation by a single shipper.

Plant Health

Fresh and Chipping Potatoes

Starting in 2006, Japan has agreed to allow an expanding scope of imports of U.S. fresh potatoes for the production of potato chips. Currently, potatoes are eligible for importation from 16 states, and shipments may be made over six months (February to July). These shipments may be made to two chipping facilities in Japan. However, because Japan restricts overland transportation of U.S. potatoes, trans-shipments to one facility, in the Kagoshima Port area, cause additional costs, delay, and risk of quality of deterioration.

IMPORT POLICIES

Rice Import System

Japan's highly regulated and nontransparent importation and distribution system for imported rice limits meaningful access to Japan's consumers. Japan has established a tariff-rate quota (TRQ) of approximately 682,000 metric tons (milled basis) for imported rice. The Staple Food Department of the Ministry of Agriculture, Forestry and Fisheries (MAFF) manages imports of rice within the TRQ through periodic ordinary minimum access (OMA) tenders and through simultaneous buy-sell tenders. Imports of U.S. rice under the OMA tenders are destined almost exclusively for government stocks. MAFF releases these stocks exclusively for non-table rice uses, such as industrial food processing or feed sector and for re-export as food aid. U.S. rice exports to Japan in 2014 were valued at over $271 million, totaling 287,689 metric tons. Only a small amount of this rice reaches Japanese consumers identified as U.S. rice, despite industry research showing Japanese consumers would buy U.S. high quality rice if it were more readily available. The United States continues to monitor Japan's rice imports in light of its WTO import commitments.

Wheat Import System

Japan requires wheat to be imported through the Grain Trade and Operations Division of MAFF's Crop Production Department, which then resells the wheat to Japanese flour millers at prices substantially above import prices. These high prices discourage wheat consumption by increasing the cost of wheat-based foods in Japan. In 2007, MAFF revised its wheat import regime to allow more frequent adjustment to the resale price so that prices more closely reflect international price movements. The United States continues to carefully monitor the operation of Japan's state trading entity for wheat and its potential to distort trade.

Pork Import Regime

Japan is the largest export market for U.S. pork and pork products on a value basis, with shipments valued at nearly $1.93 billion (468,719 metric tons) in 2014, accounting for nearly one-third of the value of total U.S. shipments to all destinations in that year. The import tariff for chilled and frozen pork is established by a gate price system that applies a 4.3 percent *ad valorem* tariff when the import value is greater than or equal to the administratively established reference price. When the value of imports falls below the reference price, the importer pays an additional specific duty equal to the difference between the import value and the reference price.

Beef Safeguard

In 2014, Japan remained the largest export market for U.S. beef and beef products on both a value and volume basis. Shipments to Japan were valued at $1.58 billion, totaling 241,128 metric tons. In 1995, as part of the results of the Uruguay Round, Japan was allowed to institute a beef special safeguard (SSG) to protect domestic producers in the event of an import surge. The SSG is triggered when the import volume of beef increases by more than 17 percent from the level of the previous Japanese fiscal year on a cumulative quarterly basis. When triggered, beef tariffs rise to 50 percent from 38.5 percent for the rest of the Japanese fiscal year. Although U.S. exports have increased significantly since further market opening at the start of 2013, the safeguard has not been triggered.

Fish and Seafood Products

Total U.S. fish and seafood exports to Japan in 2014 were valued at $772 million, a 6 percent increase over 2013. Tariffs on several fish and seafood products remain an impediment to U.S. exports and also pose an impediment for importers who rely on U.S. raw product for their processing operations. Other market access issues include Japan's import quotas on Alaska pollock, cod, Pacific whiting, mackerel, sardines, squid, and Pacific herring, as well as on specific products such as pollock roe, cod roe, and surimi. Although Japan has reduced tariffs, increased import quota volumes, and eased the administrative burdens associated with those quotas, the import quotas impede U.S. exports. The United States is urging Japan to continue to eliminate tariffs on, and remove nontariff obstacles to, U.S. exports of fish and seafood.

High Tariffs on Beef, Citrus, Dairy, Processed Food, and Other Agricultural Products

Japan maintains high tariffs that hinder U.S. exports of agricultural and other food products, including grains, sugar, pork, red meat, citrus, wine, dairy, and a variety of processed foods. Examples of double digit import tariffs include 38.5 percent on beef, 32 percent on oranges imported during the period of December to May, 40 percent on processed cheese, 29.8 percent on natural cheese, 22.4 percent on shredded frozen mozzarella cheese, 20 percent on dehydrated potato flakes, 17 percent on apples, 10.5 percent on frozen sweet corn, 20.4 percent on cookies, up to 17 percent on table grapes during the period of March to October, and 15 percent to 57.7 percent on wine depending on the tariff classification. These high tariffs generally apply to food products that Japan produces domestically. Addressing tariffs and improving market access for these and other products remains a high U.S. priority.

Wood Products and Building Materials

From July 2013 through September 2014, Japan's Forestry Agency administered the Wood Use Point Program (WUPP), with a budget of ¥56 billion (approximately $574 million), to promote the use of Japanese wood products. Though U.S. Douglas fir and several other non-Japanese species of wood were eventually deemed eligible for WUPP benefits, a cumbersome and time-consuming application process limited the impact of foreign species' eligibility under the program. The United States remains concerned

regarding Japan's use of what appear to be domestic preference subsidy programs to support the Japanese forestry industry and potential discrimination against imported wood products.

Leather/Footwear

Japan continues to apply a TRQ on leather footwear that substantially limits imports into Japan's market, negatively impacting market access for U.S. made and U.S. branded footwear. The United States continues to seek improved market access for U.S. exports in this sector.

Customs Issues

The United States continues to urge Japan to take a variety of steps to improve customs processing and to facilitate expedited treatment of goods at the border. The United States has encouraged Japan to raise the Customs Law *de minimis* ceiling from ¥10,000 (approximately $84) to a higher level. Strengthening Japan's system for advance rulings would also improve transparency and predictability for U.S. exporters.

SERVICES BARRIERS

Japan Post

The U.S. Government remains neutral as to whether Japan Post should be privatized. However, as modifications to the postal financial institutions and network subsidiary could have serious ramifications for competition in Japan's financial market, the United States continues to monitor carefully the Japanese government's postal reform efforts and to call on the Japanese government to ensure that all necessary measures are taken to achieve a level playing field between the Japan Post companies and private sector participants in Japan's banking, insurance, and express delivery markets.

In the area of express delivery services, the United States remains concerned by unequal conditions of competition between Japan Post and international express delivery suppliers. The United States continues to urge Japan to take action to enhance fair competition by leveling the playing field, including with respect to customs procedures and requirements as well as by prohibiting the subsidization of Japan Post's international express service with revenue from non-competitive (monopoly) postal services.

The United States also continues to urge the Japanese government to ensure that the postal reform process, including implementation of revisions to the Postal Privatization Law, is fully transparent, including by providing full and meaningful use of public comment procedures and opportunities for interested parties to express views to government officials and advisory bodies before decisions are made. Timely and accurate disclosure of financial statements and related notes is a key element in the postal reform process, as is the continued public release of meeting agendas, meeting minutes, and other relevant documents.

On October 1, 2014, the Ministry of Finance (MOF) announced the selection of 11 lead manager securities firms for the initial public offering (IPO) of the Japan Post (JP) Holdings. On December 26, 2014, Japan Post announced that three entities, JP Holdings (the parent company) and its two financial subsidiaries, JP Bank and JP Insurance, would go public at the same time in the "latter half of" Japanese FY2015, which begins April 1. Japan Post Co., the postal service subsidiary, will remain a wholly owned JP Holdings subsidiary. JP Group is expected to submit a preliminary application for the stock listings to the Tokyo Stock Exchange (TSE) in March 2015 with a formal application to be submitted following the JP Group's shareholder meeting in June. Observers anticipate that the IPO will take place in fall 2015.

With issues such as IPO date, percentage of shares to be released, pace of the offerings, continued government ownership, and many other details yet to be determined, the United States will continue to monitor developments and urge that the IPO process proceed in a fully transparent manner.

Insurance

Japan's private insurance market is the second largest in the world, after that of the United States, with direct net premiums of ¥36,743 billion (approximately $317.7 billion) in Japanese fiscal year 2013. In addition to the offerings of Japanese and foreign private insurers, insurance cooperatives (kyosai) and JP Insurance, a wholly government-owned entity of the JP Group, also provide substantial amounts of insurance to consumers. Given the size and importance of Japan's private insurance market as well as the scope of the obstacles that remain to market access, the United States continues to place a high priority on ensuring that the Japanese government's regulatory framework fosters an open and competitive insurance market.

Postal Insurance

Japan's postal life insurance system remains dominant in Japan's insurance market. At the end of Japanese fiscal year 2013, there were approximately more than 41 million postal life and postal annuity insurance policies in force. In comparison, approximately 138 million life and annuity policies were in force with all other life insurance companies combined. The U.S. Government has long-standing concerns about the postal insurance company's negative impact on competition in Japan's insurance market and continues to closely monitor the implementation of reforms.

The United States continues to urge the Japanese government to take steps to address a range of level playing field concerns in the insurance sector, including differences in supervisory treatment between JP Group's financial institutions and private sector companies, access to the JP network for private providers (including the process of selection of financial products), and cross-subsidization among the JP businesses and related entities. In regard to private suppliers' access to the postal network, there was significant progress during 2013. For example, in July 2013, JP concluded a comprehensive tie-up agreement with a U.S. insurance company, American Family Life Assurance Company of Columbus (Aflac), to increase the number of JP outlets that distribute Aflac's cancer insurance products. As a result, by the end of 2014, the number of postal outlets selling Aflac's cancer insurance products increased from 1,000 to more than 10,100.

The United States continues to urge the Japanese government not to allow the JP Group to expand the scope of operations for its financial services companies before a level playing field is established. The current restraints on the scope of JP Group operations – including the cap on the amount of insurance coverage and limits to the types of financial activities and products JP entities can offer – have helped to limit the extent to which the uneven playing field harms private insurance companies. The U.S. Government welcomed the statement by Deputy Prime Minister Taro Aso on April 12, 2013, that the Japanese government will refrain from approving new or modified cancer insurance and/or stand-alone medical products of JP Insurance until it determines that equivalent conditions of competition with private sector insurance suppliers have been established, and that JP Insurance has a properly functioning business management system in place, which Japan expects will take at least several years to achieve. In addition, before final decisions are made, it is vital that Japan's process for approving new products be transparent and open to all parties, including active solicitation and consideration of private sector views, along with careful analysis and full consideration of actual competitive conditions in the market.

Kyosai

Insurance businesses run by cooperatives (kyosai) hold a substantial share of insurance business in Japan. Some kyosai are regulated by their respective agencies of jurisdiction (*e.g.*, MAFF or the Ministry of Health, Labor and Welfare) instead of by the Financial Services Agency (FSA), which regulates all private sector insurance and financial services companies. These separate regulatory schemes create a nontransparent regulatory environment, and afford kyosai critical business, regulatory, and other advantages over their private sector competitors.

The U.S. Government remains concerned about the reversal of progress toward giving FSA supervisory authority over kyosai that have insurance operations that are not regulated by the FSA. The 2005 Insurance Business Law revisions would have achieved this by requiring unregulated kyosai to come under FSA supervision; the Japanese government, however, has delayed and, in some cases provided exemptions to, implementation.

Policyholder Protection Corporations

The Life and Non-life Policyholder Protection Corporations (PPCs) are mandatory policyholder protection systems created to provide capital and management support to insolvent insurers. In March 2012, the Japanese government extended the existing system of government pre-funding of the PPCs for an additional five years, until March 2017. The United States continues to urge Japan to consider more fundamental changes in the PPC systems, including through full and meaningful deliberations with interested parties, before renewing these measures again.

Other Financial Services

While improvements have been made in Japan's financial services sector, such as the FSA's continued commitment to its Better Markets Initiative, the United States continues to urge reforms in the areas of online financial services, defined contribution pensions, credit bureaus, and sharing of customer information. The FSA continues to enhance its engagement and outreach with both domestic and foreign financial firms operating in Japan, but more improvement in this sector is needed, particularly with respect to transparent practices such as enhancing the effectiveness of the no-action letter and related systems, and providing written interpretations of Japan's financial laws.

Telecommunications

The United States continues to urge Japan to ensure fair market opportunities for emerging technologies and business models, and ensure a regulatory framework appropriate for addressing converged and Internet-enabled services, and maintain competitive safeguards on dominant carriers. The United States also continues to urge Japan to improve transparency in rulemaking and ensure the impartiality of its regulatory decision making.

Dominant Carrier Regulation

The Nippon Telegraph and Telephone Corporation (NTT) continues to dominate Japan's fixed-line market through its control over almost all "last-mile" connections. Although NTT's market share declined by 1 percent from the previous year, it still holds a 71.1 percent share as of the end of June 2014 in the fiber-to-fiber (FTTH) market. NTT's authority to bundle its fixed-line services with NTT DOCOMO's mobile service is also of concern, as it appears to undermine the rationale for structurally separating the companies. NTT plans to start wholesaling its fiber-optic fixed-line services to other companies, including NTT DOCOMO, in February 2015, claiming that it does not violate the Telecommunications Business Act if it

treats all customers equally. However, mobile carriers and CATV companies have expressed concerns that this could result once again in NTT obtaining a dominant market share. The United States will continue to monitor developments.

New Mobile Wireless Licenses

Unlike most advanced economies, Japan does not use auctions to allocate spectrum, and the factors the Ministry of Internal Affairs and Communication (MIC) uses to determine how to evaluate applications have raised questions related to the fairness of the allocation process. In March 2012, Softbank was awarded 900MHz frequencies, and in June 2012, NTT DOCOMO, KDDI, and eAccess (acquired by Softbank in January 2013) were awarded 700MHz spectrum. While Softbank launched its 900MHz networks in 2013, the 700MHz frequencies will not be used until 2015. In July 2013, MIC awarded additional frequencies in the 2,625 MHz to 2,645 MHz bands to UQ Communications, a subsidiary of KDDI, to provide advanced Broadband Wireless Access systems. Although the Japanese government has previously considered introducing legislation that allows for auctions as an option to assign commercial spectrum, it remains unclear whether such legislation will be introduced.

Information Technologies (IT)

Health IT

The United States has urged Japan to improve the quality and efficiency of healthcare by rapidly implementing health IT that is based on international standards, promotes technology neutrality and interoperability, and allows patients greater access to their own health records. Engagement between U.S. and Japanese Government health IT experts continues to address health IT issues of mutual interest.

Privacy

Separate and inconsistent privacy guidelines among Japanese ministries have created an unnecessarily burdensome regulatory environment with regard to the storage and general treatment of personally identifiable information in Japan. The United States has urged Japan to introduce greater uniformity in the enforcement of the Privacy Act across the central government through policy standardization and consistent implementation of guidelines. The Abe Government's Cabinet Secretariat plans to submit a bill to the Diet in 2015 to amend the Privacy Act. The amendment would seek to enhance the use of personal data for business purposes while protecting privacy. The current version of the bill envisions a third party authority similar to the EU's Privacy Commissioner, although the extent of the authority's power is still under deliberation. The United States worked with Japan through the Asia-Pacific Economic Cooperation to facilitate Japan's participation in the Cross Border Privacy Rules (CBPR) system, a voluntary system of commercial data privacy standards. In April 2014, Japan received approval to join CBPR.

Consumption Tax on Online Content from Abroad

In 2012, the Ministry of Finance announced that it intends to begin levying a consumption (value-added) tax on online content from overseas. Such products offered by firms with a physical presence in Japan are already subject to a consumption tax. MOF proposes to introduce a mandatory registration system for foreign firms, modeled on that used in the European Union. MOF had planned to levy the consumption tax on online content from abroad beginning in October 2015, when the consumption tax was scheduled to rise to 10 percent; Prime Minister Abe's decision in November 2014 to postpone the consumption tax increase to April 2017 means that levy of the tax on online content has also been postponed. The United States is continuing to monitor developments.

Legal Services

Japan imposes restrictions on the ability of foreign lawyers to qualify for provision of international legal services in Japan. The United States continues to urge Japan to further liberalize the legal services market. Further, foreign lawyers are prohibited from establishing branch offices in Japan. The United States urges Japan to take important measures, including ensuring that no legal or Bar Association impediments exist to Japanese lawyers becoming members of international legal partnerships and accelerating the registration process for new foreign legal consultants.

Educational Services

The United States continues to urge the Japanese government to work with foreign universities to find a nationwide solution that grants tax benefits to foreign universities operating in Japan comparable to those provided to Japanese schools and allows them to continue to provide their unique contributions to Japan's educational environment.

In its Economic Revitalization Strategy first issued in June 2013, the government of Prime Minister Abe committed to promoting an educational system that more effectively provides the Japanese people with the skills to compete in the global economy. Consistent with that commitment, Japanese authorities actively engaged in 2014 with American universities operating satellite campuses or extension facilities in Japan to seek a way forward on taxation and other issues. American universities have reported success in being recognized as eligible educational institutions for issuance of visas to foreign students to study at their campuses in Japan. Despite extensive consultations with authorities, however, no American university has yet been able to satisfy all the legal requirements to be granted "educational corporation" ("gakkou houjin") status, which would confer the same tax benefits enjoyed by Japanese universities. The requirement that such corporations be "independently administered" (*i.e.*, not subject to direct administration by the parent university in the home country) is a particularly difficult legal hurdle to overcome. Lack of "gakkou houjin" status means foreign satellite universities are also excluded from participation in new Japanese government grant programs that promote international exchange and provide financial support for students wishing to study abroad.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Japan generally provides strong intellectual property rights (IPR) protection and enforcement. The United States, however, continues to urge Japan to improve IPR protection and enforcement in specific areas through bilateral consultations and cooperation, as well as in multilateral and regional fora.

The United States also has urged Japan to continue to reduce piracy rates, including by adopting methods to protect against piracy in the digital environment. Police and prosecutors lack *ex officio* authority to prosecute IPR crimes on their own initiative, without a rights holder's complaint. The United States also seeks improvements to Japan's Internet Service Provider liability law to promote cooperation between right holders and Internet service providers.

Japan took steps to revise its Customs Law and Unfair Competition Law in 2011. Japan also revised its Copyright Law in 2012, extending protection for technological protection measures, among other things. The United States continues to urge Japan to further strengthen its laws to provide effective criminal and civil remedies against the unauthorized circumvention of technological protection measures used by rights holders to protect their works, as well as effective criminal and civil remedies against the trafficking in tools used to circumvent such technological protection measures. Furthermore, although Japan provides a 70-year term of protection for cinematographic works, it provides only a 50-year term for other works protected by copyright and related rights. The United States continues to urge Japan to extend the term of

protection for all subject matter of copyright and related rights in line with emerging international trends. Also, while the United States welcomed clarifications to Japan's Copyright Law in 2010 that made clear that the statutory private use exception does not apply in cases where a downloaded musical work or a motion picture is knowingly obtained from an infringing source, the United States continues to urge the Japanese government to expand this limitation on the private use exception to cover all works protected by copyright and related rights.

In its June 2013 Economic Revitalization Strategy the Cabinet announced that Japan would undertake revisions to the Patent Act, Design Act, Trademark Act, and Patent Attorney Act in order to promote the creation, protection, and strategic use of intellectual property. In this connection, Japan amended its Copyright Act in April 2014 to establish new copyright provisions concerning publication rights for digitally published materials (e-books). The new provisions, which became effective as of January 2015, extend copyright protection to material in digital form to address illegal or pirated copies of published materials uploaded to the Internet.

The Ministry of Economy, Trade and Industry and other government agencies are currently working on further legal revisions. These revisions would: (1) amend the Patent Act to provide for enhanced relief measures and to enable the submission of applications in opposition to granted patents; (2) amend the Design Act to allow single applications for patents effective in multiple countries; (3) amend the Trademark Act to grant legal protection to non-traditional trademarks and regional collective trademarks; (4) amend the Patent Attorney Act to clarify the roles and responsibilities of patent attorneys and to expand the scope of their services; and (5) amend the Trade Secret Management Guidelines to clarify a company's role in adequately protecting information that the company wishes to guard as a trade secret and the role of court injunctions to protect such trade secrets.

Japan's Diet passed a bill in June 2014 for the protection of geographical indications (GIs) by means of a *sui generis* system. Enforcement of the new GI regime would begin in June 2015. The MAFF is currently preparing the implementing regulations and implemented a public comment period in February 2015. The United States will continue to engage with Japan during this period to advocate that core principles be addressed in the regulations including the scope of GI protection and GI registration safeguard procedures, protecting the prior rights of owners of existing trademarks, safeguarding the use of generic terms, and ensuring objection and cancellation procedures. The final regulations are expected to come into force in early summer.

GOVERNMENT PROCUREMENT

Japan is a signatory to the WTO Agreement on Government Procurement (GPA). Japan applies a threshold of 15 million SDRs (approximately $23.98 million) for procurement of construction services by sub-central entities and many government enterprises covered under the GPA, which is three times the threshold applied by the United States and most other GPA Parties.

The United States continues to emphasize the importance of improving the bidding process for government contracts in Japan, including by increasing transparency in tendering decisions and taking steps that facilitate improved opportunities for participation by qualified bidders.

Construction, Architecture, and Engineering

Two bilateral public works agreements are in effect: the 1988 United States-Japan Major Projects Arrangements (MPA, updated in 1991) and the 1994 United States-Japan Public Works Agreement, which includes the Action Plan on Reform of the Bidding and Contracting Procedures for Public Works (Action Plan). The MPA includes a list of 42 projects in which international participation is encouraged. Under

the Action Plan, Japan must use open and competitive procedures for procurements valued at or above the thresholds established in the GPA.

Problematic practices continue to limit the participation of U.S. design, consulting and construction firms in Japan's public works sector, including bid rigging (dango), under which companies consult and prearrange a bid winner (*see "Broadening Measures to Combat Bid Rigging" under the Anticompetitive Practices section*). The United States continues to press Japan to take more effective action to address this pervasive problem.

The United States continues to monitor Japan's public works sector. Specifically, the U.S. Government is paying special attention to certain major projects covered by the public works agreements that are of particular interest to U.S. companies. These include some construction projects for the Tokyo 2020 Olympics; major expressway projects; major public buildings, railroad and railroad station procurements, urban development and redevelopment projects; planned port facilities expansion projects; major private finance initiative projects; and the MPA projects still to be undertaken or completed. The U.S. Government is also monitoring developments related to environmental remediation, "green" building, design, and procurement.

INVESTMENT BARRIERS

Despite being the world's third largest economy, Japan continues to have the lowest inward FDI as a proportion of total output of any major OECD country. According to OECD statistics, FDI stock at the end of 2013 was only 3.5 percent of GDP in Japan, compared to 32.1 percent on average for all OECD members. Inward foreign merger and acquisition (M&A) activity, which accounts for a large portion of FDI in other OECD countries, also lags in Japan.

While the Japanese government recognizes the importance of FDI to revitalizing the country's economy, its performance in implementing domestic regulatory reforms to encourage a sustained increase in FDI has been uneven. In June 2013, the government of Prime Minister Abe announced its goal to double Japan's inward FDI stock by 2020, and reconfirmed this commitment in its revised growth strategy issued in June 2014. The government is pursuing a range of policies intended to promote this target.

Prior to the advent of the Abe Administration, the Japanese government had done little to explicitly encourage inward investment through M&A as a policy priority. After peaking at 309 in 2007, numbers of annual inbound M&A transactions declined to 112 in 2012 but registered a 33 percent increase to 149 in 2013. Despite this uptick, the number of transactions remains low for an economy the size of Japan's, and questions remain about the adequacy of the government's measures if the 2020 target is to be achieved. A variety of factors make inbound M&A difficult in Japan, including attitudes toward outside investors, inadequate corporate governance mechanisms that protect entrenched management over the interest of shareholders, cross-shareholdings, aspects of Japan's commercial law regime (*see Commercial Law section*), and a relative lack of financial transparency and disclosure. A positive development in addressing these issues is the renewed focus on better corporate governance in the government's June 2014 growth strategy. As part of that effort, the FSA and the TSE are jointly drafting a new "Corporate Governance Code of Conduct." While the Code of Conduct will not be legally binding on companies, compliance will become a condition for listing on the TSE. The Code, to be finalized and implemented by June 2015, should contribute significantly to improved corporate governance in Japan.

ANTICOMPETITIVE PRACTICES

Improving Anti-Monopoly Compliance and Deterrence

Japan's Anti-Monopoly Act (AMA) provides for both administrative and criminal sanctions against cartels and administrative sanctions for non-cartel conduct. Criminal prosecutions, which have the strongest deterrent effect against anticompetitive behavior in other countries, have been few, and penalties against convicted company officials have been weak. While the Japanese government has taken some steps to address these concerns, particularly through amendments to the AMA enacted in June 2009 that increased fines for cartel violations, the United States has continued to urge Japan to take steps to maximize the effectiveness of enforcement against cartel violations of the AMA. In addition, the United States has continued to encourage the Japan Fair Trade Commission (JFTC) to make further improvements, including by improving the economic analysis capabilities of JFTC staff, to strengthen its ability to enforce the AMA effectively.

Improving Fairness and Transparency of JFTC Procedures

The JFTC has the authority to make determinations of AMA violations without a prior formal administrative hearing. The JFTC allows companies subject to a proposed cease-and-desist or surcharge payment order to review the evidence relied upon by JFTC staff and to submit evidence and make arguments in their defense prior to issuance of a final order. However, respondents are only afforded the right to seek administrative review of the JFTC decision after the decision is put into place. To address on-going concerns as to whether the current system provides sufficient due process protections, in December 2013, the Diet enacted an AMA amendment bill to eliminate the *ex post* hearing system and to allow appeals of JFTC orders to go directly to the Tokyo District Court. Under the bill, the JFTC has 18 months to prepare implementing regulations, so the new system will be introduced by June 2015. In December 2014, an advisory panel recommended that the JFTC issue guidelines regarding administrative procedures to enhance the transparency of enforcement proceedings.

Broadening Measures to Combat Bid Rigging

The United States continues to raise concerns with the problem of bid rigging in Japan, and urges that further measures be taken to prevent conflicts of interest in government procurement and improve efforts to eliminate involvement in bid rigging by government officials.

OTHER SECTORAL AND CROSS-SECTORAL BARRIERS

Transparency

Advisory Groups

Although advisory councils and other government commissioned study groups are accorded a significant role in the development of regulations and policies in Japan, the process of forming these groups can be opaque, and nonmembers are too often not uniformly offered meaningful opportunities to provide input into these groups' deliberations. The United States continues to urge Japan to ensure transparency with respect to the formation and operation of advisory councils and other groups convened by the government by adopting new requirements to ensure that ample and meaningful opportunities are provided for all interested parties, as appropriate, to participate in, and directly provide input to, these councils and groups.

Public Comment Procedure (PCP)

Many U.S. companies remain concerned by inadequate implementation of the PCP by Japanese ministries and agencies. Examples include cases where comment periods appear unnecessarily short, as well as cases where comments do not appear to be adequately considered given the brief time between the end of the comment period and the issuance of a final rule or policy. The United States has stressed the need for Japan to ensure additional revisions are made to further improve the system, such as lengthening the standard public comment period for rulemaking.

Commercial Law

Foreign investment into Japan remains constrained by a range of issues, including conditions for using tax-advantaged merger tools for inward-bound investment to Japan, securities law and capital market issues inherent in cross-border stock-for-stock transactions, and corporate governance systems that do not adequately reflect the interests of shareholders. The United States continues to urge Japan to identify and eliminate impediments to cross-border mergers and acquisitions, including the availability of reasonable and clear incentives for many such transactions, and to take measures to ensure that shareholder interests are adequately protected when Japanese companies adopt anti-takeover measures or engage in cross-shareholding arrangements. The United States also continues to urge Japan to improve further its commercial law and corporate governance systems in order to promote efficient business practices and management accountability to shareholders in accordance with international best practices. Areas ripe for improvement include facilitating and encouraging active and appropriate proxy voting, setting minimum requirements for and ensuring the independence of outside directors, augmenting the role of outside directors on corporate boards, strengthening protection of minority shareholders by clarifying fiduciary duties of directors and controlling shareholders, and encouraging the stock exchanges to adopt listing rules and guidelines that improve the corporate governance of listed companies in a manner that protects the interests of minority shareholders.

In June 2014 the Diet passed a bill to amend the Companies Act to require firms to appoint at least one outside director, or to disclose at annual shareholders' meetings why such an appointment would be "inappropriate" (known as the "comply or explain" provision). The amendments also include guidance on multiple shareholder litigation and on voting rights for controlling shareholders. As noted in the "Investment Barriers" section of this report, the Abe Administration followed that legislation with a commitment in its June 2014 Growth Strategy to further strengthen corporate governance by introducing a "Code of Conduct" that will apply to companies listing on the TSE; the new Code is expected to be introduced by June 2015.

Automotive

A variety of nontariff barriers have traditionally impeded access to Japan's automotive market. Overall sales of U.S.-made vehicles and automotive parts in Japan remain low, which is a serious concern. The United States has expressed strong concerns with the overall lack of access to Japan's automotive market for U.S. automotive companies. Barriers include issues relating to standards and certification; transparency issues, including the lack of sufficient opportunities for stakeholder input in the development of standards and regulations; barriers that hinder the development of distribution and service networks; and the lack of equivalent opportunities for U.S. models imported under the preferential handling procedure (PHP) certification program to benefit from financial incentive programs. The United States urges Japan to address these and other barriers in Japan's automotive market. In a positive development, in July 2014 Japanese authorities eased restrictions on maintenance procedures for vehicles using a particular type of air conditioner refrigerant, allowing for importation of new models in which the refrigerant is installed. Also,

in 2013, Japan more than doubled (from 2,000 to 5,000) the number of imported vehicles per type that may use the simplified certification method of PHP.

Medical Devices and Pharmaceuticals

Japan continues to be one of the most important markets for U.S. medical device and pharmaceutical exports. According to Business Monitor International, the Japanese medical device market had an estimated value of $30.2 billion in 2013 and is projected to expand to $34.9 billion by 2018. Foreign suppliers have approximately 40 percent of the market. According to the American Medical Devices and Diagnostics Manufacturers' Association, approximately 60 percent of "new medical devices" approved in Japan were from its member companies. The pharmaceuticals market in Japan had an estimated value of $112.6 billion in 2013 and is projected to expand to $119.8 billion in 2018. The total market share of U.S.-origin pharmaceuticals in Japan is estimated to be approximately 20 percent if local production by U.S. firms and compounds licensed to Japanese manufacturers are included.

Prime Minister Abe's June 2013 Economic Revitalization Strategy calls for promotion of the pharmaceutical and medical device industries. Among other measures, the strategy includes steps to accelerate regulatory approvals to reduce the so-called "lag" time between application and approval of new products as well as steps to reward innovative medical devices and pharmaceuticals. These and other planned measures should continue to improve opportunities for U.S. medical devices and pharmaceuticals.

The Japanese government has made progress in several areas, including the reduction of lengthy approval periods for medical devices and pharmaceuticals as well as Diet passage in November 2013 of amendments to the Pharmaceutical Affairs Law (PAL). The PAL was further amended and renamed the Pharmaceutical and Medical Devices Law (PMDL) on November 25, 2014. The PMDL will enable further improvements to the regulatory review process, including the establishment of a distinction between the characteristics of medical devices and pharmaceuticals, and the establishment of a new product category for regenerative medicine products. The United States continues to urge Japan to improve performance goals for product reviews by meeting performance targets and to make science-based decisions efficiently and speedily. Also, the United States continues to urge Japan to further harmonize its efforts with other key regulatory agencies on international standards in clinical development, multiregional clinical trials, and risk management.

The United States has urged Japan over the past decade to implement predictable and stable reimbursement policies that reward innovation and provide incentives for companies to invest in the research and development of advanced healthcare products and pharmaceuticals. U.S. stakeholders have raised concerns regarding Japan's proposal to revise reimbursement prices annually, as opposed to the current biennial revision cycle, which it believes will introduce greater uncertainty and administrative burden for the stakeholders in Japan's pricing and reimbursement system. With regard to medical devices, U.S. stakeholders have expressed concerns about Japan's application of, and changes to, the Foreign Average Price (FAP) rule, a mechanism to cut prices of medical devices in Japan based on the simple average of prices for the same or similar products in the United States, Germany, France, the United Kingdom, and Australia.

With regard to pharmaceutical products, the United States welcomes Japan's decision in April 2014 to continue the premium system trial period for an additional two years. The premium, which minimizes downward price revisions on new drugs for which there are no corresponding generic pharmaceutical products, has considerably improved conditions for the development of new pharmaceutical products in Japan. Making this system permanent would increase the predictability and attractiveness of the Japanese market, further reduce lag time for introduction of pharmaceuticals, and promote long-term investment in life sciences. The United States continues to urge the Japanese government to make the system permanent.

Although the level of transparency in Japan's drug and medical device reimbursement decision making processes has improved in recent years, the United States continues to urge Japan to build further on recent improvements to foster a more open and predictable market.

Nutritional Supplements

Japan's nutritional or dietary supplements market is estimated at ¥1.21 billion (more than $10 billion) according to research by UBM Media. Japan has taken steps to streamline import procedures and to open this growth market, although many significant market access barriers remain. Burdensome restrictions on health claims are a major concern. Currently, only those products approved as Foods for Specified Health Uses (FOSHU) or Foods with Nutrient Function Claims (FNFC) are allowed to have health or structure/function claims. Producers of most nutritional supplements, however, are unable to obtain FOSHU or FNFC approval due to FOSHU's costly and time-consuming approval process and due to the limited range of vitamins and minerals that qualify for FNFC. These processes apply to both imported and domestic products.

Other concerns include long lead times for food additive applications; difficulties associated with using unregistered food additives (including organic solvents) as processing ingredients for use in nutritional supplements; high import duties for nutritional supplements compared to duties on pharmaceuticals containing the same ingredients; lack of transparency in new ingredient classifications; and lack of transparency in the development of health food regulations.

The Abe Government's Economic Revitalization Strategy issued in June 2013 included plans to implement a new functional health claims (labeling) system for health foods by the end of March 2015. Japan's Consumer Affairs Agency held eight committee meetings on the new functional claim system and published a report on July 30, 2014. Following a public hearing process in which U.S. stakeholders provided comments, the Agency is currently drafting detailed guidelines for implementation of the new system. The guidelines will reportedly reference the U.S. labeling system for dietary supplements; if implemented incorporating global best practices, the system could be a significant step forward in reducing regulatory barriers and expanding the dietary supplement market in Japan by enabling the Japanese consumer to obtain more functional information. The U.S. Government will closely monitor developments.

Cosmetics and Quasi-Drugs

Japan is the world's fourth-largest market (approximately $39.6 billion in retail sales as projected by Euro Monitor) for cosmetics and quasi-drugs after the United States and China. In 2013, U.S. exports of cosmetics and personal care products to Japan were estimated at 40.3 billion yen (over $400 million). Despite this market presence by U.S. products, regulatory barriers continue to limit timely consumer access to safe and innovative products, generating unnecessary costs. Unlike the over-the-counter drug monograph system in the United States, Japan requires premarket approval for certain products, such as a category called "medicated cosmetics" that are classified as quasi-drugs under the Pharmaceutical Affairs Law. The quasi-drug approval process includes requirements that are burdensome, lack transparency, and do not appear to enhance product safety, quality, or efficacy. In addition, restrictions on advertising claims for cosmetics and quasi-drugs prevent companies from informing customers of product benefits necessary for making informed choices. Overly complex import notification procedures and a burdensome foreign manufacturer accreditation process act as additional market access barriers for U.S. firms. Enhanced communication between the U.S. and Japanese governments and industries has led to some improvements in the Japanese regulatory system, such as implementation of the on-line customs clearance system as of November 2014.

Proprietary Ingredient Disclosure Requirement for Food and Dietary Supplements

As part of its product classification process for new-to-market food and dietary supplement products, Japan mandates that such products include a list of all ingredients and food additives by name along with content percentages and a description of the manufacturing process. In addition to being burdensome, this process risks the release of proprietary information to competitors.

Aerospace

Japan is among the largest foreign markets for U.S. civil aerospace products. The civil aerospace market in Japan is generally open to foreign firms, and some Japanese firms have entered into long-term relationships with U.S. aerospace firms. The United States continues to monitor Japan's development of indigenous aircraft.

Military procurement by the Ministry of Defense (MOD) accounts for approximately half of the domestic production of aircraft and aircraft parts and continues to offer the largest source of demand in the aircraft industry. Although U.S. firms have frequently won contracts to supply defense equipment to Japan, many contracts for defense equipment are not open to foreign bids. MOD's general preference is that defense products and systems be developed and produced in Japan, and it will often opt for local development and production, even when a foreign option exists that could fulfill the requirements more efficiently, at a lower cost, and with better interoperability with Japan's allies.

Although Japan has considered its main space launch vehicle programs as indigenous for many years, U.S. firms continue to participate actively in those space systems. Japan is also developing a global positioning system navigation satellite constellation known as the "quasi-zenith" satellite system, as well as high-performance Advanced Satellite with New System Architecture for Observation systems. At the conclusion of the second meeting of the United States-Japan Comprehensive Dialogue on Space on May 12, 2014, the United States and Japan released a joint statement welcoming initiatives to enhance bilateral space situational awareness information sharing. The statement also reaffirmed interest in collaboration on evaluating the operational and economic benefits from the use of space for maritime domain awareness.

Japan has been taking steps to bolster aviation operations through the liberalization of regulations and investment in infrastructure. Japan is the United States' largest aviation partner in the Asia-Pacific region, and a bilateral Open Skies regime has been in place since 2010. Operations between the United States and Tokyo's Haneda Airport, however, are limited because Japan strictly controls access to Haneda. Beginning in March 2014, Japanese authorities made limited additional daytime frequencies available for long-haul international flights, and in June 2014 the Ministry of Land, Infrastructure, and Transport (MLIT) released a study outlining options for long-term expansion of capacity at both Haneda and Narita airports. In conjunction with these developments, the U.S. and Japanese governments conducted two rounds of informal consultations regarding Haneda, and the U.S. Government continues to seek a commercially meaningful expansion of daytime access to Haneda that will meet the interests of U.S. airlines.

In the general aviation sector, the United States and the APEC member economies, including Japan, have reached consensus on best practices for the treatment and regulation of international business aviation operations. The U.S. Government will continue to work closely with the government of Japan to promote greater liberalization in the business aviation sector through APEC's Transportation Working Group.

JORDAN

TRADE SUMMARY

U.S. goods exports in 2014 were $2.1 billion, down 1.5 percent from the previous year. Jordan is currently the 64th largest export market for U.S. goods. Corresponding U.S. imports from Jordan were $1.4 billion, up 13.4 percent. The U.S. goods trade surplus with Jordan was $695 million in 2014, a decrease of $192 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Jordan was $217 million in 2013 (latest data available), up from $189 million in 2012.

The United States-Jordan Free Trade Agreement

Under the terms of the United States-Jordan Free Trade Area Agreement (FTA), which entered into force on December 17, 2001, the United States and Jordan completed the final phase of tariff reductions on January 1, 2010. Jordan now imposes zero duties on nearly all U.S. products, with exceptions for alcoholic beverages and mature subject materials. Following consultations under the United States-Jordan Joint Committee, Jordan endorsed the United States-Jordan Joint Principles on International Investment and Joint Principles for Information and Communication Technology (ICT) Services.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Jordan recognizes and accepts U.S. standards and specifications. However, Jordan has required that imports meet additional product standards. On July 1, 2014, for example, Jordan applied a new energy-saving labeling requirement for household appliances above and beyond that required by international standards. Some measures with the potential to be viewed as barriers to trade are imposed on an infrequent basis, such as a recent restriction imposed on packaging sizes for poultry available for retail resale.

Sanitary and Phytosanitary Barriers

Jordan removed sanitary and phytosanitary (SPS) trade barriers and improved its border food safety inspection system over the last several years. Some SPS measures with the potential to be viewed as barriers to trade are imposed on an infrequent basis. Issues have been amicably resolved within a reasonable time frame with the concerned authorities.

IMPORT POLICIES

Other Charges

Jordan's General Sales Tax law allows the government to impose a "Special Tax" at the time of importation in addition to the general sales tax. Over the past several years, Jordan increased special taxes on certain goods. For example, the government applies a special tax on automobiles and trucks of 17.5 percent and on perfumes of 25 percent.

Agriculture

Import licenses, or advance approvals for importation, are required for specific food products and agricultural goods. The Ministry of Agriculture and the Ministry of Health are the authorities charged with granting these licenses and approvals.

Import Licenses

In addition to the special licensing and approval requirements for the importation of certain agricultural products, Jordan requires that importers of commercial goods be registered traders or commercial entities. The Ministry of Industry and Trade occasionally issues directives requiring import licenses for certain goods or categories of goods and products in newly emerging or protected sectors. The government of Jordan requires a special import license prior to the importation of telecommunications and security equipment.

GOVERNMENT PROCUREMENT

Jordan is an observer to the WTO Committee on Government Procurement. In 2002, it commenced the process of acceding to the WTO Agreement on Government Procurement (GPA), with the submission of its initial entry offer. Subsequently, 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 continue with no major breakthrough to date.

EXPORT SUBSIDIES AND TAXES

Net profits generated from most export revenue will remain fully exempt from income tax except for net profits from exports in the mining sector, exports governed by specific trade protocols, and foreign debt repayment schemes, which are subject to income tax. Under WTO rules, the tax exemption was initially set to expire on January 1, 2008. At the request of Jordan, WTO members extended the waiver through December 2015, subject to an annual review. Jordan has indicated that it intends to apply for an extension to this tax exemption waiver.

In addition, 98 percent of foreign inputs used in the production of exports are exempt from customs duties; all additional import fees are assessed on a reimbursable basis.

Jordan imposes a $50 per ton tax on exports of steel scrap, discouraging its exportation.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Jordan was not listed in the 2014 Special 301 Report. The Jordanian government continues to take steps to provide more comprehensive protection of intellectual property rights (IPR). Despite past efforts by law enforcement officials to crack down on unauthorized products, enforcement in certain areas (especially digital media) generally remains weak. Jordanian agencies responsible for IPR enforcement lack resources and capacity. Prosecution efforts should be strengthened, particularly with respect to utilizing *ex officio* authority to bring charges in criminal cases.

KAZAKHSTAN

TRADE SUMMARY

U.S. goods exports in 2014 were $1.0 billion, down 12.3 percent from the previous year. Kazakhstan is currently the 82nd largest export market for U.S. goods. Corresponding U.S. imports from Kazakhstan were $1.4 billion, up 1.6 percent. The U.S. goods trade deficit with Kazakhstan was $436 million in 2014, an increase of $164 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Kazakhstan was $14.0 billion in 2013 (latest data available), up from $12.5 billion in 2012.

WTO Accession

During 2014, Kazakhstan focused much of its work in bilateral and plurilateral meetings to resolve specific outstanding issues on agricultural support, market access, sanitary and phytosanitary requirements, state-owned enterprises, and Trade-Related Investment Measures (TRIMS). Members plan further bilateral and plurilateral work in early 2015 with a view to convening a final Working Party meeting in the first half of the year.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Systemic Issues

The United States continues to work with Kazakhstan to encourage improvements in the EAEU and Customs Union (CU) SPS regime and to ensure that implementation of the EAEU's SPS measures does not disrupt trade. (*See Import Policies section below for more information on the EAEU and CU*). However, as a result of its adoption of EAEU and CU requirements, Kazakhstan has begun to impose some measures that have the potential to restrain U.S. exports.

In addition to implementing EAEU and CU import requirements, Kazakhstan now requires any importer or domestic producer of certain types of goods to obtain a Certificate of State Registration before the product can be sold in Kazakhstan. The Ministry of Health's Committee of State Sanitary and Epidemiological Supervision, which was reformed into the Committee of Consumer's Right Protection under the Ministry of National Economy in August 2014, is responsible for issuing these certificates. Goods subject to this certification requirement include:

- mineral water, drinking water in bottles, tonic water, and alcoholic beverages;
- food products produced with agricultural biotech microorganisms;
- food supplements, complex food supplements, perfumes, plant extracts, microorganisms, and cultures;
- products for disinfection (except of those used in veterinary services); and
- items designated for contact with food products (except dishes, table amenities, and microwaves).

Agricultural Biotechnology

The Kazakhstani law "On Seeds Farming" theoretically allows the field testing of agricultural biotech crops, although the field testing approval process has not yet been codified in law. A draft law regarding the approval process has been pending in the Kazakhstani Parliament since early 2011. The draft law is

expected to come up for discussion again in 2015. Some sources believe that it is likely the law will only pass after Kazakhstan's WTO accession.

CU regulations covering agricultural biotech products have recently come into force, regulating labeling of imports of agricultural biotech products. As Kazakhstan continues to integrate into the EAEU, it is expected that the policies and views of the other EAEU countries will play a greater role in shaping the regulation of biotech in Kazakhstan.

Pork

Kazakhstan requires imported pork to be shipped frozen to mitigate the risk of trichinae. The United States does not consider this mitigation measure to be necessary for U.S. pork as U.S. producers maintain stringent biosecurity protocols that serve to limit the prevalence of trichinae to extremely low levels in commercial swine. The United States will continue to work with the regulatory authorities in Kazakhstan and the EAEU to resolve this trade concern.

Ractopamine

Kazakhstan imposed a *de facto* ban on imports of all U.S. beef, pork, turkey, processed products containing beef, pork, or turkey, raw materials for casings, and casings, effective February 2013, based on detections of ractopamine residues in various beef and pork shipments to Russia, an EAEU partner and key transit country. Kazakhstan has not notified the United States regarding its ractopamine-related import restrictions.

IMPORT POLICIES

Russia-Kazakhstan-Belarus Customs Union and the Eurasian Economic Union

On January 1, 2010, the Russia-Kazakhstan-Belarus Customs Union began implementing a customs union (the Customs Union or CU) by adopting a common external tariff (CET) with the majority of the tariff rates established at the level that Russia applied at that time. (When Russia joined the WTO in 2012, the CU adopted Russia's WTO schedule of tariff bindings.) On January 1, 2015, Russia, Kazakhstan, and Belarus continued their move toward regional economic integration with the establishment of the Eurasian Economic Union (EAEU), the successor to the CU. Armenia joined the EAEU on January 2, 2015, and Kyrgyzstan has approved a "Roadmap" to join the EAEU.

A common Customs Code applies to the CU (now the EAEU) Member States, and the Member States abolished all customs posts on their internal borders, allowing for the free flow of most goods among the Member States. The Eurasian Economic Commission (EEC) is the supranational body charged with implementing external trade policy for Members States and with coordinating economic integration among Member States, having replaced the CU Commission in that role.

As a consequence of its membership in the EAEU, Kazakhstan's import tariff levels, trade in transit rules, nontariff import measures (*e.g.*, tariff-rate quotas (TRQs), import licensing, and trade remedy procedures), and customs policies (*e.g.*, customs valuation, customs fees, and country of origin determinations) are based on the CU/EAEU legal instruments. On these and other issues involving goods, CU Agreements and CU/EEC Decisions establish the basic principles that are implemented at the national level through domestic laws, regulations, and other measures. CU Agreements and CU/EEC Decisions also cover issues such as border enforcement of intellectual property rights, trade remedy determinations, establishment and administration of special economic and industrial zones, and the development of technical regulations and sanitary and phytosanitary measures. The Treaty on the Functioning of the Customs Union in the

Framework of the Multilateral Trading System of 19 May 2011 establishes the priority of the WTO rules in the CU/EAEU legal framework.

Tariffs and Quotas

With the implementation of the common external tariff (CET) with Belarus and Russia, Kazakhstan increased the tariff rate on more than 5,000 tariff lines. As a result of Russia joining the WTO, in 2012, the CU conformed its CET to Russia's WTO schedule of tariff bindings. In 2014, Kazakhstan's tariffs on about 480 out of a total of 11,000 tariff lines decreased by one percent to two percent, reflecting Russia's tariff reductions resulting from its WTO commitments. These incremental reductions have not reduced Kazakhstan's tariff rates to pre-CU levels.

Under EAEU/CU regulations, Kazakhstan currently may apply tariffs that differ from the CET with respect to 58 tariff lines covering pharmaceuticals and 107 tariff lines covering passenger vehicles. Tariffs on passenger vehicles are currently higher than the CET rate and will be harmonized after Kazakhstan's accession to the WTO. In addition, EAEU members are permitted to increase or reduce tariffs for up to six months on selected goods in exceptional cases and with permission of the EEC. In 2010, Kazakhstan established TRQs on imports of poultry, beef, and pork to meet its obligations under the CU. In 2012, U.S. exporters raised concerns about the trade-limiting effects of these TRQs and the manner in which they were calculated and allocated. For the past four years, the TRQ allocations have not been made in a timely manner, which has further limited market access for U.S. goods such as poultry. For 2015, Kazakhstan is expected to maintain prior TRQ levels and allocation mechanisms. Kazakhstan has begun allocating 10 percent of the TRQ to new suppliers, each of which is eligible to import no more than 2,500 tons per year.

In September 2013, the EEC allowed Kazakhstan to introduce an import quota for combine harvesters from third countries. In contrast to Russia, Kazakhstan did not introduce a special 26.7 percent import duty, but allows importation of a limited number of combine harvesters from third countries at the previously established 5 percent tariff. Kazakhstan's quota will allow for the importation of 309 units in 2015 and 204 units in 2016 (through August 21). Under the EEC decision, the program may be suspended if Kazakhstan uses more than 70 percent of its quota allotment during the first half of 2015. Other EAEU/CU safeguarding measures apply in Kazakhstan, such as special duties for dishware, cast iron baths, steel pipe, and other goods.

Licensing

In connection with its membership in the CU, Kazakhstan increased the number of goods subject to import or export licensing. Precious metals and stones, documents from national archives, and items of cultural value are among the products now subject to export licensing. Products with cryptographic functionalities, including certain commonplace consumer electronic products, are subject to import and export licensing procedures or a one-time notification requirement. (*See the section on the Russian Federation for more information on stakeholder concerns with the CU's import licensing regime for products with cryptographic capabilities*.)

EXPORT POLICIES

Kazakhstan maintains a ban on the export of light distillates, kerosene, and gasoline. A ban on the export of ferrous scrap was introduced in 2013 and will remain in force until at least January 1, 2015.

GOVERNMENT PROCUREMENT

The lack of transparency and efficiency in government procurement remains a major challenge for local and foreign companies. The government recognizes this, and is taking steps to streamline its procurement process. Kazakhstan moved to an electronic procurement system on July 1, 2012. Resident and non-resident companies may participate in electronic tenders once they receive an electronic signature from the Ministry of Transport and Communication. The system's performance to date has varied.

The National Welfare Fund and government-owned holding company, Samruk-Kazyna, accounts for at least 16 percent of Kazakhstan's GDP. Through share ownership, Samruk-Kazyna manages some of Kazakhstan's largest national companies, including Kazakhstan TemirZholy (national railway), KazMunaiGas (national oil and gas company), KEGOC (electrical utility), and their subsidiaries. These enterprises are subject to Samruk-Kazyna's rules for procurement of goods and services, which stipulate criteria for the evaluation of bids and provide for price preferences of up to 1 percent for locally produced goods and services. Potential suppliers must receive a certificate from the National Chamber of Entrepreneurs confirming local content of goods and/or services. In 2013, Samruk-Kazyna proposed new rules on procurement in order to comply with WTO standards. These rules would come into force after Kazakhstan's WTO accession and would cancel bill-back allowances and other forms of preferential treatment given to locally produced goods and services. According to the new rules, however, only qualified suppliers would be eligible to participate in Samruk-Kazyna tenders, and a designated Samruk-Kazyna subsidiary would rank potential bidders in order to include them into a list of qualified suppliers.

Kazakhstan has offered to become an observer to the Agreement on Government Procurement (GPA) and initiate negotiations to join the GPA within an agreed time period.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Kazakhstan was not listed in the 2014 Special 301 Report. To facilitate its WTO accession and attract foreign investment, Kazakhstan continues to modernize its legal regime for protecting intellectual property rights (IPR), including through the introduction of amendments to its trademark legislation to address obligations under the TRIPS Agreement. Further, Kazakhstan continues to examine ways to simplify procedures for issuing patents and to expand patent protection for utility patents, drugs, and fertilizers. Though the United States acknowledges some of the efforts Kazakhstan has taken on IP enforcement, customs controls need to be applied more effectively against imported IPR-infringing goods. In addition, although civil courts have been used effectively to stem IPR infringement, judges often lack technical expertise in the area of IPR, which is a significant obstacle to further improvement in Kazakhstan's IPR enforcement. Finally, Kazakhstan still lacks effective means to protect pharmaceutical tests and other data against unfair commercial use and disclosure, which the United States continues to discuss with Kazakhstan ahead of its accession to the WTO.

SERVICES BARRIERS

Telecommunications

Kazakhstani law restricts foreign ownership to 49 percent in telecommunications companies that provide long distance and international telecommunication services and that operate fixed line communication networks (cable, optical fiber, and radio relay). This restriction was addressed during bilateral negotiations with Kazakhstan regarding its WTO accession. Kazakhstan agreed that, after a two-and-a-half year transition period from the date of accession, it will remove this foreign ownership restriction for telecommunications operators, except for the country's main carrier, KazakhTeleCom.

The law "On Communication" and Decree 1499 together require placing and registering Network Control Centers for very small aperture antennas within the borders of Kazakhstan. The U.S. satellite industry has expressed concerns regarding restrictions on the transport of video programming through foreign satellites and restrictions barring foreign firms from providing these services to the government. As part of its WTO accession commitments, Kazakhstan has agreed not to restrict services provided by foreign satellite operators to companies that hold a license for telecommunication services.

Other

Foreign banks and insurance companies must operate through joint ventures with Kazakhstani companies. However, Kazakhstan has agreed to eliminate the joint venture requirement and to permit direct branching following a transition period of five years after WTO accession. Kazakhstan's law also restricts foreign ownership in mass media companies, including news agencies, to 20 percent, a limitation that will still remain in force after WTO accession.

INVESTMENT BARRIERS

Local content requirements

Approximately 70 percent of foreign direct investment in Kazakhstan is in the oil and gas sector, and expanding local content requirements in this sector have created a challenging environment for foreign operators. The 2010 Subsoil Law establishes strict local content requirements and harsh penalties for failure to meet them, including the potential cancellation of contracts. Kazakhstani goods do not always fully comply with international standards, and Kazakhstani service suppliers are not always able to provide the technically complex services necessary to support projects in the oil and gas sector. As a result, foreign companies have found it difficult to comply with the government's local content requirements, and they report that local administrators continue to take an increasingly inflexible approach to these regulations. The 2010 Subsoil Law also introduced a requirement on companies operating in the extractive sector to draft and seek approval for "project documents" that contain performance indicators and assessments of the economic feasibility of the project, which must take into account potential Kazakhstani suppliers of goods and services, *i.e.*, the willingness of the investing firm to localize its procurements. Companies have reportedly struggled to meet this requirement as well.

Government agencies, led by the Ministry for Investment and Development (MID) (the new name for the Ministry of Industry and New Technologies (MINT)), are currently drafting an Action Plan on the Enhancement of Local Content in Procurements for Major Subsoil Users and Strategic Mining and Petroleum Companies, and are seeking comment on the plan from the Foreign Investors' Council. The Action Plan will require that local content comprise 50 percent of front-end engineering and design work; ban the export of geological information (core samples, rocks, and reservoir fluids); and require the nomination of MID representatives onto the boards of directors of key subsoil use projects.

Actions to enforce such local content requirements are also increasing. In April 2012, the National Agency for Local Content Development (NADLoc, an agency established in 2010 to advance local content objectives) accused 38 mining companies of violating local content regulations and threatened to impose penalties, including unilateral termination of subsoil use contracts. Under regulations in force since June 2013, the Ministry of Energy (MOE) monitors and enforces compliance with local content rules, while MID maintains the state procurement register. In February 2013, MOE reported that fines against subsoil users that did not comply with local content requirements accounted for 0.7 percent of oil and gas company procurements in 2012, but rose significantly to 6.67 percent in 2013. In March 2014, NADLoc announced that companies that failed to pay fines will not be able to obtain approvals from MOE. MOE also accused foreign firms of erecting obstacles to prevent local companies from taking part in tenders.

The amendments to the 2010 Subsoil Law approved by the lower chamber of Parliament in November 2014 will require new subsoil use contracts to quantify a firm's local labor content obligations in definitive numerical terms. The 2010 Subsoil Law previously required all new contracts to contain local content provisions, although the obligations could be unspecified. While the government has long pursued a policy of incorporating numerical local labor content obligations into subsoil contracts, this amendment will codify the practice.

For all subsoil projects, 1 percent of the project budget must be earmarked for training programs and workforce development, including overseas assignments with the lead operator. When seeking to appoint certain specialists, international oil companies must consult a list of qualified Kazakhstani specialists included in a database maintained by MID. As a result of amendments to the Expatriate Workforce Quota and Work Permit Rules, from January 1, 2012, only 30 percent of company executives and 10 percent of engineering and technical personnel may be foreign nationals. These requirements impose significant burdens on foreign subsoil operators who require intra-corporate transferees with specialized expertise. Kazakhstan's three largest hydrocarbon projects – Tengiz, Karachaganak, and Kashagan – are exempted from these requirements until 2015. As part of its WTO accession commitments, Kazakhstan has agreed to relax these limits on foreign nationals.

In October 2012, the Procurator General's Office proposed tightening control over the employment of foreign nationals by revising the current procedures for issuing expatriate workforce quotas; granting regional labor departments control over local content requirements for the workforce; and creating a register of employers violating these requirements.

Sale of Investments

The 2010 Subsoil Law also included a preemption clause that guarantees Kazakhstan the right of first refusal when a party seeks to sell any part of its stake in a subsoil project, although this right was limited in subsequent amendments to the Law to a smaller universe of "strategically significant" projects. The Ministry of Oil and Gas exercised this right in 2013, when it decided to buy a U.S. company's stake in the Kashagan oil field that the company had sought to sell to another foreign company. The 2010 Subsoil Law also allows the government to amend or terminate existing subsoil contracts deemed to be of "strategic significance." In April 2012, the government issued a decree that deemed 361 hydrocarbon fields and mineral deposits as having "strategic significance."

Contract Issues

The 2010 Subsoil Law also authorizes the government to amend contracts if it determines that the actions of a subsoil user could lead to a "substantial change" in Kazakhstan's "economic interests." The Law provides no guidance on how the government will make such a judgment."

OTHER BARRIERS

Kazakhstan has a burdensome tax monitoring system, which companies report requires them to employ significant resources to comply with cumbersome rules and frequent inspections. The actions of tax and various regulatory authorities can be unpredictable.

Corruption at many levels of government is also seen as a barrier to trade and investment in Kazakhstan, reportedly affecting nearly all aspects of doing business in Kazakhstan, including customs clearance, employment of locals and foreigners, payment of taxes, and the judicial system.

KENYA

TRADE SUMMARY

U.S. goods exports in 2014 were $1.6 billion, up 151.7 percent from the previous year. Kenya is currently the 69th largest export market for U.S. goods. Corresponding U.S. imports from Kenya were $566 million, up 25.1 percent. The U.S. goods trade surplus with Kenya was $1.0 billion in 2014, an increase of $851 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Kenya was $255 million in 2013 (latest data available), down from $285 million in 2012.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Licensing Regulations on Alcoholic Beverages

Proposed "Alcoholic Drinks Control (Licensing) Regulations" are under on-going domestic litigation. Labeling requirements under the proposed regulations could prove onerous to U.S. exporters should they go into effect.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Pursuant to a Kenyan Cabinet and Presidential decree, on November 21, 2012, the Kenyan Ministry of Public Health ordered public health officials to remove from the market all foods, feed, and seeds derived from agricultural biotech and to enact a ban on agricultural biotech food and feed imports.

This ban contravenes Kenya's National Biosafety Law, was implemented with little warning or stakeholder consultation, and was not notified to the WTO. Since the ban, key stakeholders in Kenya—scientists, universities, some non-governmental organizations, and policy makers including influential governors and legislators—have launched educational and outreach programs to encourage the government to rescind the decision. Both food aid and commercial U.S. agricultural exports derived from agricultural biotech products have been kept out of the Kenyan market because of the ban. The ban does not affect fully processed products such as edible oils; however, it does impact U.S. exports of semi-processed foods, such as soy for feed and high-value soy products. As the demand for feed inputs rises, the ban is hampering potential U.S. exports of feed ingredients, including soy, feed corn, and distiller dried grains.

Meat and Meat Products

Kenya maintains complex, non-transparent, and costly requirements for importation of all meat, dairy, and poultry products. These requirements include a shipment-by-shipment import permit requirement. Imported products must arrive with a standardized sanitary certification and a Letter of No Objection to Import Permit (no-objection letter) from the Department of Veterinary Services (DVS) under the Ministry of Agriculture, Livestock, and Fisheries. Before DVS issues the no-objection letter, an importer must explain the reason for importation, through a Letter of Application to Import, specifically addressing the market need the import would meet. DVS issues the no-objection letter for meat, dairy, and poultry products at its discretion. Although the Government of Kenya purports to prohibit imports only on

sanitary grounds, in practice, the exercise of discretion by DVS is largely focused on protecting the domestic industry, not on scientifically-based animal or human health concerns. A common reason for DVS denial is that the proposed imports are locally available.

On poultry specifically, Kenya states that it allows imports of live chicks for domestic production and breeding eggs, under specific conditions. As with other meat products, the importation of poultry and poultry products, such as frozen chicken (whole bird and/or parts), eggs in shell for human consumption, and liquid or powder-form eggs, requires a permit and no-objection letter from the DVS. Prior to issuing such a letter, the DVS may conduct a risk assessment based on the country of origin and can still deny permits based on "local market needs" (meaning DVS's assessment of local capacity to provide what is needed), not just sanitary concerns.

Plants and Plant Products

Kenya has a ban on wheat from the Pacific Northwest, due to concerns over the flag smut fungus that appears to be unjustified. USDA is currently working with Kenya Plant Health Inspectorate Service (KEPHIS) to resolve this issue.

Corn entering Kenya is subject to a total aflatoxin limit of 10 parts per billion (ppb) and a 13.5 percent maximum moisture content. Both the moisture and aflatoxin standards also apply to locally sourced corn. The 10 ppb aflatoxin limit does not appear to be scientifically justifiable; the Codex Alimentarius Commission and U.S. standard is 20 ppb. Further, most U.S. corn has a moisture content higher than 13.5 percent and is therefore prevented from importation. However, the United States accepts these restrictions due to specific aflatoxin and grain storage concerns in Kenya. Under special circumstances such as food shortages, Kenya has allowed higher moisture content for imported corn, which must then be dried and milled immediately upon arrival to reduce the risk of aflatoxin contamination.

Popcorn imports are restricted due to a 6 percent maximum moisture requirement. The U.S. limit is 12.5 percent to 15 percent; the 6 percent limit appears to lack a scientific basis.

Whole peas are not permitted due to the risk of *pseudomonas pisi* fungus, although split peas are allowed. Beans are not allowed due to the occurrence of *corynebacterium flaccumfasciens* bacteria in some parts of the United States. KEPHIS and USDA are working toward alternatives to outright bans that mitigate risks from these imports but are also less trade restrictive.

Lentils are banned due to the presence of darnel weed. However, darnel weed also exists in Kenya, calling into question the justification for Kenya's ban on U.S. lentils.

IMPORT POLICIES

Tariffs

Kenya has a liberalized economy with no price controls on major products and quantitative import restrictions appear limited to where environment, health or safety concerns exist. Kenya maintains high *ad valorem* import tariffs, a value-added tax (VAT), and a 1.5 percent Railway Development Levy (RDL) imposed on incoming shipments. The government of Kenya sometimes waives these tariffs when domestic agricultural prices exceed acceptable levels. According to the WTO, Kenya's average applied tariff rate for all products was 12.7 percent in 2013.

Kenya applies the East African Community (EAC) Customs Union's Common External Tariff, which includes three tariff bands: zero duty for raw materials and inputs; 10 percent for processed or manufactured

inputs; and 25 percent for finished products. "Sensitive" products and commodities, comprising 58 tariff lines, have applied *ad valorem* rates above 25 percent. This includes rates of 60 percent for most milk products, 50 percent for corn and corn flour, 75 percent for rice, 35 percent for wheat, and 60 percent for wheat flour. For some products and commodities, the tariffs vary across the five EAC member states.

Revenue from the 1.5 percent RDL on all imports funds the construction of a standard gauge railway line between the Port of Mombasa and Nairobi. Though the current VAT Act was passed in 2013, it went into effect with no specific guidelines. For example, there is no clarity on which types of plant, machinery, and electronic services are exempted from the VAT. Contentious issues regarding the Act are expected to be addressed through subsequent financial bills. In addition, VAT-exempt companies, including importers, experience lengthy wait times in receiving their VAT refunds.

Nontariff Measures

All importers pay an import declaration fee of 2.25 percent of the customs value of imports and are required to furnish several documents. Importers obtain a Certificate of Conformity (CoC) after export certification by pre-shipment inspection companies (SGS or Intertek International) that have contracts with the government. Exporters who do not obtain a CoC in advance must have their goods inspected at the port of entry, which costs approximately 15 percent of the cost, insurance, and freight value of imported goods, and runs the risk of having the goods rejected after paying shipping costs. After a CoC is issued, the importer provides it to the Kenya Bureau of Standards (KEBS), which issues the Import Standardization Mark, a stick-on label to be affixed to each imported item. Other required import documents include valid *pro forma* invoices, a Bill of Lading or Airway Bill, and a Packing List from the exporting firm. Kenya asserts that its import controls are necessary to address health, environmental, and security concerns.

Customs Procedures

Bureaucratic procedures at the Port of Mombasa increase the cost of imported goods. Multiple agencies (*i.e.*, customs, police, ports authority, and standards inspection agencies) subject importers to excessive and inefficient inspection and clearance procedures, creating opportunities for graft and unnecessary delays. To tackle the problem, Kenya has implemented a number of changes including having all agency inspections done simultaneously.

The Kenya Revenue Authority's online customs clearance system has contributed to improvements in overall efficiency and transparency. Due to recent procedural changes, the Kenya Port Authority (KPA) reported a 13.2 percent improvement in container offtake at the Port of Mombasa. KPA reported that the average time it takes to clear cargo at the port decreased from 5.8 days in June 2013 to 3.7 days in June 2014, a 36 percent improvement.

GOVERNMENT PROCUREMENT

U.S. firms have had limited success in bidding on government tenders in Kenya. Reportedly, corruption often influences the outcome of public tenders. Foreign firms, some without proven track records, have won government contracts when partnered with well-connected Kenyan firms.

The Public Procurement and Disposal Act allows for exclusive preferences for Kenyan citizens if the funding for the procurement is 100 percent from the government or a state-related entity, and if the amounts are below KES 50 million (approximately $575,000) for goods or services and KES 200 million (approximately $2.3 million) for public works. The Act also sets margins of preference: 15 percent in evaluation of bids for goods manufactured, mined, extracted, or grown in Kenya; 10 percent in cases where Kenyan nationals have over 51 percent of shareholdings; 8 percent in cases where locals have shareholdings

below 51 percent but above 30 percent; and 6 percent in cases where locals have below 20 percent of shareholdings.

The Act allows for limited tendering under certain conditions, such as when the complex or specialized nature of the goods or services requires the pre-qualification of contractors. It also allows limited tendering if the time and costs required to examine and evaluate a large number of tenders would be disproportionate to the value of the tender.

In February 2013, the government of Kenya enacted the Public Private Partnership Act which guides the engagement of the private sector in infrastructure development. Kenya will require an estimated KES 172 billion ($2 billion) to KES 258 billion ($3 billion) annually for the next 10 years to meet infrastructure financing gaps.

The Public Procurement (Preference & Reservations) Amendment Regulations of 2013 calls for at least 30 percent of government procurement contracts to go to women, youth, and persons with disabilities.

Kenya is neither a party nor observer to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Kenya was not listed in the 2014 Special 301 Report. The government of Kenya's lax enforcement of IPR continues to be a challenge for U.S. firms. Pirated and counterfeit products in Kenya present a major impediment to U.S. business interests in the country, as well as health and safety hazards for consumers. KEBS, the Pharmacy and Poisons Board, the Kenya Copyright Board, and the Anti-Counterfeit Agency (ACA) are the government agencies tasked to maintain product standards and combat counterfeit products. The ACA reports an influx of counterfeit products to Kenya, especially electronics such as phones, TV sets, and phone batteries, and an upsurge in the counterfeiting of pharmaceuticals, pesticides, and soft and alcoholic drinks. Unfortunately, weak enforcement of anti-counterfeit legislation and poor coordination among agencies has resulted in a rise in counterfeited goods. Kenyan authorities are taking steps to improve enforcement, but face resource constraints.

SERVICES BARRIERS

The only significant sectors in which investment (both foreign and domestic) is constrained are those where state corporations still enjoy a statutory monopoly. Such monopolies are limited almost entirely to infrastructure (*e.g.*, power, telecommunications, and ports), and many of these sectors have been partially liberalized. The Kenyan government wholly owns the National Oil Corporation and the Kenya Pipeline Corporation, and competition with these companies is limited. Kenya Electricity Generating Company, Kenya Power and Lighting, and the Geothermal Development Company, dominate the electricity generation portion of the energy sector.

In June 2014, the Kenyan government stiffened regulations on local content requirements for foreign contractors. The National Construction Authority (NCA) restricts the categories of work open to foreign contractors and stipulates that foreign contractors must either form joint ventures with local contractors or locally subcontract a percentage of the work. Under the new regulations, a foreign contractor is only eligible to register for a Category 1 contract (*i.e.*, a building contract above KES 500 million). In addition, the new regulations require joint ventures to recruit from the local labor market and to recruit foreign technical or skilled workers only with the approval of the NCA when such skills are not available locally. The foreign contractor also must agree to transfer technical skills that are not available locally to its local firm or person.

INVESTMENT BARRIERS

Despite efforts to increase efficiency and public confidence in the judiciary, a backlog of cases and continuing corruption – both perceived and real – burden and reduce the credibility of Kenya's judicial system. Companies cite these deficiencies as obstacles to investment because they discourage lending and result in higher interest rates when financing is provided. An industrial court exists in Kenya, but it is plagued by long delays in rendering judgments. As such, foreign and local investors are subjected to lengthy and costly legal procedures.

Foreign ownership of firms listed on the Nairobi Securities Exchange is limited to 75 percent. The Capital Markets Authority allows foreign investors to increase their investment with prior written approval if the shares reserved for local investors are not fully subscribed. Kenya imposes foreign ownership limitations of 80 percent and 66.7 percent, respectively, in the telecommunications and insurance sectors. The government allows telecommunications companies a three-year grace period to find local investors to achieve the local ownership requirements.

The 2010 Constitution prohibits foreigners from holding a freehold land title anywhere in the country, permitting only leasehold titles of up to 99 years. The cumbersome and opaque process required to acquire land raises concerns about security of title, particularly given past abuses relating to the distribution and redistribution of public land.

Kenya has been slow to open public infrastructure to competition because the government considers state-owned companies that control infrastructure as "strategic" enterprises. As a result, reform and partial privatization of the telecommunications, power, and rail sectors have fallen behind schedule. In 2013, the Presidential Task Force on Parastatals Reforms recommended that the sectors be rationalized to remove redundancies by trimming the current number of state-owned companies from 262 to 187.

Fees and security bonds discourage the employment of foreign labor. New foreign investors with foreign staff are required to submit plans for the gradual phasing out of non-Kenyan employees.

OTHER BARRIERS

Corruption

Corruption remains a substantial trade barrier in Kenya. U.S. firms find it difficult to succeed against competitors who are willing to ignore or engage in corruption. The government has not implemented anticorruption laws effectively, and officials often engage in corrupt practices with impunity. While judicial reforms are moving forward, bribes, extortion, and political considerations continue to influence outcomes in civil cases. A 2014 Ernst and Young survey revealed that one in every three Kenyan companies surveyed had paid bribes to win contracts and that 27 percent of the chief executives, financial controllers, and internal auditors surveyed cited high levels of fraud in their companies. In the Transparency International East African Bribery Index 2014, Kenya scored 25 on a scale of zero to 100 (with zero perceived as highly corrupt), down two points from last year's score of 27.

KOREA

TRADE SUMMARY

U.S. goods exports in 2014 were $44.5 billion, up 6.8 percent from the previous year. Korea is currently the seventh largest export market for U.S. goods Corresponding U.S. imports from Korea were $69.6 billion, up 11.6 percent. The U.S. goods trade deficit with Korea was $25.1 billion in 2014, an increase of $4.4 billion from 2013.

U.S. exports of services to Korea were $20.9 billion in 2013 (latest data available), and U.S. imports were $10.8 billion. Sales of Services in Korea by majority U.S.-owned affiliates were $12.2 billion in 2012 (latest data available), while sales of services in the United states by majority Korea-owned firms were $14.2 billion.

The stock of U.S. foreign direct investment (FDI) in Korea was $32.8 billion in 2013 (latest data available), up from $30.9 billion in 2012. U.S. FDI in Korea is led by the manufacturing, and finance/insurance sectors.

United States-Korea Free Trade Agreement

On March 15, 2012, the United States-Korea Free Trade Agreement (KORUS or the Agreement) entered into force. In the three years that this landmark agreement has been in effect, Korea has become the sixth largest trading partner of the United States, and exports of U.S. manufactured goods, services, and agricultural products have seen significant gains. The Agreement has also improved Korea's investment environment through strong provisions on intellectual property rights, services, investment, labor and environment, supporting U.S. exports, while helping to strengthen and expand ties with an important strategic partner in Asia.

Since entry into force of the agreement in 2012, the United States and Korea have carried out four rounds of tariff cuts and eliminations, creating significant new market access opportunities for U.S. exporters. The agreement has also expanded opportunities for our growing services trade, improved transparency in Korea's regulatory system, strengthened intellectual property protection, leveled the playing field for key U.S. exports, including autos, and enhanced market access for U.S. exporters of all sizes including small and medium businesses. Overall, U.S.-Korea goods and services trade has risen from $126.5 billion in 2011 to $145.2 billion in 2014.

Year-on-year goods exports to Korea for 2014 were up 6.8 percent compared to 2013. This brought goods exports to a record level of $44.5 billion. Manufactured goods account for most of this total at $37.4 billion. This reflects growth of 5.6 percent in 2014 – nearly four times faster than manufacturing export growth to the world at large – and a total that is now 8.7 percent above pre-FTA levels. This growth has been strong across high-technology manufacturing, autos, heavy industry, and consumer goods.

For agricultural products, through a combination of tariff elimination and expansion of tariff rate quotas, nearly two-thirds of U.S. agricultural exports have been enjoying duty-free status since the Agreement entered into force. U.S. exports of key agricultural products benefiting from tariff cuts and the lifting of other restrictions under KORUS continued to post significant gains. Last year's 31.2 percent growth in farm exports to Korea was nearly 7 times faster than U.S. agricultural export growth to the world at large. For agricultural goods that benefited from tariff elimination or reduction, there have been dramatic increases in exports in 2014 compared to 2011, including some particularly striking examples such as fresh cheese (563 percent), cherries (205 percent), shelled almonds (176 percent), and wine and beer (67 percent).

In addition, KORUS provides meaningful market access commitments across virtually all major services sectors, including improved access for telecommunications and express delivery services, and the opening up of the Korean market for foreign legal consulting services. The Agreement increases access to the Korean financial services market and ensures greater transparency and fair treatment for U.S. suppliers of insurance and other financial services. Korea is also in the process of opening its legal services market, and over a dozen U.S. law firms are now offering their services to Korea's increasingly global businesses.

U.S. services exports to Korea are a particularly strong point, up 24.4 percent to an estimated $20.7 billion in 2014 as compared to $16.7 billion in 2011. This rate of growth nearly doubled the overall 13.1 percent growth of U.S. services exports to the world.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Chemicals – Act on the Registration and Evaluation of Chemicals

In 2013, Korea enacted the Act on the Registration and Evaluation of Chemicals. This law requires manufacturers and importers of chemical substances to register and comply with annual reporting requirements. On February 18, 2014 Korea's Ministry of Environment (MOE) released draft implementing regulations, with entry into force on January 1, 2015. Concerns remain with registration and reporting requirements, in particular the high costs and potential release of sensitive business information. Both MOE and MOE's National Institute for Environmental Research – charged with implementing some of the technical details of the law – released 12 draft public notices covering issues such as the method of data submission and hazard examination, but only provided 20 days for interested parties to submit comments. Given the short comment period and the short time between the releases of the draft notices and the January 2015 implementation date, and in the interest of greater transparency, the United States requested that Korea notify those decrees to the WTO TBT Committee and provide additional time for comments before implementation. In 2015, the United States will continue to monitor developments and engage with Korean authorities as appropriate. .

Information Technology Equipment – Electrical Safety Regulations

U.S. stakeholders have been working closely with the Korean Agency for Technology and Standards (KATS) and the Radio Research Agency on Korea's reorganization of safety regulations for information technology equipment. The United States and U.S. stakeholders have advocated for streamlined procedures that reflect the realities of contemporary manufacturing and provide an appropriate level of safety certification for low risk information technology equipment, such as printers and computers. KATS released its final Safety Regulations rule for information technology equipment, effective July 1, 2013. These regulations addressed many long standing U.S. concerns, including by expanding the scope of products subject to a supplier's declaration of conformity, and adopting the most current International Electrotechnical Commission (IEC) standard. However, some concerns continue to be outstanding. For example, the regulation requires separate safety certification with respect to each factory's products, even for identical products produced by the same company but in a different factory and does not establish a certificate renewal process. Furthermore, despite being a Member of the IEC System for Conformity Testing and Certification of Electrical and Electronic Components, Equipment and Products Certification Bodies' Scheme (CB), KATS is not currently accepting CB reports without additional testing. Finally, the final rule imposes burdensome labeling requirements for information that could be disclosed instead in an insert or manual. Such an adjustment is particularly appropriate for products that have small physical sizes such as cell phones. In 2015, the United States will continue to monitor implementation of the regulation and urge Korea to allow adequate implementation time for new products as its scope increases.

Solar Panels – Testing Requirements

Korea requires solar panels to be certified by the Korea Management Energy Corporation (KEMCO) before they can be sold in Korea for projects receiving government support (which comprise the vast majority of solar projects in Korea). KEMCO's certification standards prevent, in practice, certain types of thin film solar panels manufactured in the United States from entering the Korean marketplace. For example, KEMCO has established a standard for thin film solar panels that can only be satisfied by panels manufactured from amorphous silicon and Copper Indium Gallium Selenide. As a result, other leading types of thin film solar panels, types made principally by U.S. firms, including Cadmium Telluride (CdTe), cannot be tested or certified under the Korean standard. The United States has consistently urged Korea in bilateral trade consultations and at the WTO TBT Committee meetings over the past years to adopt in full the relevant international standard, IEC 61646, without limiting its application solely to the type of thin-film solar panel its industry produces. Korea conducted an environmental impact review in March 2014 on the use of cadmium in solar panels and determined that a hazard existed for using CdTe. U.S. stakeholders have raised methodological concerns with the studies Korea used to disqualify CdTe. The United States will continue to discuss this issue with Korea in 2015.

Repair History Reporting

Pursuant to an amendment of the Motor Vehicle Management Act, Korea requires as of January 8, 2015, that all auto manufacturers or dealers report vehicle repair histories to vehicle purchasers in order to account for any damages taking place between the manufacturing site and customer delivery. (While not regulated at the Federal level in the United States, 36 states have some type of damage reporting requirement, though these differ in important ways from the new Korean requirement, such as exempting certain types of damage and establishing *de minimis* levels of damage that would not need to be reported). U.S. stakeholders raised concerns that this new reporting requirement discriminates against auto importers because local auto manufacturing sites are co-located with the Pre-Delivery Inspection (PDI) facility and thus vehicles are unlikely to require any reportable reconditioning. Since imported vehicles routinely undergo some kind of reconditioning that would require reporting under this law, consumers perception of imported vehicles could be harmed.

U.S. stakeholders have requested that Korea's Ministry of Land, Infrastructure, and Transportation (MOLIT) draft subordinate implementing regulations that would clarify the underlying law so that Korea would recognize Korean PDI facilities as the conclusion of the manufacturing process, and requested that Korea consider establishing a *de minimis* rule on what repairs require reporting. MOLIT has not accepted this request, but met with foreign industry representatives in early January 2015 to clarify some definitions and technical details that addressed some stakeholder concerns. The U.S. Government has raised this issue with Korean authorities, and will continue to address the issue in 2015.

Information Technology Equipment – Cybersecurity Testing Requirements

Korea launched the Network Verification Scheme (NVS) on October 1, 2014. NVS sets forth new Korea-specific requirements for network equipment such as routers or switches procured by Korean government entities, and requires agencies to submit procured equipment to the National Intelligence Service (NIS) for mandatory testing. Although Korea is a member of the Common Criteria Recognition Arrangement (CCRA), which sets cybersecurity standards for government-procured IT equipment, NIS does not accept CCRA-certified equipment as compliant with NVS absent additional in-country testing. U.S. stakeholders raise concerns that NVS ignores Korean commitments in CCRA. In addition to these concerns, the U.S. government has raised concerns with Korean authorities that the implementation of NVS lacked

transparency. The U.S. Government has raised concerns with Korea on multiple occasions during 2014 and will continue to monitor the situation in 2015.

Organic Products

On July 1, 2014, the United States and Korea adopted an equivalence arrangement for processed organic food products. This arrangement allows processed products certified as organic in the United States or Korea to be sold as organic in either country without having to go through a costly certification process again under the importing country's standards. Exports to Korea in this fast-growing sector, worth $35 million annually based on U.S. industry analysis, includes products like organic condiments, cereal, baby food, frozen meals, and milk. A bilateral Organics Working Group plans to meet annually to review operations of the arrangement, discuss the scope of the arrangement, assess progress on identified technical issues, and discuss best practices and other issues related to organic food products. The United States is interested in expanding the scope of products covered by the arrangement to include all food and agricultural products.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Korea's regulatory system for agricultural biotech continues to lack predictability and transparency in the approval of new biotech events. Furthermore, certain documentation requirements for biotech approvals go beyond the provisions of the Cartagena Protocol on Biosafety. For example, Korea's data and information requests are often redundant, leading to delays in the approval of new products and at times lack scientific justification. The United States will continue to engage with Korea to avoid disruptions to exports of U.S. biotech products.

Beef and Beef Products

Prior to 2008, Korea restricted the importation of U.S. beef and beef products over BSE-related concerns. Following a 2008 bilateral agreement to fully re-open Korea's market to U.S. beef and beef products, Korean beef importers and U.S. exporters have operated according to a voluntary, commercial understanding that imports of U.S. beef and beef products are derived from animals less than 30 months of age, as a transitional measure, until Korean consumer confidence improves. To date, this agreement has operated smoothly. In 2014, the U.S. exported an all-time record of $847.4 million in beef (including variety meats) to Korea, an increase of 39.1 percent from the previous year, making Korea the fifth-largest export market for U.S. beef.

Poultry and Poultry Products

In December 2014, Korea banned all poultry imports from the entire United States due to the detection of HPAI in backyard flocks in Washington and Oregon. This action is inconsistent with World Organization for Animal Health (OIE) guidelines, which recommend that countries take regional approaches to imposing trade restrictions on poultry and poultry products from countries with HPAI findings in commercial or backyard flocks. USDA is working to resolve trade-related issues associated with HPAI. U.S. poultry exports to Korea were valued at nearly $106 million through the first 11 months of 2014.

Maximum Residue Limits

Korea is in the process of shifting to a new "positive list" system for agrochemical residues and will no longer allow imports of food containing agrochemical residues unless the substance has been listed, or

approved, for the commodity in question and a maximum residue level (MRL) has been established. In the process of making this shift, Korea is requiring new import tolerances for agrochemicals not already registered for use in Korea. This process may prove a significant challenge to U.S. exporters of fruit and grain if import tolerances are not set at an appropriate level and in a timely manner. The United States will continue to encourage Korea to maintain MRLs for substances currently approved, allowing sufficient time for a smooth transition to a new positive list system.

In addition, U.S. stakeholders remain concerned with Korea's increase in pesticide residue testing for U.S. commodities following residue violations in U.S. export shipments. After a single MRL violation by an export shipment to either Korea or another country, Korea may impose restrictive import requirements on that product's grower, shipper, and importer, and may require a set number of compliant shipments to Korea before the requirement is removed.

Potatoes

In August 2012, Korea prohibited the importation of fresh potatoes from the states of Idaho, Oregon, and Washington due to the presence of zebra chip in the region. Korea continues to prohibit the importation of fresh table-stock potatoes from the Pacific Northwest even though Korea does not have the presence of an insect that can carry zebra chip from one potato plant to another, the only means the disease spreads. Additionally, U.S. potatoes exported to Korea are treated with sprout inhibitor and are destined for consumption or processing – not propagation, and for that reason also U.S. potatoes do not present a phytosanitary threat. The U.S. government continues to engage with Korea to remove the suspension.

IMPORT POLICIES

Origin Verification

KORUS permits each Party's customs services to undertake investigations to verify the origin of goods for which preferential tariff treatment was claimed and allows for customs authorities to exercise their authority to enforce the Agreement and prevent circumvention. The United States generally approaches verifications by targeting specific shipments, selected using a risk-based approach, and conducts verifications based on commercial documents typically kept in the course of business.

During 2013, Korean customs authorities initiated a number of origin verifications to determine whether U.S. goods for which importers sought KORUS benefits met the Agreement's rules of origin. Investigations were initiated with respect to many categories of U.S. exports. These investigations led to determinations that many of these goods would not qualify for preferential tariff treatment. U.S. stakeholders raised concerns that the Korea Customs Service (KCS) conducted these verifications in ways that may have posed undue difficulties in proving goods meet the rules of origin, and thereby compromised eligibility of U.S. goods to receive benefits under the KORUS agreement.

Throughout 2013 and 2014, the United States worked closely with Korea to arrive at a common approach to verification procedures that would facilitate legitimate trade under the KORUS agreement and ensure that importers, exporters, and producers receive the benefits to which they are entitled. During 2014, a newly created ad-hoc Origin Verification Working Group met several times, helping to facilitate the issuance of positive determinations granting tariff benefits for U.S. exports, substantially resolving U.S. concerns on this issue. The United States will continue to monitor developments in this area in 2015 and will raise origin verification issues with Korea as necessary.

Tariffs and Taxes

Under KORUS, Korean tariffs on almost two-thirds of U.S. agricultural exports have been eliminated, including tariffs on wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice, and wine. Other agricultural products are receiving immediate duty-free access under new tariff rate quotas (TRQs), including skim and whole milk powder, whey for food use, cheese, dextrins and modified starches, barley, popcorn, oranges, soybeans for food use, dehydrated and table potatoes, honey, and hay.

Korea applies annual "adjustment tariffs" or a variable tariff on some agricultural, fishery, and plywood products. These adjustment tariffs do not exceed KORUS or WTO bound rates. To help offset the increasing cost of food, in 2013 Korea announced voluntary duty-free most-favored nation TRQs on a wide range of agricultural commodities including raw sugar, wheat for milling, malting barley, malt for beer brewing, rape seeds for oil crushing, soybean oil, and over 30 other products.

Rice

During the Uruguay Round of multilateral trade negotiations, Korea negotiated a 10-year exception to "tariffication" (the WTO obligation to convert quantitative restrictions to tariffs) of rice imports in return for establishing a Minimum Market Access (MMA) quota that was set to expire at the end of 2004. Korea subsequently negotiated a 10-year extension of the MMA arrangement in 2005, which called for Korea to increase its total annual rice imports over the succeeding 10 years, from 225,575 metric tons in 2005 to 408,700 metric tons in 2014. The arrangement included country specific quota commitments to purchase minimum amounts of imports from China, Thailand, and Australia, and to purchase at least 50,076 metric tons annually from the United States through 2014.

This agreement has operated smoothly and access to the Korean rice market for U.S. exports improved significantly under the arrangement. In 2014, U.S. exports of rice totaled 35,518 metric tons, with an associated value of $32.5 million. The MMA arrangement expired at the end of 2014, and Korea has initiated the tariffication process, as provided for under the WTO. The United States will work closely with Korea to urge it to ensure that any new arrangement takes appropriate account of our strong trading relationship in this commodity.

GOVERNMENT PROCUREMENT

Korea is a signatory to the WTO Agreement on Government Procurement (GPA). Under KORUS, U.S. suppliers now have the right to bid on the covered procurements of more than 50 Korean central government entities, 9 more than are covered under the GPA. The Agreement also expands the scope of procurements to which U.S. suppliers will have access by reducing by more than one-half the threshold for eligible procurement contracts applied under the GPA, from $204,000 to $100,000. KORUS does not cover procurement by Korean sub-central and government enterprises; however, such procurement is covered under the GPA. Under the GPA, for procurement of construction services, Korea applies a threshold of over $23 million, which is three times the threshold applied by the United States. The revised GPA entered into force in April 2014. However Korea has yet to deposit its instrument of acceptance. As such U.S. and Korea obligations are defined under the 1994 GPA.

Encryption and Security Requirements for Public Procurement of Information and Communications Technology Equipment

Korea and the United States are both members of the CCRA, under which products certified at any CCRA-accredited laboratory in any member country should be accepted as meeting the certification requirements

in any other member country. However, the Korean government requires government agencies procuring network equipment such as routers and switches to undergo additional verification in Korea by Korean government authorities, even if the products received CCRA certification outside Korea. Korea's NIS has managed this process in a non-transparent fashion without any public comment periods, and has broadly construed these requirements to apply to any government entity, including schools, local governments, and even libraries and museums. U.S. stakeholders have also raised concerns that Korea is expanding the scope of these requirements (including the additional verification) to products not normally considered "security" products, such as routers, switches, and IP-PBXes. The U.S. Government has raised this issue with Korea in bilateral consultations and will continue to work with Korea, including within the CCRA, in 2015 to address concerns.

Korea requires network equipment being procured by public sector agencies to incorporate encryption functionality certified by NIS. NIS only certifies encryption modules based on the Korean ARIA and SEED encryption algorithms, rather than the internationally-standardized AES algorithm that is in widespread use worldwide. Some U.S. suppliers have been unable to sell virtual private network and firewall systems to Korean public sector agencies due to this restriction. The United States has urged Korea to ensure that equipment based on widely used international standards has full access to Korea's public sector market.

INDUSTRIAL SUBSIDY POLICY

Historically, the Korea Development Bank (KDB) has been one of the government's main sources of policy-directed lending to favored industries. In April 2013, the government of Korea launched a task force to consider the reorganization of the financial policy roles of government-owned banks and financial corporations, including the plan for the privatization of the KDB. After consideration of the recommendations of the task force the KDB Act was amended in May 2014, to halt the privatization of the KDB. Under the amended KDB Act, which became effective as of January 1, 2015, the public policy financing role of the KDB is to be strengthened and the KDB will continue its traditional role of providing public policy financial support to Korean industry and companies.

The U.S. Government has concerns regarding Korea's decision to reverse the plan to privatize the KDB, and will continue to monitor the lending policies of the KDB and other government-owned or affiliated financial institutions.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In general, Korea has a strong IPR protection and enforcement regime. Under KORUS, Korea and the United States agreed to provide state-of-the-art protection for all types of intellectual property, *e.g.*, through requirements to join key multilateral IPR agreements and strong enforcement provisions. Intellectual property revenue from Korea has accordingly risen rapidly, from $4.5 billion in 2011 to $7.3 billion in 2013.

The United States recognizes the importance the Korean government places on IPR protection, a development that has accompanied Korea's shift to becoming a significant creator of intellectual property. However, some concerns remain over new forms of online piracy, corporate end-user software piracy, unauthorized use of software in the public sector, book piracy in universities, and counterfeiting of consumer products. With respect to unauthorized use of software in the public sector, the United States continues to urge the Korean government to take further steps to ensure that all government agencies fully comply with the Korean Presidential Decree mandating that government agencies use only legitimate, fully licensed software. This includes taking action to investigate and ensure that a sufficient number of licenses have been acquired to cover all users of the software in the respective agency. The U.S. Government continues to work with Korea to seek improvements in this area.

SERVICES BARRIERS

Screen and Broadcast Quotas

Korea maintains a screen quota for films requiring that any movie screen show domestic films at least 73 days per year. Overall, foreign programs may not exceed 20 percent of terrestrial TV or radio broadcast time or 50 percent of cable or satellite broadcast time determined on a semi-annual basis. Within those overall quotas, Korea maintains annual quotas that further limit broadcast time for foreign films to 75 percent of all films for terrestrial broadcasts and to 80 percent for cable and satellite broadcasts; foreign animation to 55 percent of all animation content for terrestrial broadcast and 70 percent of all animation content for cable and satellite broadcasts; and popular music to 40 percent of all music content. Another quota, applied on a quarterly basis, limits content from any one country to 80 percent of the quota available to foreign films, animation, or music. KORUS protects against increases in the amount of domestic content required and ensures that new platforms, such as online video, are not subject to these legacy restrictions.

With more cinema choices opening up for Korean movie-goers, U.S. films drew record attendance, making up 5 of the 10 leading box-office performers.

Restrictions on Voiceovers and Local Advertisements

The Korean Broadcasting Commission's guidelines for implementation of the Broadcasting Act contain restrictions on voiceovers (dubbing) and local advertising for foreign retransmission channels. These prohibitions continue to be of concern to U.S. stakeholders, as they limit the accessibility of such channels in the Korean market.

Legal Services

Under KORUS, Korea is in the process of opening its legal services market. The first step involved creating a legal status for foreign legal consultants and allowing foreign law firms to open offices in Korea. The law allows foreign attorneys with a minimum of three years of work experience to provide consulting services on the law of the jurisdiction in which they are licensed. The second stage, implemented as of March 15, 2014, allows cooperative agreements between foreign and domestic firms. The third stage, to be implemented by March 15, 2017, will allow foreign-licensed lawyers and firms to establish joint ventures and hire Korean-licensed lawyers. The United States looks forward to consultations and the ability to provide input on new rules implementing these changes.

Insurance and Banking

In order to implement its commitments related to the transfer of information under KORUS and the Korea-European Union Free Trade Agreement, Korea adopted new regulations in 2013 governing the outsourcing of data and IT facilities to allow financial institutions located in Korea to transfer data to affiliates outside Korea and to allow certain data processing and other functions to be performed in affiliates outside Korea. However, U.S. stakeholders have raised concerns that vague guidelines and a lengthy application review period have hampered Korea's implementation of these data transfer commitments. In order to address these implementation concerns, the United States and Korea meet on a quarterly basis along with industry stakeholders to maintain thorough monitoring of Korea's implementation of the commitment. Stakeholders also raised concerns about strict new rules and enhanced penalties governing data privacy under the May 2014 Act on Promotion of Information and Communications Network Utilization and Information Protection. The United States will monitor Korea's implementation of this law and continue to work to ensure that KORUS commitments are fully implemented in practice.

Credit and Debit Card Payment Services

U.S. stakeholders have raised concerns that the Financial Services Commission (FSC) and the Financial Supervisory Service (FSS) appear to be exerting pressure on financial institutions to steer customers toward domestic brand cards rather than international brands, as well as pursuing other policies that may discriminate against U.S. branded credit and debit card services. The U.S. Government will closely monitor developments in the credit and debit card services area and work with the Korean government to ensure there is no discrimination against U.S. service providers.

Telecommunications

Korea prohibits foreign satellite service providers from selling services (*e.g.*, transmission capacity) directly to end-users without going through a company established in Korea. Given the current investment restrictions and the fact that establishing a local presence may not be economically justified, this prohibition significantly restricts the ability of foreign satellite service suppliers to compete in the Korean market.

In line with its KORUS obligations, Korea now allows U.S. investors to wholly own Korean telecommunications operators, and started allowing U.S. investors to own some broadcast service providers as of March 15, 2015.

Internet Services

Prohibitions against storing high resolution imagery and related mapping data outside Korea – which Korea justifies on security grounds – have led to a competitive disadvantage for international online map services, since their locally-based competitors are able to provide several services (such as turn-by-turn driving/walking instructions, live traffic updates, interior building maps) that international service providers cannot. Since map data supplied by such competitors are visible outside of Korea, it is unclear how a prohibition on foreign storage furthers security goals. New legislation passed in 2014 establishes a more inclusive committee process for approving export of cartographic data. The United States is highly sensitive to Korea's national security concerns and will monitor the committee's work, and work with Korea to explore possible ways to update its mapping data-related system in a manner that reflects the globalized nature of the Internet.

Cloud Computing Services

The United States and U.S. stakeholders have also raised concerns with Korea about proposed legislation submitted to the National Assembly by the Ministry of Science, Information and Communications Technology, and Future Planning (MSIP), which would provide a jurisdictional basis for regulating cloud computing services. Following engagement by the United States and extensive comments from U.S. and other foreign stakeholder groups, MSIP made some changes to its original draft to reflect many stakeholder concerns before submitting the bill to the National Assembly. However, the U.S. Government and stakeholders remain concerned about this draft legislation, which could impose additional Korea-specific regulations on what is a dynamic, global technology. The United States will continue to monitor this issue closely.

Express Delivery Services

KORUS has provided greater access to Korea's market for U.S. express delivery services. According to KORUS, "under normal circumstances" formal entry documents are not required for express shipments

valued at $200 or less. The United States has raised this issue with Korea in the KORUS Committee on Trade in Goods and will continue to urge Korea to adopt more trade facilitative practices in this area.

Franchising Services

U.S. stakeholders has raised concerns for several years about the activities of the National Commission on Corporate Partnership, now renamed the Korea Commission on Corporate Partnership (KCCP), which have imposed restrictions on the expansion of some U.S.-owned restaurant franchises and opened proceedings into numerous other sectors as well. The KCCP is a partially government-funded organization, created by Korea's National Assembly, with a mandate to mediate complaints of unfair or unequal competition between large and small businesses. KCCP's mission, according to its government-appointed chairman, is to level the playing field between large businesses and small and medium enterprises (SMEs) in two ways. First, it annually issues a "win-win scorecard" on how large businesses co-exist with SMEs. Second, and of most concern for U.S. businesses, KCCP can "designate suitable industries for SMEs."

In 2013, KCCP designated the family restaurant sector as reserved for SMEs, imposing restrictions that affected U.S. franchising companies in the sector by forcing them to choose between significant geographic restrictions on where they could open new stores or a limit of only five new stores a year nationwide for the next three years. KCCP during 2014 also opened proceedings into U.S.-based restaurant chains and systems integration businesses, potentially affecting significant U.S. investors in Korea. The United States has raised concerns about KCCP's, activities, urging Korea to consider carefully the effect that KCCP has on Korea's business climate and on foreign investors. The United States will continue to monitor its activities closely in 2015.

ELECTRONIC COMMERCE

Restrictions on storing customer information outside of Korea have posed barriers to the provision of some Internet-based services, in particular online vending and payment processing. Under the Regulation on Supervision of Credit-Specialized Financial Business, electronic commerce firms selling goods in Korean won are prohibited from storing Korean customers' credit card numbers in company information systems. (U.S. electronic commerce firms continue to sell legally into the Korean market from abroad, setting prices in dollars, but are prevented from accepting Korean branded credit cards.) As a result, U.S. electronic commerce firms that are unwilling to develop Korea-specific payment systems have been prevented from entering the Korean market. The United States has raised the issue with Korea on multiple occasions, urging it to lift what appear to be unreasonable and unnecessary restrictions. In November 2013, the Korean Financial Services Commission amended regulations to partially address this issue, enabling online digital content stores operating in more than five countries and headquartered abroad to receive "payment gateway" registrations, locate information technology (IT) facilities offshore, store customer credit card numbers, and allow one-click purchases from mobile devices. This amendment is a positive step that gradually moves Korean regulation in this area in line with global norms. But U.S. stakeholders have raised concerns regarding slow and unclear implementation of the changes, and other firms have expressed concern that the changes only partially address the underlying issue of Korea's divergence from global norms on electronic payments. The United States will continue to raise this issue with Korea in 2015.

INVESTMENT BARRIERS

Capital market reforms have eliminated or raised ceilings on aggregate foreign equity ownership, individual foreign ownership, and foreign investment in the government, corporate, and special bond markets. These reforms have also liberalized foreign purchases of short-term financial instruments issued by corporate and financial institutions. Some U.S. investors have raised concerns, however, about possible discrimination and lack of transparency in investment-related regulatory decisions, including by tax authorities.

Foreign investment is not permitted in terrestrial broadcast TV operations. For satellite broadcasts, foreign participation is limited to 49 percent. Foreign satellite retransmission channels are limited to 20 percent of the total number of operating channels. However, in line with its KORUS obligations, Korea now allows U.S. investors to wholly own Korean telecommunications operators, and will allow U.S. investors to own some broadcast service providers starting on March 15, 2015.

In addition to the investment restrictions in telecommunications and key services sectors described above, Korea maintains other important restrictions on foreign investment. Specifically, Korea prohibits foreign investment in rice and barley farming and imposes a 50 percent foreign equity limitation on meat wholesaling. Moreover, Korea limits foreign investment in electric power generation, distribution, and sales to 50 percent. It also limits foreign investment in news agency services and publishing and printing, where it has foreign equity limitations of 30 percent for enterprises publishing newspapers and 50 percent for enterprises publishing other types of periodicals.

ANTICOMPETITIVE PRACTICES

The Korea Fair Trade Commission (KFTC) has played an increasingly active role in enforcing Korea's competition law and in advocating for regulatory reform and corporate restructuring. The KFTC has a broad mandate that includes promoting competition, strengthening consumers' rights, creating a competitive environment for small and medium-sized enterprises, and restraining the concentration of economic power. In addition to its authority to conduct investigations and to impose penalties, including broad authority over corporate and financial restructuring and patent right abuses, the KFTC can levy heavy administrative fines for violations or for failure to cooperate with investigators. Decisions by the KFTC are appealable to the Korean judiciary. As a result of KORUS, the KFTC has implemented a consent decree process, which it continues to refine.

During the past year, some U.S. firms have raised concerns regarding misuse of competition remedies to pursue industrial policy goals, and further express concern at expedited procedures that potentially grant inadequate due process.

OTHER BARRIERS

Motor Vehicles

Increased access to Korea's automotive market for U.S. automakers remains a key priority for the U.S. Government. Upon entry into force of KORUS, Korea immediately reduced the tariff on passenger vehicles from 8 percent to 4 percent (and will eliminate the remainder of its tariff in 2016) and eliminated its 10 percent tariff on trucks. In addition, KORUS contains provisions designed to address nontariff barriers, including requirements to allow U.S. exporters to market cars in Korea built to U.S. safety standards rather than Korean standards, greatly reducing the cost of supplying U.S.-made autos to the Korean market. Korea also modified its key motor vehicle taxes so that U.S. cars are now in the same tax brackets as their Korean competitors. And, finally, transparency provisions in the agreement ensure that automakers have sufficient opportunity to participate in the setting of new regulations and adequate time to adjust to changes new regulations. These tariff and non-tariff provisions resulted in an increase in auto exports to Korea of 140 percent by value between 2011 and 2014, more than five times faster than U.S. auto exports to the world (up 26 percent). Korea is now our tenth largest export market for autos, with annual exports exceeding $1 billion in 2014. U.S. vehicle exports have more than doubled since KORUS entered-into-force.

Pursuant to a law passed by the National Assembly in March 2013, throughout 2013 and much of 2014, the Ministry of Environment worked on developing regulations to implement an incentive/penalty

("bonus/malus") system based on automotive greenhouse gas emissions under which a buyer of a new vehicle would receive either a rebate or an additional charge depending on that car's emission profile. Since the law passed, U.S. automakers have raised concerns with the proposed system. Under the authorizing law, this "bonus/malus" system was to go into effect in January 2015. The United States urged the Korean government to consult fully with U.S. stakeholders and with the U.S. Government on its plans, particularly with respect to how different types of vehicles would be classified under the system, what levels of penalties they may be subject to, and how, and by whom, the incentive or penalty is administered (*i.e.* by the government itself or by the automotive dealers). In September 2014, the Korean government made the decision to delay implementation of aspects of the "bonus/malus" system until January 2021 at the earliest, and will go forward only with implementing a portion of the intended bonus system for fuel-efficient hybrid and electric vehicles.

The 2016-2020 update of Korea's CO2/Corporate Average Fuel Economy (CAFE) emissions and fuel efficiency regulations were finalized and promulgated on December 30, 2014. In comments submitted during the 60 day comment period Korea provided for the draft regulations (published September 11, 2014), the domestic Korean, U.S., European, and Japanese auto industries opposed what they considered overly ambitious targets (97 g/km average carbon dioxide emissions by 2020). U.S. stakeholders also raised concerns that the 97 g/km target was arbitrary, since the Korean government developed it without sharing any underlying scientific study or methodology. U.S. stakeholders also requested that Korea maintain the volume threshold for small-volume manufacturers (sales of 4,500 or fewer vehicles in 2009) as is found in the current (2011-2015) regulations, including a leniency factor of 19 percent for small-volume manufacturers. U.S. stakeholders also submitted comments related to the regulation's flexibility mechanisms, such as technology credits and carry-forward/buy back of emissions credits. In the final regulations, Korea reflected stakeholder comments related to the small-volume manufacturer threshold, but will gradually reduce the 19 percent leniency factor to 8 percent by 2020. Korea also reflected most stakeholder comments related to the flexibility mechanisms, and additional clarifications on these mechanisms, as well as with respect to penalties for non-compliance, will be forthcoming. However, Korea decided to maintain the draft regulation's general 97 g/km target, stating that it was necessary in order to fulfill the government's climate change mitigation plan for the transportation sector, which is part of the international commitments Korea has undertaken under the UN Framework Convention on Climate Change. The United States will continue to engage with Korea to ensure that its automotive emissions policies are implemented in a fair, transparent, predictable manner, consistent with the KORUS.

Motorcycles

Korea's longstanding ban on driving motorcycles on expressways continues, which U.S. stakeholders argue constrains potential sales. Korea views this ban as a necessary safety measure, and has pointed to a 2011 study on the safety of motorcycles on highways commissioned by the Korean National Police, which highlighted inadequacies in Korea's regulatory and safety practices surrounding the licensing of motorcycle drivers and the proliferation of young, untrained motorcycle riders driving dangerously on city streets. The United States maintains that fit-for-purpose heavy motorcycles riding on expressways do not pose the same safety concerns as smaller, lighter motorcycles and continues to urge Korea to allow large motorcycles on expressways.

Pharmaceuticals and Medical Devices

Under KORUS, any new Korean regulations affecting general pricing and reimbursement of pharmaceuticals and medical devices must be published in advance for notice and comment, and the Korean government is required to respond to public comments in writing and explain any substantive revisions made to proposed regulations. KORUS also contains provisions regarding appropriately recognizing the value of patented pharmaceuticals and medical devices. The United States continues to urge Korea to

refrain from implementing reimbursement policies that may discourage companies from introducing advanced medical products to the Korean market or serve as a disincentive to innovation and investment in research and development.

The U.S. innovative pharmaceutical industry continues to report concerns regarding the lack of transparency and predictability of the pricing and reimbursement policies, and their underlying methodology, of the Korea's Ministry of Health and Welfare (MOHW). These aspects of such policies, including with respect to the expanded price-volume agreement announced by MOHW in September 2013 as well as Korea's therapeutic reference pricing policy, continue to generate considerable uncertainty for stakeholders, which depend on long-term planning for the investment decisions that support research and development. The United States has urged Korea to seriously consider stakeholders' concerns and ensure that pharmaceutical reimbursement pricing is conducted in a fair, transparent, and non-discriminatory manner that recognizes the value of innovation, as set forth in KORUS. In December, 2014, a new PVA was announced for new drugs for export to receive a refund instead of price reduction, to begin in 2015. The United States will continue to monitor the situation closely in 2015.

U.S. companies have also continued to express concern about insufficient transparency in the regulation of pricing and reimbursements. The U.S. medical devices sector continues to cite concerns regarding transparency and the availability of opportunities for meaningful engagement regarding such regulation, including with respect to the October 2013 reimbursement plan for medical devices based on import price or manufacturing cost that would further lower the prices of U.S. medical device exports in Korea. U.S. stakeholders believe this does not adequately reflect the full value of such devices, including with respect to research and development and other costs. The United States has expressed its concern that the reimbursement pricing of medical devices should be determined in a fair, non-discriminatory, and transparent manner and urged MOHW to engage directly with stakeholders to address their concerns.

KUWAIT

TRADE SUMMARY

U.S. goods exports in 2014 were $3.6 billion, up 40.7 percent from the previous year. Kuwait is currently the 51st largest export market for U.S. goods. Corresponding U.S. imports from Kuwait were $11.4 billion, down 9.5 percent. The U.S. goods trade deficit with Kuwait was $7.8 billion in 2014, a decrease of $2.3 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Kuwait was $301 million in 2013 (latest data available), up from $262 million in 2012.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Kuwait enacted legislation in August 2011 that requires labeling of processed and unprocessed agricultural biotech products with content from biotech ingredients greater than one percent. The labeling requirements include identification of biotech ingredients using a different font color in the ingredients list or a separate label if no ingredients list is included. Any differences in nutritional value or mode of storage or preparation between the biotech product and its conventional counterpart must also be clearly labeled. To date, this legislation has not been fully implemented or enforced.

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization, issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials are discussing concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States have notified the WTO Committee on Sanitary and Phytosanitary (SPS) Measures of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. As currently drafted, stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also will impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States has raised specific concerns about the Guide and has requested that GCC Member States delay entry into force of the Guide until food safety experts have an opportunity to discuss these concerns.

IMPORT POLICIES

Tariffs

As a member of the GCC, Kuwait applies the GCC common external tariff of five percent with a limited number of GCC-approved country-specific exceptions. Kuwait's exceptions include 417 food and agriculture items that are exempt from customs duties. Tobacco products are subject to a 100 percent tariff rate.

Import Prohibitions and Licenses

Kuwait prohibits the importation of alcohol, pork products, used medical equipment, automobiles older than five years, books, periodicals or movies that may offend religion or public morals, and all materials that promote political ideology. All imported beef and poultry products require a health certificate issued by the country of export and a halal food certificate issued by an approved Islamic center in that country. Kuwait requires a special import license for firearms.

GOVERNMENT PROCUREMENT

The Public Tenders Law (No. 37 of 1964, modified by Laws No. 13 and 31 of 1970 and 1977, respectively) regulates government procurement in Kuwait and requires that any procurement with a value greater than KD 5,000 ($17,250) be conducted through the Central Tenders Committee. Kuwait's government procurement policies require the purchase of local products, where available, and provide a 10 percent price preference for local firms.

Kuwait's National Offset Company administers the requirement that foreign companies awarded military contracts valued at or above KD 3 million ($10.35 million), civil government contracts valued at or above KD 10 million ($34.5 million) and all downstream oil/gas contracts, dedicate 35 percent of the contract value to target investment in specific sectors of Kuwait's economy that either create jobs for Kuwaitis, train Kuwaitis or transfer technology to Kuwaiti companies. Kuwait suspended this offset program for new investments for six months in June 2014, pending completion of a study on the program's effectiveness. Existing offset obligations remained in place during the suspension.

Kuwait is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2014, the United States elevated Kuwait to the Special 301 Priority Watch List as a result of its failure to introduce to the National Assembly legislation that would result in a copyright law that is consistent with international standards, and to resume effective enforcement against copyright and trademark infringement.

In 2014, Saudi Arabia, Bahrain, and Qatar approved the GCC Trademark Law. Kuwait, Oman and the United Arab Emirates are expected to approve the law in 2015, after which implementing regulations will be issued. As the six GCC Member States explore further harmonization of their intellectual property rights (IPR) regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

SERVICES BARRIERS

Banking

Kuwait continues to limit foreign investment in the banking sector under the 2001 Direct Foreign Capital Investment Law. Foreign non-GCC banks operating in Kuwait may only open one branch, may only offer investment banking services, and are prohibited from competing in the retail banking sector. As of October 2013, GCC banks may now open two branches and may compete in the retail banking sector. Foreign banks are still subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank and are expressly prohibited from directing clients to borrow from external branches of their bank or taking any other measures to facilitate such borrowing.

Telecommunications

Kuwait's telecommunications industry is technically open to private investment, but in practice, the government maintains extensive ownership and control of licensing and infrastructure development. While private companies are involved in constructing cellular towers, the land and permits are often still controlled by the Ministry of Communications or the municipality.

INVESTMENT BARRIERS

Major barriers to foreign investment in Kuwait include: regulations prohibiting foreigners from investing in natural resources exploration and production, real estate, and publishing; continued delays associated with starting new enterprises; and difficulty in finding a required local sponsor and agent in certain circumstances. Kuwait permits foreign firms to participate in some midstream and downstream activities in the oil and gas sector, but foreign investors in this sector have faced numerous challenges.

LAOS

TRADE SUMMARY

U.S. goods exports in 2014 were $29 million, up 16.8 percent from the previous year. Laos is currently the 182nd largest export market for U.S. goods. Corresponding U.S. imports from Laos were $33 million, up 7.9 percent. The U.S. goods trade deficit with Laos was $4 million in 2014, a decrease of $2 million from 2013.

Laos ratified its accession to the WTO on December 6, 2012. Laos became a full member of the WTO on February 2, 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Laos established its current regulations relating to sanitary and phytosanitary standards in 2012. It continues to refine these regulations and related processes to address their uneven implementation at entry-points and often limited technical knowledge of enforcement officials.

IMPORT POLICIES

Tariffs

Laos' membership in the WTO and its preparations for the entry into force of obligations for the Association of Southeast Asian Nations Economic Community in 2015 have spurred trade liberalization, improvements to the business environment, and enhanced trade facilitation.

The average applied tariff rate, according to the Ministry of Industry and Commerce (MOIC), is 10 percent for industrial goods and 18.4 percent for agricultural goods. Laos' average bound tariff rate in the WTO is 18.7 percent for industrial goods and 19.3 percent for agricultural products.

Nontariff Barriers

All importers must register with MOIC, Department of Import/Export. Certain products, including motor vehicles, petroleum and gas, timber products, cement, and steel are subject to import licensing.

Customs Procedures

The Lao Customs Department determines customs value based on transaction value according to WTO Customs Valuation rules. However, Laos is still in the process of phasing out reference prices on vehicles and fuel, which supply two-thirds of customs revenue, in accordance with its WTO accession commitments. U.S. businesses complain of irregularities and corruption in the customs clearance process.

Taxation

Laos is transitioning to a value-added tax (VAT) system. The standard VAT rate of 10 percent applies to most domestic and imported goods and services, with some limited exemptions. Foreign businesses complain that they are often unable to effectively comply with VAT administration because Lao customers and suppliers are unable or unwilling to process VAT receipts. Many companies have also registered

complaints about arbitrary or selective enforcement of tax provisions. The United States will continue to engage with Laos regarding these concerns.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Laos took steps in 2013 to consolidate its intellectual property office and to create specialized units in its Public Prosecutor Office, Customs Department, and in other relevant law enforcement bodies to address IPR issues. It also granted customs officials *ex officio* authority and established a national coordinating committee for IPR in 2014. Laos continues work to establish an effective system for civil litigation and criminal enforcement of IPR with U.S. Government assistance. Although there is increasing public awareness and media coverage of the harm caused by counterfeit goods and the impact of copyright piracy on local content providers, pirated entertainment content and counterfeit goods continue to be available in Lao marketplaces.

The United States will continue to urge Laos to take steps to improve IPR protection and enforcement, including through developing judicial capacity to adjudicate IPR cases and increasing public awareness of the importance of IPR.

SERVICES BARRIERS

Several service sectors remain effectively closed to foreign competition, including medical, postal, and telecommunications services, as well as some leasing, media, and transportation services. However, Laos opened most other service sectors to U.S. service suppliers through the 2005 U.S.-Laos Bilateral Trade Agreement.

INVESTMENT BARRIERS

Laos has a challenging investment climate due to corruption, an underdeveloped judicial system, overlapping and contradictory regulations, and limited access to financial services. Domestic ownership or partnership requirements vary by industry. The Lao government requires an annually renewable business license, receipt of which is contingent on a certification that all taxes have been paid. However, taxes are often assessed in a nontransparent, arbitrary, and inconsistent manner. The United States will continue to urge the Lao government to address these issues.

ELECTRONIC COMMERCE

Despite growing Internet usage, electronic commerce is just emerging in Laos, and online transactions are limited. The Lao National Assembly passed a law authorizing both electronic commercial and government transactions in 2013; however, Lao technical and regulatory capacity is very low and some implementing regulations are still being drafted. The United States continues to support Laos in the development of regulations and in building regulatory capacity.

OTHER BARRIERS

Corruption remains a major barrier to trade for U.S. businesses seeking to operate in, or trade with, Laos. Informal payments to low-level officials in order to expedite administrative procedures are common. In Transparency International's 2014 Corruption Perceptions Index, Laos ranked 145 of 175 countries.

Laos is seeking to improve the transparency of its domestic lawmaking process. In accordance with the 2012 Law on Making Legislation, the Ministry of Justice opened the online Official Gazette in October 2013, on which it intends to publish all proposed Lao legislation. Furthermore, the Law on Making

Legislation stipulated that existing laws not posted to the Official Gazette by the end of 2014 will no longer be valid. However, as of early 2015, old laws are still being posted to the online Official Gazette, which has resulted in a legal grey area with respect to the continuing validity of laws posted after the end of 2014

MALAYSIA

TRADE SUMMARY

U.S. goods exports in 2014 were $13.1 billion, up 1.0 percent from the previous year. Malaysia is currently the 24th largest export market for U.S. goods. Corresponding U.S. imports from Malaysia were $30.4 billion, up 11.6 percent. The U.S. goods trade deficit with Malaysia was $17.3 billion in 2014, an increase of $3.0 billion from 2013.

U.S. exports of services to Malaysia were $2.7 billion in 2013 (latest data available), and U.S. imports were $1.5 billion. Sales of services in Malaysia by majority U.S.-owned affiliates were $7.8 billion in 2012 (latest data available), while sales of services in the United States by majority Malaysia-owned firms were $399 million.

The stock of U.S. foreign direct investment (FDI) in Malaysia was $16.4 billion in 2013 (latest data available), up from $14.1 billion in 2012. U.S. FDI in Malaysia is led by the manufacturing and mining sectors

Trade Agreements

Malaysia is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Malaysia, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Mexico, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Meat and Poultry Products – Halal Standards

Malaysia requires all domestic and imported meat (except pork) to be certified as halal by Malaysian authorities. Malaysian regulations require producers' halal practices to be inspected and approved for compliance with Malaysian standards on a plant-by-plant basis prior to export.

In January 2011, Malaysia implemented a food product standard, MS1500: 2009, which sets out general guidelines on halal food production, preparation, handling, and storage, and that go beyond internationally-recognized halal standards contained in the Codex Alimentarius. Specifically, the standards require slaughter plants to maintain dedicated halal production facilities and ensure segregated storage and transportation facilities for halal and non-halal products. In contrast, the Codex allows for halal food to be prepared, processed, transported, or stored using facilities that have been previously used for non-halal foods, provided that Islamic cleaning procedures have been observed.

Malaysia also requires audits of all establishments that seek to export meat and poultry products to Malaysia, an issue on which the United States has raised concerns. Following an audit in October 2014, Malaysia's Department of Veterinary Services within its Ministry of Agriculture in December 2014 approved one U.S. turkey producer and one U.S. beef producer to export specific products to Malaysia.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Although biotech crops are generally not approved for planting in Malaysia, the Malaysian government allowed biotech papaya trials in 2014. However, the government has not yet published the results of these trials. Biotech crop events are supposed to be sold in the Malaysian market only if they have been approved for use in food and feed, and for processing. While Malaysia has approved a few corn and soybean biotech events for release on the market, bulk shipments of corn and soybeans face the risk of rejection if a variety that has not yet been approved is detected. Malaysia published new biotech labeling guidelines in 2013 that were to be enforced starting in July 2014, including for processed food. However, the Malaysian government has not yet begun enforcing these guidelines.

IMPORT POLICIES

Tariffs and Import Licensing Requirements

Almost all of Malaysia's tariffs are imposed on an *ad valorem* basis, with a simple average applied tariff rate of 6.5 percent. Duties for tariff lines where there is significant local production are often higher. In general, the level of tariffs is lower on raw materials than for value-added goods.

On roughly 80 products – most of which are agricultural goods – Malaysia charges specific duties that represent extremely high effective tariff rates. The simple average *ad valorem* equivalent across all products with a specific tariff is 392 percent. Beverages, alcohol, and wine are subject to an effective tariff of up to 500 percent when import duties and excise taxes are combined.

A large number of Malaysian tariff lines related to import-sensitive or strategic industries (principally in the construction equipment, agricultural, mineral, and motor vehicle sectors) are subject to import licensing requirements.

Tariff-Rate Quotas on Selected Agricultural Products

The Malaysian government maintains tariff-rate quota systems for 17 tariff lines, including live poultry, poultry meat, milk, cream, pork, and round cabbage. These products incur in-quota duties between 10 percent and 25 percent and out-of-quota duties as high as between 40 percent and 168 percent.

Import Restrictions on Motor Vehicles

Malaysian automotive policy makes a fundamental distinction between "national" cars (*e.g.,* domestic producers Proton and Perodua) and "non-national" cars, which include other vehicles assembled in Malaysia. Malaysia applies high tariffs in the automobile sector and has traffic restrictions and noise standards that affect the usage of large motorcycles. The country's National Automotive Policy (NAP) includes nontariff measures that significantly increase the cost of imported vehicles. In 2011, the Malaysian government began another review of the NAP, and the Malaysian government announced results of this review in January 2014. The new NAP seeks to transform the country into a hub for energy efficient

vehicles, but maintains Malaysia's non-transparent import permit and gazette pricing system, excise duties that disproportionately affect imported vehicles, and special tax reductions for vehicles with Malaysian-manufactured components. The Ministry of International Trade and Industry began gathering industry and stakeholder comments and feedback on the 2014 NAP in October. A revised NAP is expected to be released in 2015.

The NAP includes a system of "approved permits" (APs), which confer to permit holders the right to import and distribute cars and motorcycles. The AP system was initially designed to provide *bumiputera* (ethnic Malay) companies with easier entry into the automobile and motorcycle distribution and service sectors. However, the AP system is administered in a nontransparent manner and effectively operates as a cap on the total number of vehicles that can be imported in a given year. Currently, the cap on imported vehicles is set at 10 percent of the domestic market. Although the previous NAP had included a commitment to phase out the AP system by 2020, the revised NAP replaced this commitment with a proposed six-month, in-depth study to assess the impact of terminating the program on its *bumiputera* beneficiaries.

EXPORT TAXES

Malaysia taxes exports of palm oil, rubber, and timber products in order to encourage domestic processing. Malaysia is the world's second largest producer and exporter of palm oil and products made from palm oil. Malaysia lowered its export tax rates on crude palm oil in 2013 from 23 percent to between 4.5 percent and 8.5 percent. The tax that Malaysia imposes on exports of crude palm oil depends on fluctuations in the market price. Owing to the falling price of crude palm oil, the export tax was removed from September through December 2014. Malaysia to kept exports of crude palm oil duty free for the first quarter of 2015, but the government announced on March 16 the 4.5-percent duty would resume on April 1. Refined palm oil and refined palm oil products are not subject to export taxes.

GOVERNMENT PROCUREMENT

Malaysia has traditionally used government procurement to support national public policy objectives, including encouraging greater participation of *bumiputera* in the economy, transferring technology to local industries, reducing the outflow of foreign exchange, creating opportunities for local companies in the services sector, and enhancing Malaysia's export capabilities. It generally invites international tenders only when domestic goods and services are not available, and in those cases, foreign companies find they need to take on a local partner before their tenders will be considered. Procurement also often goes through middlemen rather than directly with the governmental entity or is negotiated rather than tendered.

Malaysia is not a signatory to the WTO Agreement on Government Procurement, but is an observer.

EXPORT SUBSIDIES

Malaysia maintains several programs that appear to provide subsidies for exports. The new NAP finalized in 2013 increased the income tax exemption for high value-added exports of motor vehicles and parts based on the percentage increase in the value added of exports. The United States has raised questions on these and other policies, some of which appeared to establish export subsidies.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Malaysia was removed from the Special 301 Watch List in 2012 following improvements in protecting intellectual property rights (IPR). In recent years, Malaysia acceded to the WIPO Copyright Treaty and the WIPO Performance and Phonogram Treaty. Malaysia also enacted legislation to define Internet Service Provider liability and to prohibit unauthorized camcording of motion pictures in theaters. Malaysia has

taken steps to enhance its IPR enforcement regime, including through active cooperation with rights holders, ongoing training of prosecutors for specialized IPR courts, the reestablishment of a Special Anti-Piracy Taskforce, and *ex officio* enforcement actions. In addition, new revisions on industrial designs and trademarks laws are nearing completion.

Despite Malaysia's success in improving IPR protection, several important issues remain, including the relatively widespread availability of pirated and counterfeit products in Malaysia, high rates of piracy over the Internet, and continued challenges posed by book piracy. In addition, the United States has urged Malaysia to continue its efforts to improve the protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products. Malaysia has yet to join the Hague Design System or the Madrid Protocol.

SERVICES BARRIERS

The services sector constitutes 48 percent of the Malaysian economy and has been a key driver of economic and job growth in recent years. Since 2009, Malaysia has liberalized 43 services sub-sectors, and 100 percent foreign equity participation is allowed in private hospital services, medical specialist clinics, department and specialty stores, incineration services, accounting and taxation services, courier services, private universities, vocational schools, dental specialist services, skills training centers, international schools, vocational schools for special needs, and quantity surveyors services. In November 2014, the Lower House of the Parliament passed amendments to laws governing architectural services, quantity surveying services and engineering services, which eased restrictions on foreigners working in these professions in Malaysia. The amended law entered into force in 2015.

Telecommunications

Malaysia allows 100 percent foreign equity participation in Applications Service Providers (suppliers which do not own underlying transmission facilities). However, liberalization of telecommunications services for Network Facilities Providers and Network Service Provider licenses has yet to be implemented, and only 70 percent foreign participation is currently permitted, although, in certain instances, Malaysia has allowed greater equity participation. Malaysia made limited GATS commitments on most basic telecommunications services and partially adopted the WTO Reference Paper on regulatory principles.

Distribution Services

Malaysia allows 100 percent foreign ownership of department and specialty stores. However, foreign-owned larger retailers ("hypermarkets") and locally-incorporated direct selling companies must still have 30 percent *bumiputera* equity. The guidelines also include requirements that department stores, supermarkets, and hypermarkets must reserve at least 30 percent of shelf space in their premises for goods and products manufactured by *bumiputera*-owned small- and medium-sized enterprises. Malaysia is currently reviewing these guidelines. The Malaysian government also issues "recommendations" for local content targets, which are, in effect, mandatory.

Legal Services

On June 3, 2014, amendments to the Legal Professions Act came into force to allow foreign law firms and foreign lawyers to practice in Peninsular Malaysia.

Licenses may be issued to foreign law firms to operate an international partnership with a Malaysian law firm or as a Qualified Foreign Law Firm (QFLF) without partnering with a local firm. Foreign lawyers

working in International Partnerships and QFLF must reside in Malaysia for not less than 182 days in any calendar year.

The amendments also authorize "fly-in-fly-out" activities whereby a foreign lawyer advising on non-Malaysian law may enter Malaysia for up to 60 days in a calendar year, subject to immigration approval. A foreign lawyer who has been authorized or registered to practice law in Malaysia is not subject to the 60-day limit.

Engineering Services

Foreign engineers are not allowed to operate independently of Malaysian partners or serve as directors or shareholders of an engineering consulting company. A foreign engineering firm may establish a permanent commercial presence if all directors and shareholders are Malaysian.

Accounting and Taxation Services

All accountants seeking to provide auditing and taxation services in Malaysia must register with the Malaysian Institute of Accountants before they may apply for a license from the Ministry of Finance. Citizenship or permanent residency is required for registration with the Malaysian Institute of Accountants.

Financial Services

Under Malaysia's Financial Services Act, the issuance of new licenses is guided by prudential criteria and a nontransparent "best interests of Malaysia" test. In determining the best interests of Malaysia, the central bank of Malaysia, Bank Negara, considers the contribution of the investment to promoting new high value-added economic activities, addressing demand for financial services where there are gaps, enhancing trade and investment linkages, and providing high-skilled employment opportunities.

Bank Negara also sets controls on both foreign and local financial services. For example, interest rates on consumer savings accounts and fixed deposits are mandated. Fees on transactions are determined by the Association of Banks, but banks are not permitted to change these fees without Bank Negara approval. Partnerships between foreign insurers and foreign banks are not permitted, regardless of whether they are locally incorporated. Foreign banks are also not allowed to open Ringgit Correspondent Bank Accounts with local banks as Bank Negara considers this practice to make local banks conduits for "branching" by foreign banks. As a result, local banks are hesitant to partner with foreign banks to provide joint and seamless resources to U.S. multinationals.

As part of the 2009 liberalization package for financial services, foreign equity limits were increased from 49 percent to 70 percent for domestic investment banks, insurance companies, Islamic banks, and Islamic insurance operators. Foreign equity above 70 percent is permitted on a case-by-case basis for insurance companies if the investment is determined to facilitate the consolidation and rationalization of the insurance industry. Currently, mutual fund providers are restricted from entering Malaysia and marketing or selling their products. Reinsurance companies are required to conduct more than 50 percent of their reinsurance business in Malaysia and must have 5 percent cession and local retention. Bank Negara currently limits foreign banks to four branches in Malaysia, subject to restrictions. For example, foreign banks cannot set up new branches within 1.5 km of an existing local bank. In addition, Bank Negara considers ATMs as equivalent to separate branches and it also has conditioned foreign banks' ability to offer some services on commitments to undertake certain back office activities in Malaysia.

Advertising

Foreign content in broadcast commercials in Malaysia is limited to 20 percent.

Audio-Visual and Broadcasting

The Malaysian government maintains broadcast content quotas on both radio and TV programming. Eighty percent of TV programming must originate from local production companies owned by ethnic Malays and 60 percent of radio programming must be of local origin. Foreign investment in terrestrial broadcast networks is prohibited and is limited to a 20 percent equity share in cable and satellite operations. As a condition for obtaining a license to operate, video rental establishments are required to have 30-percent local content in their inventories.

Consumer Data Protection

The Personal Data Protection Act imposes requirements for registration and reporting by companies handling consumer data that ultimately touches most aspects of the economy. The law came into force November 15, 2013.

INVESTMENT BARRIERS

Foreign investment in sectors such as retail, telecommunications, financial services, professional services, oil and gas, and mining is subject to restrictions, including limitations or, in some cases, prohibition, on foreign equity, and requirements that foreign firms enter into joint ventures with local partners. Pursuant to the National Land Code, foreigners must obtain prior approval from the relevant state authorities for any acquisition of land for agricultural, residential, or commercial purposes. These state authorities may impose conditions on ownership, including maximum thresholds on foreign equity in companies seeking to acquire land. Malaysia also maintains performance requirements that must be met to receive a customs waiver for manufacturing operations in Foreign Trade Zones.

OTHER BARRIERS

Transparency

U.S. companies continue to raise serious concerns about the lack of transparency in government decision-making and procedures in Malaysia. Following an announcement by Prime Minister Najib in February 2012, the Chief Cabinet Secretary issued a circular instructing all Ministries to post all draft laws and regulations on the Internet for a 30-day public comment period. However, implementation of this new requirement remains uneven, and many Ministries continue to consult selected stakeholders.

MEXICO

TRADE SUMMARY

U.S. goods exports in 2014 were $240.3 billion, up 6.3 percent from the previous year. Mexico is currently the second largest export market for U.S. goods. Corresponding U.S. imports from Mexico were $294.2 billion, up 4.9 percent. The U.S. goods trade deficit with Mexico was $53.8 billion in 2014, a decrease of $618 million from 2013.

U.S. exports of services to Mexico were $29.9 billion in 2013 (latest data available), and U.S. imports were $17.8 billion. Sales of services in Mexico by majority U.S.-owned affiliates were $40.7 billion in 2012 (latest data available), while sales of services in the United States by majority Mexico-owned firms were $6.5 billion.

The stock of U.S. foreign direct investment (FDI) in Mexico was $101.5 billion in 2013 (latest data available), up from $98.4 billion in 2012. U.S. FDI in Mexico is led by the manufacturing, nonbank holding companies, and finance/insurance sectors.

Trade Agreements

The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico (the "Parties"), entered into force on January 1, 1994. Under the NAFTA, the Parties progressively eliminated tariffs and nontariff barriers to trade in goods, provided improved access for services, established strong rules on investment, and strengthened protection of intellectual property rights. After signing the NAFTA, the Parties concluded supplemental agreements on labor and the environment, under which the Parties are obligated to effectively enforce their environmental and labor laws, among other things. The agreements also provide frameworks for cooperation among the Parties on a wide variety of labor and environmental issues.

Mexico is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Mexico, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Labeling of processed packaged foods

The United States remains concerned that Mexico failed to provide advance notifications under the WTO Agreement on Technical Barriers to Trade (TBT Agreement) and NAFTA before implementing

amendments to its its nutritional labeling requirements. The amendments were first announced on April 15, 2014, by Mexico's Federal Commission for the Protection against Sanitary Risks in the *Diario Oficial*. Mexico later notified the amendments via two notifications under the TBT Agreeement in July and September 2014, after the regulations had already been finalized. In written comments to Mexico's WTO TBT Enquiry Point on November 17, 2014, the United States sought clarity on several provisions and expressed concern that trade of prepackaged foods could be disrupted if with new labeling requirements became mandatory without providing producers adequate time to comply. Mexico provided responses to the United States comments both orally and in writing on December 11, 2014, at the NAFTA Committee on Standards Related Measures. The United States is reviewing these responses and will continue to work with Mexico to resolve any concerns.

The new regulation also introduces a stamp identifying a product as healthy. Producers must apply for Ministry of Health approval in order to include the stamp on product labels, but further guidance is needed on application procedures.

Energy Efficiency Labeling and Standby Power Usage Regulations

On January 23, 2014, Mexico's National Commission on Efficient Energy Use ("CONUEE") published an energy efficiency measure, PROY-NOM-032-ENER-2013 ("NOM-032"), which requires certain testing methods, standby energy consumption limits, and labeling for electronic and electrical equipment. The NOM-032 imposes additional burdensome and costly labeling requirements for exports to Mexico, including for an extensive list of electronic products which operate at a relatively low wattage. NOM-032 also requires duplicative testing and certification requirements and currently there are only a limited number of laboratories in Mexico authorized to perform the required laboratory testing and certification. According to U.S. industry, the approved laboratories may not have the requisite capacity to process the large volume of consumer electronic products in the marketplace. In addition, U.S. industry has expressed concern with the short time frame under which they were required to obtain certification under the new regulation and the lack of communication from the approved laboratories related to scheduling product testing. The United States continues to monitor this issue.

Sanitary and Phytosanitary Barriers

Fresh Potatoes

In 2003, the United States and Mexico signed the Table Stock Potato Access Agreement, allowing U.S. fresh potatoes access to the whole of Mexico over a three-year period. However, for years Mexico refused to move forward with further implementation, citing pest detections in shipments. In 2011, the North American Plant Protection Organization (NAPPO) released a report that identified six pests in their analysis which should be considered quarantine pests by Mexico for the pathway "potato for consumption." The NAPPO report and recommendations were agreed to by both the United States and Mexico. On May 19, 2014, Mexico published its new import regulations for potatoes in the *Diario Oficial,* opening the entire Mexican market to U.S. potato exports. The Mexican Potato Industry Association, CONPAPA, challenged the new import regulations in Mexico courts and, on June 9, 2014, was granted the first of eight injunctions provisionally suspending imports of U.S. potatoes beyond the 26 kilometer border zone. The United States is monitoring the progress of the litigation.

Raw Milk

Since May 2012, when Mexico determined that the Hoja de Requisitos Zoosanitarios (HRZ) veterinary import requirements were not applicable to raw milk, U.S. dairy exporters have been blocked from shipping raw milk for pasteurization to Mexico. Raw milk for pasteurization represents a substantial export

opportunity for several dairy producers who can supply this product to Mexican milk pasteurization plants when the plants are faced with insufficient domestic supplies of raw milk. In 2014, Mexico reinitiated work to develop revised HRZ import requirements, and the United States continues to engage with Mexico on a technical level to resolve the issue.

Stone Fruit

The United States and Mexico developed a systems approach for U.S. peach, nectarine, and apricot exports to control the oriental fruit moth and other pests considered to be quarantine pests by Mexico. However, U.S. growers in California, Georgia, South Carolina, and the Pacific Northwest increasingly have expressed concerns regarding the appropriate level of direct oversight by Mexican inspectors. The United States and Mexico are in discussions to reduce inspections and remove unnecessary regulatory requirements.

California: Under the California Stone Fruit Work Plan, Mexico imposes a high level of direct oversight on the operations of Californian stone fruit producers as a condition for access to Mexico's market. The Mexican government requires numerous inspections by Mexican authorities of the operations of U.S. producers for the presence of oriental fruit moth and other pests. Through ongoing bilateral discussions, the United States and Mexico have sought to reduce this costly and burdensome oversight of U.S. producers and have agreed to the goal of reducing on-site monitoring by Mexican authorities and to transfer oversight of the program to U.S. regulatory authorities. Proposed terms and criteria for transfer of oversight are under discussion.

Georgia and South Carolina: In October 2011, due to interceptions of plum curculio in shipments from Georgia and South Carolina, Mexico temporarily suspended shipments. As an alternative to the systems approach, Mexico agreed, in 2013, to allow the importation of Georgia and South Carolina peaches using methyl bromide fumigation treatment under direct oversight of Mexican inspectors. The United States and Mexico are also discussing an Irradiation Operational Work Plan that would allow market access under reduced oversight by Mexican authorities.

Pacific Northwest: Because of the low risk associated with the region, producers of stone fruit in the Pacific Northwest believe that any program allowing exports to Mexico should require minimal oversight of their operations. Mexico has stated that in the absence of a pest risk assessment (PRA), it would accept peaches, nectarines, and plums from this region only with on-sight inspection of U.S. operations similar to that required in California. Mexico is currently in the process of completing the PRA and the United States continues to engage with Mexican authorities on this issue.

IMPORT POLICIES

Tariffs and Market Access

Pursuant to the terms of the NAFTA, on January 1, 2003, Mexico eliminated all remaining tariffs on industrial products and most remaining tariffs on agricultural products imported from the United States. On January 1, 2008, Mexico eliminated its then-remaining tariffs and tariff-rate quotas on U.S. agricultural exports.

Administrative Procedures and Customs Practices

U.S. exporters continue to express concerns about Mexican customs administrative procedures, including insufficient prior notification of procedural changes, inconsistent interpretation of regulatory requirements at different border posts, allegations of under-invoicing of agricultural products, and uneven enforcement of Mexican standards and labeling rules. Numerous U.S. companies reported in 2012 that Mexico's tax

authority, the *Servicio de Administración Tributaria* (SAT), was initiating audits to verify NAFTA origin for the entry of products dating back to 2007. Although some audits questioning NAFTA origin are still being conducted, SAT has adopted new procedures to address complaints, including a "selective sampling" procedure implemented on a case-by-case basis and has modified its notification system to ensure that all parties are aware of an audit and have adequate time to respond. The U.S. Government continues to monitor the situation and urge SAT to resolve all pending audit cases in a timely and transparent manner.

On December 5, 2013, Mexico issued new rules that require parties to obtain a license before certain steel products may be shipped into Mexico; these rules were revised on August 11, 2014. The stated objectives of the import licensing system are to combat customs fraud and improve statistical monitoring of steel imports. U.S. steel companies have expressed concerns about the procedures, citing disruptions in supply chains and additional shipment/demurrage costs, as shipments must remain at the border until licenses are issued. The U.S. government is actively engaged with Mexico to address stakeholder concerns and to reduce or eliminate the burdens of this licensing system upon U.S. steel exporters and their Mexican customers. In 2014, U.S. exports of steel mill products to Mexico reached 3.8 million metric tons (up 3.2 percent over 2013), worth $4.7 billion (up from $4.3 billion in 2013).

In the second half of 2014, the Government of Mexico set out several new regulations governing the importation of footwear and apparel and textile goods, to include the creation of reference prices and the establishment of an import licensing system. According to the Mexican government, the measures are designed to enhance the productivity and competitiveness of Mexican footwear and apparel producers and protect Mexico's domestic footwear and apparel industries from damage caused by the importation of undervalued goods. U.S. exporters have expressed a number of concerns with regard to the schemes, noting significant confusion during the early period of implementation, lack of information regarding how to comply with new requirements, insufficient consultation with the trade community prior to operationalization, a lack of transparency in how reference prices are determined, and uneven enforcement by Mexico's customs and tax authorities. The U.S. Government will continue to monitor the implementation of these schemes and encourage SAT to clarify the process for complying with their requirements.

Customs procedures for express packages also continue to be burdensome, although Mexico has raised the *de minimis* level (below which shipments are exempt from customs duties) from $1 to $50. U.S. exporters have highlighted the benefits of harmonizing the hours of customs operation on the U.S. and Mexican sides of the border, but they cite delays stemming from the lack of pre-clearance procedures. The U.S. and Mexican Governments are actively working to find a solution that would allow pre-inspection pilot programs.

In 2012, the Mexican Government implemented the *Ventanilla Unica de Comercio Exterior Mexicana* (VUCEM), or Single Window for Trade. Mexican importers and U.S. exporters have experienced some delays and difficulties with the process.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Mexico was listed on the Watch List in the 2014 Special 301 report. The report noted the wide availability of pirated and counterfeit goods mostly via physical and virtual notorious markets. Criminal enforcement of intellectual property rights (IPR) suffers from weak coordination among federal, state, and municipal officials, limited resources for prosecutions, the lack of long-term sustained investigations targeting high-level suppliers of counterfeit and pirated goods, and the lack of sufficient penalties to deter violations. The United States continued to encourage Mexico to provide its customs officials with *ex-officio* authority to provide Mexican Customs and the Mexican Industrial Property Institute (IMPI) with the authority to act administratively against the transshipment of alleged counterfeit and pirated goods and to give the Attorney

General's Office the authority to prosecute transshipments of alleged counterfeit and pirated goods. In addition, the United States continues to encourage Mexico to enact legislation to strengthen its copyright regime, including by implementing the World Intellectual Property Organization (WIPO) Internet treaties and by providing stronger protection against the unauthorized camcording of motion pictures in theaters. The United States continues to work with Mexico to resolve IPR concerns through bilateral, regional, and other means of engagement.

There were also positive developments in 2014. Mexico formally joined the Madrid Protocol, which provides a simple streamlined process for rights holders to apply for trademark protection. In addition, the Mexican Attorney General Specialized Unit for Industrial Property and Copyrights Crime was active in dismantling small scale counterfeit vendors and seizing counterfeit and pirated products in the markets of Tepito and San Juan de Dios on behalf of U.S. rights holders. This action was significant because there had been no previous law enforcement action in these notorious markets. Finally, since its permanent implementation in 2012, the number of patent applications processed under the U.S. Patent and Trademark Office and IMPI Patent Protection Highway (PPH) Agreement has increased substantially. The PPH is a worksharing agreement for fast track patent examination of corresponding patent claims that allows applicants to obtain patents faster and more efficiently. As a member of the TPP negotiations, Mexico has also indicated its willingness to improve its IPR climate in line with future TPP standards.

SERVICES BARRIERS

Telecommunications

In 2013 and 2014, the government of Mexico conducted a sweeping reform of the country's telecommunications sector that included amendments to the Mexican constitution and modifications to related legislation such as the Federal Telecommunications and Broadcasting Law. The reform addressed longstanding market access barriers, such as limitations on foreign investment in telecommunications broadcasting; strengthened independent regulation; and sought to eliminate the dominance of near monopolistic companies in the wireless, fixed telephony and broadcasting markets. To improve the competitive environment and incentivize the entry of new players, the reform established asymmetric regulations that will be applied to companies with more than a 49 percent market share. With a current market share of approximately 70 percent, wireless incumbent Telcel will now be required to allow new market entrants to interconnect with it at regulated rates. Additionally, a nationwide shared network providing wholesale Long Term Evolution services is set to be deployed during the current presidential term and is intended to further increase opportunities for new entrants under Mobile Virtual Operator models. The Mexican constitution establishes that this shared network will be built under a Private Public Partnership (PPP), but there is still a lack of clarity surrounding how this PPP will be structured.

The Mexican telecommunications reform also created a new regulatory agency, the Federal Institute of Telecommunications, with greater autonomy from the Mexican Ministry of Communications and Transportation and a wider purview than its predecessor. The reform also established specialized telecommunications courts, loosened limits on foreign investment in telecommunications and broadcasting and lifted all restrictions on investment in fixed telephony and satellite communications. Finally, the cap of 49 percent on foreign investment in broadcasting is subject to a reciprocity clause, adjusting actual allowed investment to the limits established by the country of the investing company in its own broadcasting market.

Broadcasting

Pay TV, which is the primary outlet for foreign programmers, continues to be subject to more stringent advertising restrictions than free-to-air broadcast TV, which is supplied by domestic operators. In 2014,

Mexico's new Telecommunications and Broadcasting Law established advertising guidelines on all media platforms, including radio, broadcast TV, and pay TV. The new provision in the law with regard to pay TV is similar to the prior regulation, permitting pay TV programmers to follow the industry's practice since 2001 of inserting up to an average of 12 minutes per hour for advertising without exceeding 144 minutes per day. The new law creates uncertainty for foreign programmers since the inventory per day granted to pay-TV programmers is described in minutes per hour as opposed to percentages per day (as the new law allocates advertising on the other platforms). Broadcasters are not limited to a number of minutes per hour and are permitted to devote as much as 25 percent of air time to advertising each day.

The two national broadcasters, Televisa and TV Azteca, control roughly 90 percent of the national TV broadcast market and at least 65 percent of pay-TV distribution. However, on March 10, 2015, Grupo Radio Centro and Cadena Tres were announced as the winners of an auction for two additional national broadcast networks tendered by the Mexican government.

INVESTMENT BARRIERS

In December 2013, Mexico passed the most significant energy reform legislation since the 1938 nationalization of the sector. The reform opens Mexico's oil and gas sector to private sector participation and allows greater private investment in power generation. While the Mexican government retains ownership of subsoil resources, the legislation amends the Mexican constitution to allow private companies to enter into competitive contracts, including profit-sharing, production-sharing, and license contracts independently, with the government, or with the state-owned petroleum company Pemex for the exploration and extraction of hydrocarbons. The reform also allows private companies to participate in downstream operations, such as refining, petrochemicals, transport, retail, and supply. Implementing legislation was passed in August 2014.

The energy reform legislation also establishes a minimum average local content requirement for exploration and production activities of 25 percent through 2015, which will gradually increase to 35 percent by 2025. There may be lower content requirements for deepwater and ultra-deep-water activities, as determined by the Ministry of Economy.

The specific percentage of local content required will be established in the bidding terms of individual exploration and production contracts. The Ministry of Economy is required to establish the measurement methodology for local content requirements in entitlements and exploration and production contracts, taking into account the following factors:

- goods and services to be contracted, considering their place of origin;
- qualified local work;
- investment in local and regional infrastructure; and
- transfer of technology.

The entitlements and exploration and production contracts will include specific penalties for failure to comply with local content requirements.

Certain other sectors or activities (*e.g.*, forestry) are closed to foreign participation. Mexico also prohibits foreign ownership of residential real estate within 50 kilometers of the nation's coasts and 100 kilometers of its land borders (although foreigners may acquire use of residential property in these zones through trusts administered by Mexican banks). An interagency National Foreign Investment Commission reviews foreign investment in Mexico's restricted sectors, as well as investments in unrestricted sectors in which foreign equity exceeds 49 percent and which have a value greater than $165 million (adjusted annually).

MOROCCO

TRADE SUMMARY

U.S. goods exports in 2014 were $2.1 billion, down 16.7 percent from the previous year. Morocco is currently the 63rd largest export market for U.S. goods. Corresponding U.S. imports from Morocco were $991 million, up 1.4 percent. The U.S. goods trade surplus with Morocco was $1.1 billion in 2014, a decrease of $427 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Morocco was $599 million in 2013 (latest data available), down from $606 million in 2012.

The United States-Morocco Free Trade Agreement

The United States-Morocco Free Trade Agreement (FTA) entered into force on January 1, 2006. Duties on 95 percent of bilateral trade in industrial and consumer goods were eliminated upon entry into force of the FTA, with duties on most other such goods scheduled to be phased out in stages over the subsequent 10 years, and eliminated as of January 1, 2015. Some sensitive agricultural products have longer periods for duty elimination or are subject to other provisions, such as tariff-rate quotas (TRQs). In addition to provisions which grant key U.S. export sectors duty-free access to the Moroccan market, the FTA includes commitments for increased regulatory transparency and the protection of intellectual property rights as well as the maintenance of labor and environmental laws.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Prior to 2013, Morocco only permitted vehicles meeting the United Nations Economic Commission for Europe (UNECE) vehicle standards to be imported into Morocco. Morocco's regulations thus precluded the sale in Morocco of cars and trucks produced in the United States to Federal Motor Vehicle Safety Standards (FMVSS) or Canadian Motor Vehicle Safety Standards (CMVSS). Therefore, American auto manufacturers were unable to take advantage of lowered tariff rates under the FTA for exports to Morocco. Morocco revised its regulations on June 3, 2013, to recognize FMVSS/CMVSS as equivalent to UNECE standards. The Moroccan authorities have identified a number of areas (mostly related to lighting) where Moroccan law would have to be adjusted to enable standard specification U.S. vehicles with no modifications to be sold on the Moroccan market.

Sanitary and Phytosanitary Barriers

Morocco restricts imports of U.S. poultry and poultry products due to avian influenza and salmonella-related issues. Morocco also restricts imports of beef and beef products. In 2008, the United States and Morocco began negotiations on sanitary certificates for poultry and for beef, consistent with international standards. These discussions continue. In February 2015, at the meeting of the United States-Morocco FTA Joint Committee, both sides agreed to launch additional discussions in 2015 to make progress on SPS issues.

IMPORT POLICIES

Morocco has undertaken liberalizing reforms as a WTO Member and as a party to several bilateral free trade agreements. Under the United States-Morocco FTA, goods of key U.S. sectors, such as information

technology, machinery, construction equipment, chemicals, and textiles, enjoy either duty-free or preferential duty treatment when entering Morocco.

In order to further boost the flow of bilateral trade, the United States and Morocco signed a trade facilitation agreement in November 2013. The agreement includes new commitments reflecting practices developed since the FTA was signed in 2004 that will facilitate the movement of goods. These include provisions on internet publication, transit, transparency with respect to penalties, and other topics that will improve Morocco's environment for trade in goods.

Agriculture

The FTA allows preferential access to Morocco for a number of U.S. agricultural products through tariff rate quotas (TRQs), including access for U.S. durum and common wheat exports through two separate wheat TRQs. The Moroccan government's administration of these wheat TRQs, however, has led to difficulties for U.S. producers attempting to benefit from the preferential access provided under the FTA. In fact, in 2012 and 2013 no U.S. wheat was shipped under the TRQs. Morocco has agreed to conduct a review of its wheat import regime in an effort to improve implementation of the U.S. TRQ. Discussions with the Moroccan government are ongoing.

GOVERNMENT PROCUREMENT

The FTA requires the use of fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for covered procurement. Under the FTA, U.S. suppliers are permitted to bid on procurements for most Moroccan central-government entities, as well as procurements for the vast majority of Moroccan regional and municipal governments, on the same basis as Moroccan suppliers. Morocco has sought, with some success, to increase the transparency of its public tenders and improve the efficiency of government operations related to business.

Morocco is not a signatory to the WTO Agreement on Government Procurement, though it does participate as an observer in the WTO's Government Procurement Committee.

SERVICES BARRIERS

Morocco's insurance regulation formally treats U.S. companies the same as their Moroccan counterparts. However, U.S. insurance suppliers report that, in practice, the decisions of Morocco's insurance regulatory body (part of the Ministry of Economy and Finance) impede U.S. insurance companies from introducing products that compete with those of Moroccan firms. Stakeholders report that the regulatory body is only likely to approve applications that bring new products or "added value" to the sector. Applications must first be reviewed by a consultative committee composed principally of other companies active in the sector. While this committee's recommendations are not binding, companies contend that the regulatory authority generally has followed its advice when considering applications.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Morocco was not listed in the 2014 Special 301 Report. In 2014, the Moroccan Parliament approved a new intellectual property rights (IPR) law that improves the patents system by streamlining patent processing. The law also consolidates the enforcement of IPR by improving procedures for the destruction of counterfeit goods, enlarging the scope of border investigations, and providing complainants enhanced judicial remedies through civil and criminal courts to defend their rights.

Nevertheless, Moroccan officials agreed at a March 2015 meeting of the United States-Morocco FTA Joint Committee to work with U.S. experts to address remaining gaps in Morocco's IPR protection regime: in particular, Morocco's capacity to detect and address Internet-based IPR violations remains inadequate in some respects and counterfeiting of consumer goods (including clothing and luggage) is still common. U.S. software firms allege that the use of pirated software is widespread, with up to 80 percent of all software in Morocco (including in some parts of the public sector) being used without a license. The Moroccan government has been active in other areas of enforcement against copyright infringement, including against video and audiotape piracy.

EXPORT RESTRICTIONS

U.S. industry has raised concerns over recent limitations placed by the Moroccan government on exports of certain seaweed. The Moroccan Ministry of Agriculture and Maritime Fisheries issued an order on July 25, 2014, limiting the harvesting of seaweed. Roughly one month earlier, the Moroccan Ministry of Industry, Commerce, Investment and the Digital Economy issued a notice to exporters limiting the export of Gigartina seaweed to 300 MT (a drop of 900 MT from recent export levels). Both harvesting and exports are limited to the same quantities. The export restrictions may affect the ability of U.S. firms to secure sufficient quantities of Gigartina to meet their industrial needs (chiefly related to food processing). The Ministry of Agriculture and Maritime Fisheries advised that it intends to maintain the restrictions through 2016 to monitor for overharvesting. In response to requests from U.S. officials at a March 2015 meeting of the U.S.-Morocco FTA Joint Committee, the Ministry agreed to provide additional information regarding its rationale for this action.

OTHER BARRIERS

U.S. firms report that among the greatest obstacles to trade and investment in Morocco are irregularities in government procedures, including lack of efficient and transparent processes for obtaining government permits, land-use approvals, and other government permissions. Companies complain of the need to follow formal protocols and navigate excessive bureaucracy, leading to long wait times, particularly when dealing with public-sector entities. Morocco's cumbersome tax and employment regimes and property registration procedures also impede business.

Moroccan restrictions on prepayments of imported orders are often problematic for those U.S. exporters who require 100 percent advance payment. Currently, in an effort to avoid an excessive drain on foreign exchange, Moroccan authorities allow Moroccan companies to prepay only 30 percent of a total shipment's value in advance of import. A Moroccan company can prepay 100 percent only for orders under 200,000 dirhams (about $23,343).

NEW ZEALAND

TRADE SUMMARY

U.S. goods exports in 2014 were $4.3 billion, up 32.1 percent from the previous year. New Zealand is currently the 48th largest export market for U.S. goods. Corresponding U.S. imports from New Zealand were $4.0 billion, up 14.1 percent. The U.S. goods trade surplus with New Zealand was $281 million in 2014, shifting from a trade deficit of $261 million in 2013.

U.S. exports of services to New Zealand were $2.1 billion in 2013 (latest data available), and U.S. imports were $1.5 billion. Sales of services in New Zealand by majority U.S.-owned affiliates were $4.2 billion in 2012 (latest data available), while sales of services in the United States by majority New Zealand-owned firms were $451 million.

The stock of U.S. foreign direct investment (FDI) in New Zealand was $7.9 billion in 2013 (latest data available), down from $9.5 billion in 2012. U.S. FDI in New Zealand is led by the manufacturing, nonbank holding companies, and finance/insurance sectors.

Trade Agreements

New Zealand is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and New Zealand, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

New Zealand maintains a comprehensive and rigorous approval regime for agricultural biotech. Agricultural biotech is regulated under the 1996 Hazardous Substances and New Organisms Act (HSNO). While in 2003 New Zealand formally ended a moratorium it had previously maintained on approval of agricultural biotech events, there is still no commercial production of such crops in New Zealand. Imported biotech food products must be approved and adopted into the Food Standards Code before they are permitted to be sold. All biotech foods sold in New Zealand must be labeled. Animal feed falls outside of the HSNO and may be imported into New Zealand. Meat and other animal products from animals that have been fed biotech feed do not need to be labeled.

New Zealand suspended the importation of fresh and frozen poultry meat from the United States and Australia in late 2001 because of the risk of introducing infectious bursal disease. U.S. exporters remain unable to sell uncooked poultry meat into New Zealand, and cooked U.S. poultry meat can be imported into New Zealand only if retorted.

New Zealand is the 16th largest export market for U.S. peaches, nectarines and plums (stone fruits). However, New Zealand currently does not permit the importation of U.S. stone fruit from any state except California as a result of 2010 emergency measures imposed by New Zealand with respect to spotted wing drosophila.

IMPORT POLICIES

Tariff rates in New Zealand are generally low as a result of several rounds of unilateral tariff cuts that began in the mid-1980s. At 2.0 percent, New Zealand has one of the lowest average most favored nation (MFN) applied tariff rates among industrialized countries. In 2012, New Zealand's average applied MFN tariff rate was 1.4 percent for agricultural products and 2.2 percent for industrial goods. In the WTO, New Zealand has bound 47.5 percent of its tariff lines at zero duty, and it applies zero duty on 64.7 percent of its tariff lines. In October 2013, New Zealand decided that tariffs will remain unchanged until at least June 30, 2017, except where they are reduced through trade agreements.

GOVERNMENT PROCUREMENT

On August 15, 2012, New Zealand announced its intention to join the WTO Government Procurement Agreement (GPA). On October 29, 2014, the WTO announced that the terms for New Zealand's accession to the GPA had been agreed upon. New Zealand has nine months from the date of the announcement to deposit its instrument of acceptance and formally join the GPA. Thirty days later, the GPA will enter into force for New Zealand.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

New Zealand generally provides strong IPR protection and enforcement. In September 2014, the final provisions of the Patents Act 2013 came into force. The Patent Act clarified the criteria for granting a patent. However, the revised bill does not include provisions allowing for patent term restoration, which would enable rights holders to recover the effective patent term lost due to delays in the marketing approval process. In addition, the bill precludes most software from patentability, with some limited exceptions.

In April 2011, the New Zealand Parliament passed the Copyright (Infringing File Sharing) Amendment Bill, which established a mechanism for New Zealand to fight online piracy. However, subsequent implementing regulations issued by the Ministry of Economic Development permit Internet service providers to charge up to NZ$25 (approximately $21) per issuance of an infringement notice. This has deterred some rights holders from using the system, which is under review by the New Zealand government based on submissions by stakeholders.

The United States continues to encourage the New Zealand government to accede to and implement the World Intellectual Property Organization (WIPO) Performance and Phonograms Treaty and the WIPO Copyright Treaty.

INVESTMENT BARRIERS

Investment Screening

New Zealand screens any foreign investment that would result in the acquisition of 25 percent or more of ownership in, or of a controlling interest in, "significant business assets," which are defined as assets valued at more than NZ$100 million (approximately $83 million). In addition, New Zealand screens foreign investors or entities that would acquire 25 percent or more of a fishing quota, either directly or through the

acquisition of a company that already possesses a quota, as well as acquisitions of land defined as "sensitive" by the Overseas Investment Act 2005, including farmland greater than five hectares, land adjoining the foreshore, or conservation land.

In September 2010, the New Zealand government announced new implementing rules under the Overseas Investment Act, which provide New Zealand government ministers increased authority to consider a wider range of issues when evaluating overseas investment applications involving sensitive land. Under the new rules, two additional factors are evaluated under a benefit test: an "economic interests" factor that allows ministers to consider whether New Zealand's economic interests are "safeguarded," and a "mitigating" factor that enables ministers to consider whether an overseas investment provides adequate opportunities for New Zealand oversight or involvement.

OTHER BARRIERS

Pharmaceuticals

The Pharmaceutical Management Agency (PHARMAC), created in 1993, determines which medicines to fund for use in community and public hospitals, negotiates prices with pharmaceutical companies, and sets subsidy levels and reimbursement criteria. In 2013, PHARMAC's role was expanded to include the management of community medicines, pharmaceutical cancer treatments, the National Immunization Schedule, management of all medicines used in DHB hospitals, and the national contracting of hospital medical devices. Some have criticized PHARMAC's regulatory process, including its lack of transparency, timeliness, and predictability in the funding process and lengthy delays in reimbursing new products. These concerns have been exacerbated as PHARMAC expands into areas of funding that were previously unregulated, including medical devices.

NICARAGUA

TRADE SUMMARY

U.S. goods exports in 2014 were $1.0 billion, down 4.3 percent from the previous year. Nicaragua is currently the 81st largest export market for U.S. goods. Corresponding U.S. imports from Nicaragua were $3.1 billion, up 10.6 percent. The U.S. goods trade deficit with Nicaragua was $2.1 billion in 2014, an increase of $344 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Nicaragua was $211 million in 2013 (latest data available), down from $218 million in 2012.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006 and for the Dominican Republic in 2007. The CAFTA-DR entered into force for Costa Rica in 2009. The CAFTA-DR significantly liberalizes trade in goods and services as well as includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Goods can be delayed due to Nicaragua's labeling requirements, which require product descriptions in Spanish. Translation errors and inaccurate product descriptions can add to delays to getting goods through the customs process.

Law 891 of December 2014, which is an amendment to Nicaragua's Harmonized Tax Code, prohibits the importation of vehicles that are seven years or older and came into effect in 2015. There are several exceptions such as classic or historic vehicles, certain donated vehicles, and certain vehicles used for cargo or public transportation.

Sanitary and Phytosanitary Barriers

The Nicaraguan Institute of Agricultural Protection and Safety (IPSA) requires the inspection of U.S. seafood packing plants by Nicaraguan authorities prior to the exportation of any shipment to Nicaragua from such plants. This import requirement, which is also being enforced in other Central American Countries, comes from the 2011 Central American Technical Regulation on SPS Measures and Procedures (COMIECO Resolution No.271-2011). This measures was not notified to the WTO. U.S. exporters have complained that this import requirement increases trade costs significantly since they must incur all costs associated with plants inspections, including the travel expenses of Nicaraguan technicians to the United States.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Nicaragua applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions. Approximately 95 percent of tariff lines are harmonized at this rate or lower. In response to rising prices, in 2007, Nicaragua issued a series of decrees to eliminate or reduce to 5 percent tariffs on many basic foodstuffs and consumer goods. These decrees have been extended every six months and are currently in effect through June 30, 2015.

Under the CAFTA-DR, as of January 1, 2015, all of U.S. consumer and industrial goods enter Nicaragua duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also now enter Nicaragua duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

More than half of U.S. agricultural exports now enter Nicaragua duty free under the CAFTA-DR. Nicaragua will eliminate its remaining tariffs on virtually all U.S. agricultural goods by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain products, tariff-rate quotas (TRQs) will permit some immediate duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period. Nicaragua will liberalize trade in white corn through continual expansion of a TRQ rather than the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all of the Parties, including Nicaragua, committed to improve transparency and efficiency in administering customs procedures. The Nicaraguan government levies a "selective consumption tax" of 15 percent or less on some luxury items, with a few exceptions such as yachts and helicopters, for which the consumption tax is zero as of 2015. The tax is not applied exclusively to imports; domestic goods are taxed on the manufacturer's price, while imports are taxed on a "cost, insurance, and freight" (CIF) value. Alcoholic beverages and tobacco products are taxed on the price billed to the retailer.

U.S. companies report that difficulties with the Nicaraguan Customs Administration are a significant impediment to trade. Complaints concern bureaucratic delays, arbitrary valuation of goods, technical difficulties, corruption, and politicization. In particular, U.S. exporters and importers of U.S. goods have also raised concerns about the tariff classification of their goods by Customs, delays, and lack of transparency in customs release procedures.

There are also significant delays at the borders; six government institutions process paperwork to import. Additionally many services, such as lab testing for food safety, are available only in Managua, meaning importers often experience delays as goods sometimes have to be stored in Managua while testing is completed.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurement covered by the Agreement. Despite these protections, there are many allegations of irregularities in the procurement process, in particular involving procuring entities splitting procurements into smaller lots, an action which allows them to use a less competitive bidding process. The United States will continue to monitor Nicaragua's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations. Nicaragua is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

ALBANISA, the state-owned company that imports and distributes Venezuelan petroleum, provides preferential financing to parties that agree to export their products to Venezuela.

All exporters receive tax benefit certificates equivalent to 1.5 percent of the free-on-board value of the exported goods. Under the CAFTA-DR, Nicaragua may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). However, Nicaragua may maintain such duty waiver measures for such time as it is an Annex VII country for the purposes of the WTO Agreement on Subsidies and Countervailing Measures. The U.S. Government continues to work with the Nicaraguan government to ensure compliance with Nicaragua's CAFTA-DR obligations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Nicaragua did not appear on the Watch List or Priority Watch List in the 2014 Special 301 Report. To implement its CAFTA-DR intellectual property rights (IPR) obligations, Nicaragua undertook legislative reforms providing for stronger IPR protection and enforcement. Despite these reforms, the United States continues to be concerned about the piracy of optical media and trademark violations in Nicaragua. The United States has expressed concern to the Nicaraguan government about inadequate IPR enforcement, as well as a lack of transparency about its legislative and regulatory processes. Nicaragua amended its laws governing protections for geographical indications (GIs) in anticipation of the European Union Central American Association Agreement's trade pillar that came into effect on August 1, 2013. The United States has stressed the need for use of CAFTA-DR-consistent protections and processes, including providing public notice and an opportunity for opposition and cancellation, and transparency and impartiality in decision making. The United States will continue to monitor Nicaragua's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

Under the CAFTA-DR, Nicaragua committed to opening its telecommunications sector to U.S. investors and services suppliers. The Nicaraguan executive branch has proposed legislation that would strengthen the enforcement capacity of the telecommunications regulator (TELCOR). The United States is monitoring this process.

INVESTMENT BARRIERS

During the 1980s, the Nicaraguan government confiscated some 28,000 properties in Nicaragua. Since 1990, thousands of individuals have filed claims for the return of their property or to receive compensation. Where granted, compensation is most commonly provided via low interest bonds issued by the government. Since taking office in January 2007, the administration of President Ortega has resolved over 400 U.S. citizen claims; as of November 2014 a total of 150 U.S. claims registered with the U.S. Embassy remain outstanding. The United States continues to press the Nicaraguan government to resolve these outstanding claims.

OTHER BARRIERS

Some U.S. firms and citizens report corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in Nicaragua. Administrative and judicial decision-

making at times appear to be inconsistent, nontransparent, and very time-consuming. Courts have frequently granted orders (called "amparos") that enjoin official investigatory and enforcement actions indefinitely. Such delays appear to protect individuals suspected of white collar crime.

Investors have raised concerns that regulatory authorities are slow to apply existing laws or apply laws that should have been superseded by CAFTA-DR provisions, act arbitrarily, and often favor one competitor over another. Investors cite arbitrariness in taxation and customs procedures. There is concern that the frequency and duration of tax audits of foreign investors could interfere with normal business operations.

NIGERIA

TRADE SUMMARY

U.S. goods exports in 2014 were $5.9 billion, down 7.3 percent from the previous year. Nigeria is currently the 43rd largest export market for U.S. goods Corresponding U.S. imports from Nigeria were $3.8 billion, down 67.2 percent. The U.S. goods trade surplus with Nigeria was $2.1 billion in 2014, shifting from a trade deficit of $5.3 billion in 2013.

The stock of U.S. foreign direct investment (FDI) in Nigeria was $8.1 billion in 2013 (latest data available), down from $8.4 billion in 2012. U.S. FDI in Nigeria is led by the mining sector.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Meat and Meat Products

Nigeria continues to ban imports from any country of all bovine animal meat and edible offal (fresh, chilled, frozen) as well as pork, sheep, goats and edible offal of horses, asses and mules. While the prevention of bovine spongiform encephalopathy (BSE) is the stated rationale, these bans apply to all countries, even those without BSE cases. Nigeria also bans the import of live and dead poultry (with the exception of day-old chicks) and poultry meat, including fresh, frozen, and cooked poultry meat due to avian influenza (AI). These bans are not consistent with international standards.

Import Certificates

Nigeria requires that all food, drug, cosmetic, and pesticide imports be accompanied by certificates from manufacturers and certain national authorities, regardless of origin. These certificates attest that the product is safe for human consumption (***e.g.***, does not contain aflatoxin). However, Nigeria's limited capacity to review certificates, carry out inspections, and conduct testing has resulted in delays in the clearance of food imports.

IMPORT POLICIES

Tariffs

Nigeria's 2008-2012 Common External Tariff (CET) Book remains in effect and was designed to harmonize the country's tariff regime with the proposed Economic Community of West African States (ECOWAS) CET, which was formally adopted by ECOWAS in 2013 and entered into force on January 1, 2015. Like the ECOWAS CET, Nigeria's 2008-2012 CET Book has five tariff bands: zero duty on capital goods, machinery, and essential drugs not produced locally; 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the Nigerian government seeks to protect. ECOWAS member governments are permitted to assess duties on imports higher than the maximum allowed in the tariff bands (but not to exceed a total effective duty of 70 percent) for up to three percent of the 5,899 tariff lines included in the ECOWAS CET.

Nigeria maintains a number of supplemental levies and duties on selected imports that significantly raise effective tariff rates. For example, Nigeria maintains a combined effective duty (tariff plus levy) of 50

percent or more on 156 tariff lines. These include 15 tariff lines whose combined duty exceeds the 70 percent limit set by ECOWAS, covering tobacco (135 percent for cigars and cigarettes; 85 percent for tobacco and other tobacco products), rice (120 percent), wheat flour (100 percent), and sugar (80 percent).

In October 2013, the Nigerian government announced an Automotive Industry Development Plan (NAIDP), which seeks to expand domestic vehicle manufacturing. The NAIDP imposes a 35 percent levy on automobile imports, over and above the 35 percent tariff already levied, for an effective total ad valorem duty of 70 percent. The NAIDP allows companies that manufacture or assemble cars in Nigeria to continue to import two vehicles at the old rate (35 percent tariff with no additional levy) for every one vehicle produced in Nigeria. No U.S. auto manufacturers currently produce cars in Nigeria.

Customs Procedures

Nigerian port practices continue to present major obstacles to trade. Importers report erratic application of customs regulations, lengthy clearance procedures, high berthing and unloading costs, and corruption. These factors can sometimes contribute to product deterioration and result in significant losses for importers of perishable goods. Disputes between Nigerian government agencies over the interpretation of regulations often cause delays, and frequent changes in customs guidelines slow the movement of goods through Nigerian ports. Nigeria uses a destination inspection policy for imports. Under this policy, all imports are inspected on arrival into Nigeria. Such actions delay the clearing process and increase costs.

Companies report that high tariffs, nontransparent valuation procedures, frequent policy changes, and unclear interpretations by the Nigerian Customs Service (NCS) continue to make importation difficult and expensive, and often create bottlenecks for commercial activities. For example, while the 35 percent duty under the NAIDP is reportedly meant to apply to used auto imports, reports differ as to how it is being applied.

Despite these challenges, companies have reported reductions in processing times as a result of the following ongoing improvements in the NCS clearance process as well as in port infrastructure:

- In December 2014, the NCS introduced a Pre-Arrival Assessment Report system, which traders report to be faster than the predecessor Risk Assessment Report system. Since 2010, and through the Nigeria Expanded Trade and Transportation project launched in October 2012, USAID has supported strengthening the capacity of the NCS risk management unit and training officers in preparation for takeover of direct inspection from these service providers.
- Launched in 2013 by the Ministry of Finance, Nigeria's Single Window Portal is a trade facilitation project of 12 Nigerian government agencies involved in the customs clearance process. The Single Window Portal allows traders to access customs regulations online, submit customs documents electronically, track transaction status online, and submit electronic payments. In addition, in 2012 the NCS launched the Nigeria Trade Hub as a customs informational portal for traders. The NCS Nigeria Import, Export and Transit Process Manual has reportedly also contributed to increased efficiency.
- The Authorized Economic Operator (AEO) scheme is intended to fast track cargo clearance for trusted traders and give incentives for traders to increase compliance with clearance procedures. USAID is working with the NCS on the AEO scheme.
- The Nigerian Port Authority, through public-private partnership arrangements, has undertaken rehabilitation of port terminals in Lagos and Port Harcourt, deepened water channels, upgraded common user facilities, and removed wrecks from water channels.

These and other improvements have resulted in increased cargo throughput in 2014. Nevertheless, traders report that infrastructural limitations in and around Nigeria's ports continue to contribute to long queues by both trucks and ships as well as delays (*see more on this under Other Barriers section*).

Nontariff Measures

Nigeria uses nontariff measures in an effort to achieve "self-sufficiency" in certain commodities. In line with an Agricultural Transformation Action Plan that seeks to increase domestic food production and employment, the government plans to require flour millers to substitute up to 40 percent of wheat flour with domestically-produced cassava flour by 2015.

During the first quarter of 2014, the Nigerian government introduced a frozen fish import quota regime that was expected to significantly reduce total fish imports. The government also banned imports of catfish and tilapia species as part of the quota system. The ban does not appear to cover the Pacific Hake (*Merluccius productus*) species, which U.S. companies have recently begun to export to Nigeria.

The government continues to ban the import of nearly 50 different product categories, citing the need to protect local industries or promote health and safety. The list of prohibited imports currently includes bird eggs; cocoa butter, powder, and cakes; pork; beef; live birds; frozen poultry; refined vegetable oil and fats; cassava; bottled water; spaghetti and other noodles; fruit juice in retail packs; nonalcoholic beverages (excluding energy drinks); bagged cement; all medicaments falling under HST headings 3003 and 3004; waste pharmaceuticals; soaps and detergents; mosquito repellant coils; sanitary plastic wares; toothpicks; rethreaded or used tires; corrugated paper; paper board; telephone recharge cards and vouchers; textile fabrics and yarn; certain printed fabrics, lace and embroidered fabrics; carpets and rugs; made-up garments and certain other textile articles; footwear; bags and leather and plastic suitcases; glass beverage bottles; used compressors; used motor vehicles more than ten years old; most types of furniture; ball point pens; pistols and air pistols; airmail photographic printing paper; beads; blank invoices; cowries; used or inferior tea; cartridge reloading implements; indecent or obscene articles; manilas; matches; materials likely to offend religious views or breach the peace; meat and vegetables determined unfit for human consumption; materials or products bearing inscriptions of the Koran; used clothing; silver or metal alloy coins not legal tender in Nigeria; nuclear industrial waste; toxic waste; certain spirits and alcohols; and weapons and ammunition that contain or are designed to contain noxious liquid or gas.

GOVERNMENT PROCUREMENT

The Nigerian government has made modest progress on its pledge to conduct open and competitive bidding processes for government procurement. Public procurement reforms seek to ensure that the procurement process for public projects adheres to international standards for competitive bidding. The Bureau of Public Procurement (BPP) acts as a clearinghouse for government contracts and monitors the implementation of projects to ensure compliance with contract terms and budgetary restrictions. All procurement above ₦100 million (approximately $560,000) remains subject to review by the BPP. The 36 state governments also agreed to enact the Public Procurement Act in their respective states, and 22 states have passed procurement legislation. In the energy sector, USAID energy consultants have been advising the Nigeria Bulk Electricity Trader and the Transmission Company of Nigeria (TCN) regarding the incorporation of international best practices in energy procurement. USAID is currently serving as the lead advisor for transmission procurement through TCN.

Foreign companies incorporated in Nigeria receive national treatment in government procurement, government tenders are published in local newspapers, and a "tenders" journal is sold at local newspaper outlets. U.S. companies have won government contracts in several sectors. Unfortunately, some of these companies have had trouble getting paid, often as a result of delays in the national budgetary process.

The National Petroleum Investment and Management Services (NAPIMS) agency must approve all procurement in the oil and gas sector with a value above $500,000. Slow approval processes can significantly increase the time and resources required for a given project.

Nigeria is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Nigeria was not listed in the 2014 Special 301 Report. However, the Nigerian government's lack of institutional capacity to address intellectual property rights (IPR) issues continues to present challenges to enforcement. Relevant Nigerian government institutions lack sufficient resources to enforce IPR, and legislation intended to implement Nigeria's WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights has yet to be passed by the National Assembly. Piracy remains a problem despite Nigeria's active participation in the World Intellectual Property Organization and other international fora and the growing interest among Nigerians to protect their IPR. Nigerian artists strongly support IPR as a means of protecting and incentivizing the immensely popular film and music sector in Nigeria. Counterfeit automotive parts, pharmaceuticals, business and entertainment software, music and video recordings, and other consumer goods are sold openly. Piracy of software, books and optical disc products continues to be an ongoing concern. Also, judicial procedures are slow and reportedly compromised by corruption.

However, the government has taken steps to improve enforcement. Efforts to combat the sale of counterfeit pharmaceuticals, for example, have yielded some results. The Nigerian Copyright Commission (NCC) continues to carry out raids and seizures of pirated works, but the effectiveness of such enforcement efforts is constrained both by NCC resources and by the number and persistence of producers of pirated works.

INVESTMENT BARRIERS

Nigeria continues to decline in global competitiveness rankings, falling from 147 to 170 (out of 189 countries) in the World Bank's 2015 Ease of Doing Business ranking and from 120 to 127 (out of 144 countries) in the World Economic Forum's 2014-15 Global Competitiveness Index. Reasons for the decline included weak governmental institutions, corruption, inadequate infrastructure, security challenges, inadequate health care, poor education systems, barriers to starting businesses, and inadequate access to finance for small- and medium-sized enterprises (SMEs) and consumers. These barriers restrict potential U.S. investment in Nigeria. Investors must also contend with complex tax procedures, confusing land ownership laws, arbitrary application of regulations, and crime. International monitoring groups routinely rank Nigeria among the most corrupt countries in the world.

Companies report that contracts are often violated and that Nigeria's system for settling commercial disputes is weak and often biased. Frequent power outages, as well as poor road, port, rail, and aviation transportation infrastructure pose a major challenge to doing business in Nigeria. Such infrastructure deficits hinder Nigeria's ability to compete in regional and international markets. Recent restrictions on foreign exchange purchases put in place in November 2014 have hampered U.S. companies' ability to import finished or semi-finished goods used in their Nigeria operations.

A Petroleum Industry Bill (PIB), currently under review by the National Assembly, would further and significantly change the way Nigeria's oil and gas sector is structured and regulated. Years of delays in the passage of the PIB have created uncertainty in the investment community and delayed significant investment in infrastructure needed to sustain and grow Nigeria's oil and gas production.

OTHER BARRIERS

Port congestion and inefficiency

Due to lack of space at Lagos ports, ships reportedly queue up for days, and in some cases weeks and months, before being able to berth and discharge their contents. Tanker vessels conveying petrol, aviation fuel, and other liquids sometimes wait for days or weeks before they can discharge their contents to a number of tank farms located in the Apapa port area. In addition, due to delays caused by congestion and the poor condition of the port access roads, operations at Nigerian ports are among the most expensive in the world.

Local content

The development of local content has become a top priority of the Nigerian government, which views the quantifiable, mandated local content requirements pioneered in the oil and gas sector as a model for implementation in other sectors.

Oil and Gas Sector

In 2010, Nigeria enacted a trade restrictive law in the oil and gas sector called the Oil and Gas Content Development Act (the Act). The Act puts in place legally mandated local content requirements for projects in Nigeria's oil and gas sector. The Act gives preferential treatment to Nigerian goods and services and requires that positions in the oil and gas sector are first filled by Nigerian nationals if possible. The Act's coverage is broad; it includes any activity or transaction carried out in, or connected with, the oil and gas industry, a sector that accounts for roughly 16 percent of Nigeria's GDP. The Act's local sourcing mandate, which applies to an extensive list of goods and services supplied to the oil and gas industry, has been a particular concern of U.S. oil and gas service suppliers.

Companies must also create and seek approval for a "Nigerian Content Plan" to demonstrate how they will increase local content in oil and gas operations. Companies that do not follow a Nigerian Content Plan can face fines of 4 percent of the contract value or cancelation of the contract. Also, international companies must put 10 percent of their annual profit in a Nigerian bank.

Restrictions also apply with respect to the movement of personnel. Nigeria imposes quotas on foreign personnel. Such quotas remain especially strict in the oil and gas sector and may apply to both production and services companies. Oil and gas companies must hire Nigerian workers, unless they can demonstrate that particular positions require expertise not found in the local workforce. Positions in finance and human resources are almost exclusively reserved for Nigerians.

Certain geosciences and management positions may be filled by foreign workers with the approval of NAPIMS. Each oil company must negotiate its foreign worker allotment with NAPIMS. Significant delays in this process, and in the approval of visas for foreign personnel, present serious challenges to the oil and gas industry in acquiring the necessary personnel for their operations. According to stakeholders, the Act is adversely affecting a diverse range of companies, including operators, contractors, subcontractors, and service providers.

Information and Communications Technology (ICT) Sector

On December 3, 2013, the National Information Technology Development Agency (NITDA), under the auspices of the Federal Ministry of Communication Technology, issued the Guidelines for Nigerian Content Development in the ICT sector. These guidelines include requirements that multinational companies

operating in Nigeria source all hardware products locally; all government agencies source and procure all computer hardware only from NITDA-approved original equipment manufacturers; and ICT companies host all data locally, use only locally manufactured SIM cards for telephone services and data, and use indigenous companies to build cell towers and base stations.

Corruption

Corruption remains a substantial trade barrier in Nigeria. U.S. firms are sometimes disadvantaged in competing with some companies which are willing to engage in corruption for contracts and other business opportunities. U.S. firms may also experience difficulties in day-to-day operations as some Nigerian officials demand inappropriate "facilitative" payments. The government has not implemented anti-corruption laws effectively, and officials often engage in corrupt practices with impunity.

NORWAY

TRADE SUMMARY

U.S. goods exports in 2014 were $4.4 billion, down 3.2 percent from the previous year. Norway is currently the 46th largest export market for U.S. goods. Corresponding U.S. imports from Norway were $5.4 billion, down 2.7 percent. The U.S. goods trade deficit with Norway was $913 million in 2014, a decrease of $7 million from 2013.

U.S. exports of services to Norway were $4.1 billion in 2013 (latest data available), and U.S. imports were $2.7 billion. Sales of services in Norway by majority U.S.-owned affiliates were $6.8 billion in 2012 (latest data available), while sales of services in the United States by majority Norway-owned firms were $1.8 billion.

The stock of U.S. foreign direct investment (FDI) in Norway was $44.3 billion in 2013 (latest data available), down from $44.9 billion in 2012. U.S. FDI in Norway is led by the nonbank holding companies, mining, and manufacturing sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

With limited exceptions, since 1996 Norway has effectively banned the importation of agricultural biotech products with extremely restrictive policies to crops derived from agricultural biotech. Norwegian legislation – which is not fully aligned with the relevant European Union legislation – requires that biotech varieties meet criteria that are not related to the protection of health, food safety, or the environment. These restrictive policies cost U.S. stakeholders an estimated $100 million in lost soybean sales annually. The United States continues to press Norway to open its market to U.S. exports of those products.

Beef and Beef Products

Norway imposes problematic barriers on agricultural products, including application of EU regulations that ban imports of beef from animals treated with hormones, despite decades of scientific evidence demonstrating that this practice poses no risks to health.

IMPORT POLICIES

Norway, along with Switzerland, Iceland, and Liechtenstein, is a member of the European Free Trade Association (EFTA). EFTA members, with the exception of Switzerland, participate in the European Union (EU) single market through the European Economic Area (EEA) accord. Norway grants preferential tariff rates to EEA members. As an EEA signatory, Norway assumes most of the rights and obligations of EU member states, except in the agricultural and fishery sectors.

Norway has implemented, or is in the process of implementing, most EU trade policies and regulations. Except for agricultural products, Norway's market is generally open. Norway has continued to dismantle tariffs on industrial products on a unilateral basis. The average most favored nation (MFN) tariff on nonagricultural products has fallen from 2.3 percent in 2000 to 0.5 percent in 2013. More than 95 percent of industrial tariff lines are currently duty free.

Agricultural Tariffs and Tariff-Rate Quotas

Norway bound its tariffs for agricultural commodities in 1995 as part of its WTO commitments. Tariffication of agricultural nontariff barriers as a result of the Uruguay Round led to the replacement of several quotas with high *ad valorem* or specific tariffs on agricultural products. According to the WTO, Norway's simple average applied tariff in 2013 was 51.3 percent for agricultural goods and 0.5 percent for non-agricultural goods. These averages often change annually.

Although the EEA accord does not generally apply to agricultural products, it includes provisions on raw material price compensation that are meant to increase trade in processed food. Norway has a special agreement with the EU within the EEA framework that results in the application of a preferential duty on EU processed food products. The agreement covers a wide range of products, including bread and baked goods, breakfast cereals, chocolate and sweets, ice cream, pasta, pizza, soups, and sauces. This preferential access for EU suppliers disadvantages U.S. exporters of these processed foods.

Although Norway is less than 50 percent self-sufficient in agricultural production, it maintains tariff rates on agricultural products as high as several hundred percent to protect domestic agricultural interests. Domestic agricultural shortages and price surges are offset by temporary tariff reductions.

However, a lack of predictability in tariff adjustments and insufficient advance notification of these adjustments – generally only two days to five days before implementation – favor nearby European suppliers and make products from the United States, especially fruits, vegetables and other perishable horticultural products, very difficult to import. For a number of processed food products, tariffs are applied based on a product formula, requiring the Norwegian importer to provide a detailed disclosure of product contents. Many exporters to the Norwegian market refuse to provide all requested details and, as a result, their products are subject to maximum tariffs.

Although Norway has 232 tariff-rate quota (TRQ) commitments in its WTO tariff schedule (or 16 percent of total WTO Member TRQs), most of these are not active as current applied rates are either equal to or lower than the in-quota bound rate. Norway has TRQs for 64 agricultural and horticultural products, and the Norwegian Agricultural Authority holds online auctions for the allocation of quotas for 54 of these products. Norwegian importers are primarily interested in TRQs for grains or niche products. However, participating in the auctions is inexpensive, and importers that secure a quota allocation are not actually required to import any products. The Agricultural Authority does not have a system to reallocate any unused quota.

Agricultural Subsidies

Although agriculture accounts for only 1.5 percent of gross domestic product (based on 2013 data), support provided by Norway to its agricultural producers as a percentage of total farm receipts is, at 53 percent in 2013, the third highest in the world according to the OECD. Norway emphasizes the importance of "non-trade concerns," which include food security, environmental protection, rural employment, and the maintenance of human settlement in sparsely populated areas, as justification for high domestic support levels. One of Norway's concerns in the WTO Doha Development Round has been the preservation of its highly subsidized agricultural sector.

Raw Material Price Compensation

Norway maintains a price reduction regime that includes subsidies for using certain domestically-produced raw materials in processed foods. Products for which such subsidies are paid include chocolate, sweets,

and ice cream (for milk and glucose), and pizza (for cheese and meat). The purpose of the system is to help compensate the domestic food processing industry for the high costs of domestically produced raw materials.

Wines and Spirits

It is difficult for U.S. wine exporters to sell in the Norwegian market. The wine and spirits retail market in Norway is controlled by the government monopoly, Vinmonopolet. Obtaining approval to include wines and other alcoholic beverages on Vinmonopolet's retail list is cumbersome, and Vinmonopolet's six-month marketing and product plans for selecting and purchasing wines significantly constrain competitive supply. Products chosen for sale through Vinmonopolet must meet annual minimum sales quotas or they are dropped from the basic inventory list. Existing wine suppliers benefit from exposure in Vinmonopolet stores, and the situation for U.S. wines is exacerbated by the strict ban on advertising alcoholic beverages.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Norway was not listed in the 2014 Special 301 Report. Private sector stakeholders have raised concerns about Norway's efforts to combat online piracy. Norway's copyright laws were amended in 2013 and include clarifications of the legal basis for the collection of information on illegal file-sharing activity as well as other mechanisms to combat copyright piracy over the Internet.

SERVICES BARRIERS

Financial Services

For certain types of financial institutions, Norway requires that at least half the members of the board and half the members of the corporate assembly be nationals and permanent residents of Norway or another EEA country.

INVESTMENT BARRIERS

Norway generally welcomes foreign investment and grants national treatment to foreign investors, with exceptions in the mining, fisheries, hydropower, maritime, and air transport sectors. Foreign companies wishing to own or use various kinds of real property must seek prior approval from the government. In the petroleum sector, Norway's concession process continues to be operated on a discretionary basis with the government awarding licenses based on subjective factors other than competitive bidding. Direct foreign ownership of hydropower resources is prohibited, except in rare instances when the government may permit foreign investment limited to 20 percent equity.

OMAN

TRADE SUMMARY

U.S. goods exports in 2014 were $2.0 billion, up 28.2 percent from the previous year. Oman is currently the 66th largest export market for U.S. goods Corresponding U.S. imports from Oman were $975 million, down 4.6 percent. The U.S. goods trade surplus with Oman was $1.0 billion in 2014, an increase of $490 million from 2013.

The United States-Oman Free Trade Agreement

Upon entry into force of the United States-Oman Free Trade Agreement (FTA) in January 2009, Oman provided immediate duty-free access on virtually all industrial and consumer products. It will phase out tariffs on the remaining handful of products by 2019. On entry into force, Oman also provided immediate duty-free access for U.S. agricultural products on 87 percent of its agricultural tariff lines. Oman will phase out tariffs on the remaining agricultural products by 2019.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization, issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials are discussing concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States have notified the WTO Committee on Sanitary and Phytosanitary (SPS) Measures of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. As currently drafted, stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also will impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States has raised specific concerns about the Guide and has requested that GCC Member States delay entry into force of the Guide until food safety experts have an opportunity to discuss these concerns.

IMPORT POLICIES

Import Licenses

Companies that import goods into Oman must register with the Ministry of Commerce and Industry. Importation of certain classes of goods, such as poultry and their derivative products, livestock and alcohol,

as well as firearms, narcotics, and explosives, require a special license. Media imports are subject to review for potentially offensive content and may be subject to censorship.

Customs

A significant number of private sector stakeholders report that Omani authorities continue to deny FTA duty rates for U.S.-origin goods under certain circumstances, including for goods that arrive in Oman by land via the United Arab Emirates, goods that do not list Oman as the final destination on accompanying documentation, and goods that do not have a U.S. country of origin marking. Stakeholders report that Omani officials do not demonstrate that claims for preferential tariff treatment fail to comply with any requirement under the FTA, nor provide a written determination when denying such claims, and will not release goods – even with a surety – unless or until customs duties are paid when there remains a question of whether the goods are eligible for FTA duty rates. Since Omani officials do not issue a written determination when denying a claim for preferential tariff treatment, importers are not able to request independent administrative or judicial review of such decisions. Omani officials have declined to provide copies of the customs rules or regulations related to their decisions that outline procedures for customs entry consistent with the FTA.

GOVERNMENT PROCUREMENT

The FTA requires covered entities in Oman to conduct procurements covered by the agreement in a fair, transparent and nondiscriminatory manner. Though not codified, Oman has developed an In Country Value (ICV) initiative which currently provides a 10 percent price preference for government procurement contracts in the oil and gas sector that contain a high content of local goods or services, including direct employment of Omani nationals. Oman is reportedly expanding this initiative to the award of government procurement contracts in other sectors as well. The United States is monitoring the implementation of the ICV initiative to ensure that all covered procurements are undertaken in a manner consistent with its FTA obligations.

For most major tenders, Oman invites bids from international firms or firms pre-selected by project consultants. Suppliers are requested to be present at the opening of tenders, and interested persons may view the process on the Tender Board's website. Some U.S. companies report that tenders' costs can increase dramatically when award decisions are delayed, sometimes for years, or the tendering is reopened with modified specifications and – typically – short deadlines. Oman has censured U.S. companies for seeking outside financiers for projects during the tender process, citing disclosure of government-protected information.

Oman is an observer to the WTO Committee on Government Procurement. Although Oman committed to initiate negotiations for accession to the Agreement on Government Procurement when it became a WTO Member in 2001, it has not yet begun these negotiations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Oman was not listed in the 2014 Special 301 Report. As part of its FTA obligations, Oman revised its IPR laws and regulations and acceded to several international IPR treaties. While IPR laws in Oman are generally enforced, cases of online piracy remain common. In 2013, cases of counterfeit automotive parts and other consumer products affecting health and safety were vigorously prosecuted, but U.S. companies experienced difficulty in obtaining enforcement actions by responsible agencies.

In 2014, Saudi Arabia, Bahrain, and Qatar approved the GCC Trademark Law. Kuwait, Oman and the United Arab Emirates are expected to approve the law in 2015, after which implementing regulations will

be issued. As the six GCC Member States explore further harmonization of their intellectual property rights (IPR) regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

SERVICES

Banking

Foreign banks may be registered either as a branch of a foreign bank, or must be a subsidiary of an Omani bank. Subsidiaries are registered as local Omani companies and require an Omani owner and/or investors.

Oman does not permit offshore banking.

Legal Services

By a 2009 decree from the Ministry of Justice, non-Omani attorneys, including U.S. attorneys practicing in Oman, are prohibited from appearing in courts of first instance.

Brokerage Services

Ministerial Decision 5/2010 and announcements by the Royal Oman Police Customs limit customs brokerage services to Omani nationals.

INVESTMENT BARRIERS

U.S. companies remain concerned about rules governing the acquisition of property in Oman. Although U.S. investors are permitted to purchase freehold property in a few designated residential developments, businesses must adhere to more restrictive guidelines when acquiring real estate for commercial purposes. With the exception of certain tourism-related property agreements, only enterprises with at least 51 percent Omani shareholding are permitted to own real estate for the purpose of establishing an administrative office, warehouse or showroom, or staff accommodation or other building with a similar purpose. Other enterprises, including foreign majority-owned businesses, must seek "usufruct" rights, which enable enterprises to exploit, develop, and use land granted by a third party.

PAKISTAN

TRADE SUMMARY

U.S. goods exports in 2014 were $1.5 billion, down 7.9 percent from the previous year. Pakistan is currently the 70th largest export market for U.S. goods. Corresponding U.S. imports from Pakistan were $3.7 billion, down 0.4 percent. The U.S. goods trade deficit with Pakistan was $2.2 billion in 2014, an increase of $114 million from 2013.

The flow of U.S. foreign direct investment (FDI) into Pakistan was $231 million in 2012 (latest data available).

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Packaging requirements normally follow Codex Alimentarius (Codex) rules, and Pakistan generally accepts packaging material if allowed in the exporting country. Most foodstuffs are imported in consumer-ready packaging. A notable exception is vegetable oil. Pakistan requires that refined vegetable oil be imported in bulk for re-packaging, a requirement aimed at encouraging local packaging and saving foreign exchange.

Pakistan requires that all imported meat be certified as halal (produced in accordance with Islamic practices). Pakistan may require other specific certificates based on worldwide alerts or other emergency situations.

Pakistan requires that all imported packaged medicines or drugs display the product name and pharmaceutical raw materials on the labels of imported medicines or drugs in accordance with the "Drugs (labeling and packaging) Rules" published in 1986 by the Ministry of Health. In accordance with the provisions of "Drugs (Imports and Exports) Rules 1976," the exporters must certify that pharmaceutical (allopathic) raw materials are of pharmaceutical grade and shall have at least 75 percent of the shelf life calculated from the date of filling of "Import General Manifest" (IGM), excepting those pharmaceutical raw materials specifically allowed by the Director General, Ministry of Health. If indication of shelf life is not given on the packaging, the customs authorities may allow clearance on the basis of Form 7 (a Batch Certificate issued by the manufacturer showing the manufacture/expiry dates).

Quality certification, as defined by the Pakistan Standards and Quality Control Authority (PS),is required for certain products, including mineral water, carbonated beverages, edible oils including cooking oil, Portland cements, construction materials containing asbestos, and oil stoves.

Pakistan's only notifications to the WTO under the TBT Agreement were submitted in June 2007. The 25 notifications covered health and safety standards adopted covering mainly sampling and testing procedures as well as labeling, packaging, storage, and transport of a number of food and other products.

Sanitary and Phytosanitary Barriers

Live Cattle, Beef, and Beef Products

On July 4, 2014, Pakistan's Economic Coordination Committee issued Order 646, which allows (in principle) imports of cattle from countries with a negligible risk status for BSE under the provisions of the World Animal Health Organization (OIE). U.S. and Pakistani regulators finalized the terms of the health

certificate and the sample certificate was posted on the USDA website on February 24, 2015. Pakistan has yet to accept U.S. beef and beef products exports. The United States will continue to engage with Pakistan to open its market to these products.

Pakistan still does not allow the import of beef and beef products from the United States for the same reasons it had initially banned live cattle imports from the United States, namely, misplaced concern over bovine spongiform encephalopathy (BSE) in the United States.

IMPORT POLICIES

Pakistan grants *ad hoc* sector- or product-specific import duty exemptions, concessions, and other protections through promulgation of Statutory Regulatory Orders (SROs), although it had pledged to eliminate the use of SROs by June 2014 under the terms of its International Monetary Fund program approved in September 2013. The Federal Board of Revenue (FBR) is in the process of withdrawing SROs and it is allowing SROs to expire without renewal, however, FBR estimates that it will take up to three years for all SROs to be eliminated. A list of SROs and other trade policy and regulatory documents can be found on Pakistan's Federal Board of Revenue's website: http://www.cbr.gov.pk

A number of traders in the food and consumer products sectors have expressed concerns regarding a lack of uniformity in customs valuation in Pakistan. Similarly, in the machinery and materials sector there are reports that customs officials have erroneously assessed goods based on a set of minimum values rather than the declared transaction value.

An importer for a large U.S. firm has raised concerns about two new SROs (420 and 575) that have raised the sales tax on imported "Finished Footwear and Apparel" from 5 percent to 17 percent, while domestically-produced products continue to be taxed at 5 percent. Officials at the FBR explained that the tax on domestically produced products will increase to 17 percent, evening the playing field. FBR, however, does not have a timeline in place for this increase.

Pakistan imposes higher tariff rates (50 percent) on imports of automobile parts that compete with domestically manufactured products than the tariff rates (35 percent) it imposes on imports of automotive parts where there is no domestic production.

Pakistan requires that commercial invoices and packing lists be included inside each shipping container. This requirement presents challenges to stakeholdersbecause invoices and packing lists do not always originate in the same location as the shipment and may be generated after the shipment departs. The penalty for non-compliance is $526 per container.

Pakistan recently announced regulatory duties (temporary tariffs, usually in place for the balance of the fiscal year) of 20 percent for wheat and sugar to protect farmers from imports.

Pakistan restricts the import of second-hand specialized vehicles, ships, trawlers, aircraft, and related parts and equipment unless they meet specified conditions, such as prior approval or clearance, certain testing arrangements, or other procedural requirements. Pakistan indicates that these requirements are mainly for health, safety, security, and environmental reasons. Certain goods may be imported only by the public sector or industrial consumers (*e.g.*, active ingredients for formulation/manufacturing pesticides). Imports of waste, parings, and scrap of polyethylene and polypropylene must be covered by mandatory certification in the exporting country or by a specialized pre-shipment inspection company.

GOVERNMENT PROCUREMENT

The Public Procurement Regulatory Authority is an autonomous body responsible for prescribing and monitoring public sector procurement regulations and procedures. International tender notices must be publicly advertised and sole source contracting tailored to company-specific qualifications is prohibited. There are no documented official "buy national" policies.

Political influence on procurement awards, charges of official corruption, lack of transparency, judicial intervention, and long delays in bureaucratic decision making are common in government procurements. Suppliers have reported instances in which the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid as required by regulation.

Pakistan is not a signatory to the WTO Agreement on Government Procurement, but it recently attained observer status.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Pakistan remained on the Priority Watch List in the 2014 Special 301 Report. The report cites some advances in enforcement of intellectual property rights (IPR) through raids, seizures, and arrests, but little improvement in overall IPR protection. Counterfeiting and piracy, particularly book and optical disc piracy, remain widespread.

The Intellectual Property Organization law provides for specialized IPR tribunals to adjudicate cases and a policy board with private sector representation to assess policy decisions. However, in 2014 Pakistan made little progress implementing the provisions of the law. Although the Intellectual Property Organization previously forwarded to the Cabinet a proposal to form the policy board, the Cabinet has not yet approved it and IPR tribunals have not yet been established.

In 2014, Pakistan also did not make further progress in providing effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products. While the government and international and local pharmaceutical companies have been negotiating a draft data protection law for the past five years, a law has not yet been enacted. With respect to patents, Pakistan lacks an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. With respect to copyrights, Pakistan did not take any significant steps in 2014 to improve copyright enforcement, especially with respect to addressing optical disc piracy. Only a very small proportion of arrests resulted in prosecutions, and the few verdicts that were issued resulted in minor prison sentences. Pakistan is reportedly used as a conduit for infringing products from Russia, Malaysia, Singapore, China, Bangladesh, and Sri Lanka for onward distribution to third countries. Book piracy also continues to undermine legitimate trade and investment. With respect to trademarks, counterfeit products, both imported and domestically produced, are increasingly entering the market with few efforts at enforcement.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services. Except in certain sectors such as aviation, banking, agriculture, and media, there is no upper limit on the share of equity that foreign investors can hold. Foreign investors in Pakistan are limited in the remittance of royalty payments to a maximum of $100,000 for the first payment. Royalty payments are then capped at five percent of net sales for the subsequent five years.

Pakistan prohibits the importation, sale, distribution, and transmission of films the government deems inconsistent with local religious and cultural standards, and also bans websites deemed to be blasphemous or immoral. A ban on the video-sharing website YouTube has been in effect in Pakistan since September 2012.

In October 2012, the Ministry of Information Technology and Telecommunication ordered establishment of an International Clearing House (ICH) that quadrupled charges and curtailed competition for international calls to Pakistan. The United States, the Competition Commission of Pakistan (CCP), and cellular operators expressed serious concern with this change.

After several court cases about the legality of the ICH, Pakistan's Supreme Court directed the matter back to the jurisdiction of the CCP. In April 2013, the CCP issued a ruling against international call termination rate increases. Despite the ruling, the increased rate of $0.088 per minute remains in effect, even though the Pakistan Telecommunications Authority (PTA) no longer officially mandates it.

The Pakistani rate increase caused a reaction in the United States. On March 5, 2013 the U.S. Federal Communications Commission (FCC) issued a Memorandum Opinion and Order that found:

> [R]ecent and ongoing actions by certain Pakistani long distance international carriers (Pakistani LDI carriers) to set rate floors over previously negotiated rates with U.S. carriers for termination of international telephone calls to Pakistan are anticompetitive and require action to protect U.S. consumers in accordance with FCC policy and precedent. Their continuation would result in a substantial increase in the cost of and repress demand for calling Pakistan.

The FCC ordered all U.S. carriers not to pay termination rates to Pakistani carriers in excess of "the rates that were in effect immediately prior to the rate increase on or around October 1, 2012."

In June 2014 the Ministry of Information Technology (MOIT) announced that it would abolish the ICH on August 1, 2014. However, several long-distance phone service providers challenged the MOIT action in court and obtained a stay of ICH's abolishment. In February 2015, the Supreme Court of Pakistan vacated the stay order of a lower court, effectively paving the way for the abolishment of the ICH. In response, the PTA issued a notification informing telecommunications operators of the deregulation of termination rates, effective immediately. The market response remains unclear, but, if implemented, rates should revert to competitive levels.

Foreign banks that do not have global Tier-1 paid up capital (*e.g.*, equity and retained earnings of $5 billion or more) or are not from countries that are part of regional groups and associations of which Pakistan is a member (*e.g.*, the Economic Cooperation Organization and the South Asian Association for Regional Cooperation) and that wish to conduct banking business in Pakistan must incorporate a local company. Foreign investment in the banking sector is limited to 49 percent. The National Insurance Company, a majority state-owned enterprise, has the exclusive authority to underwrite and insure public sector firms, assets, and properties. The government has discretion to grant exemptions to this requirement. Private sector firms may seek foreign reinsurance facilities to meet up to 65 percent of their re-insurance needs.

OTHER BARRIERS

Foreign businesses in Pakistan have been vocal in expressing concern over corruption and a weak judicial system, which act as substantial disincentives to investment. In 2002, Pakistan's Cabinet approved the National Anti-Corruption Strategy (NACS) that identified areas of pervasive corruption and recommended the implementation of reforms to combat corruption. The NACS recognized the National Accountability Bureau (NAB) as the sole federal anticorruption agency. In mid-2009, the Supreme Court directed the

National Assembly to pass new legislation to update the executive ordinance establishing the NAB, but the National Assembly has yet to pass such legislation.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan. Parties pursuing legal remedies in the Pakistani judicial system may face years of delays and unpredictable outcomes in the country's overloaded courts.

PANAMA

TRADE SUMMARY

U.S. goods exports in 2014 were $10.4 billion, down 1.6 percent from the previous year. Panama is currently the 30th largest export market for U.S. goods. Corresponding U.S. imports from Panama were $400 million, down 10.8 percent. The U.S. goods trade surplus with Panama was $10.0 billion in 2014, a decrease of $118 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Panama was $5.8 billion in 2013 (latest data available), up from $5.2 billion in 2012. U.S. FDI in Panama is led by the nonbank holding companies, and manufacturing sectors.

Trade Promotion Agreement

The United States-Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. The TPA includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

In June 2014, Panama and the United States reached agreement on amendments to certification statements for U.S. pet food containing animal origin ingredients included in a December 2006 agreement between Panama and the United States. The mutually agreed upon amendments reflect changes in the United States' status with regard to bovine spongiform encephalopathy (BSE) since 2006, and will allow will allow the export of U.S. pet food that contains ruminant ingredients. Panama completed its domestic procedures to implement the provisions of the June 2014 bilateral agreement by publishing Resolution No. 002, of February 10, 2015.

IMPORT POLICIES

Tariffs

The first tariff reduction under the TPA took place on October 31, 2012, and subsequent tariff reductions occur on January 1 of each year; the fourth round of tariff reductions took place on January 1, 2015. Over 87 percent of U.S. exports of consumer and industrial products to Panama became duty free immediately upon entry into force of the TPA. The remaining tariffs on consumer and industrial products will be phased out over the course of 10 years. The TPA provides for immediate duty-free treatment for over half of U.S. agricultural exports to Panama (by value). Duties on most other agricultural goods will be phased out over the course of 5 years to 12 years, with duties on the most sensitive products phased out over 15 years to 20 years. For some agricultural goods, Panama's current applied tariff is lower than the bound tariff required under the TPA. The TPA also creates expanded market access opportunities for some of the most sensitive agricultural products through tariff-rate quotas (TRQs), which provide immediate duty-free access for specific quantities of certain agricultural products. This access will rise as quotas are increased and over-quota duties are phased out over the course of the applicable implementation period.

Panama's average MFN tariff on industrial and consumer goods is relatively low, at about 7.6 percent, although tariffs on some products are as high as 81 percent. Panama's average MFN tariff on agricultural goods is 13.7 percent, but some agricultural imports face tariffs as high as 260 percent.

Nontariff Measures

In addition to tariffs, all goods and most services sold in Panama, except for foods and feeds, are subject to a seven percent ITBMS (value-added tax). In the case of imported goods, the ITBMS is levied both on the cost, insurance, and freight value, as well as on import duties and other handling charges, which artificially inflate the tax compared to domestic products. The ITBMS is higher for cigarettes and alcohol. Pharmaceuticals, foods, school supplies, goods that will be re-exported, and all products related to transactions occurring in any free zone when using endorsable documents are exempt from the ITBMS. In 2012, the government introduced an excise tax on vehicle sales, which varies from 5 percent to 25 percent based on the value of the vehicle.

Importing entities are required to hold a license to operate in Panama in order to import manufactured goods into the country. The license may be obtained through Panama's online business registration service, "Panama Emprende." Importing entities holding such a license are not required to have a separate import license for individual shipments, except for imports of certain controlled products such as weapons, medicine, pharmaceutical products, and certain chemicals.

Law 42 of April 2011, which entered into force in 2013, promotes the production and use of domestically-produced biofuels through the provision of various incentives. For example, Law 42 imposes a tax on the use of anhydrous bioethanol and biodiesel blended with gasoline and diesel, respectively, while at the same time establishing an offsetting tax credit that can be earned through the purchase of bioethanol and biodiesel produced for domestic sources. The United States has expressed concerns with Law 42 in light of Panama's WTO commitments. In 2014, Panama mitigated the commercial impact of the discriminatory provision of Law 42 by suspending the previous requirement that gasoline sold in Panama contain ethanol and also changing the official price of ethanol significantly from a price set above the world market price to a price linked to a reference price based on the U.S. Gulf price.

GOVERNMENT PROCUREMENT

Panamanian Law 22 of 2006, as amended, regulates government procurement and other related issues. Law 22 requires publication of all proposed government purchases, and established "Panama Compra," an Internet-based procurement system. Panama has an administrative court to handle all public contracting disputes. The rulings of this administrative court are subject to review by Panama's Supreme Court.

Despite the oversight of the administrative court, political interests often appear to influence procurement decisions. Panamanian business leaders have expressed concerns regarding what they believe is excessive use of sole-source contracting, and U.S. firms have expressed concern about how the government of Panama establishes and evaluates the criteria used to select a procurement winner.

The TPA introduced new disciplines on covered government procurements. The goal of the disciplines is to ensure the integrity and fairness of the procurement process. The TPA applies to procurements by covered entities for procurements that are above the value thresholds. Not all Panamanian governmental entities are covered under the TPA. The thresholds vary, but for covered central government entities, the threshold for procurements of goods and services is a minimum $204,000, while the threshold for construction procurements is $7,864,000. Higher thresholds apply to sub-central and other government entities.

When Panama became a WTO Member, it committed to accede to the WTO Agreement on Government Procurement (GPA). However, on July 30, 2013, Panama withdrew its application for accession to the GPA, and the obligation remains outstanding.

EXPORT SUBSIDIES

Panama's Law 82 of 2009 created an agricultural export promotion program, known as the Certificate of Promotion of Agricultural Exports (CEFA) program. The CEFA gives incentives to agricultural exporters to reduce packing and transportation costs for specified nontraditional agricultural products. Under the TPA, both countries committed to not using such export subsidies on any agricultural good destined to each other's markets. In 2014, the government of Panama issued 537 certificates valued at $7,771,841 to non-U.S. destinations.

A number of export industries, such as tourism, and special economic areas, such as free trade zones, are exempt from paying certain types of taxes and import duties. The government of Panama established this policy to attract foreign investment, especially in economically depressed regions, such as the city of Colon. Companies that benefit from these exemptions are not eligible to benefit from the CEFA program for their exports. The 99 companies operating in Panama's 15 free zones may import inputs duty free, if products assembled in the zones are to be exported. There are 75 call centers officially registered under the free zones regime.

Under the TPA, Panama may not adopt new duty waivers or expand existing duty waivers conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods or the use of domestic content in the production of goods).

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The government of Panama is making efforts to strengthen the enforcement of intellectual property rights (IPR). A Committee for Intellectual Property (CIPI), comprising representatives from five government agencies (Colon Free Zone, Offices of Intellectual Property Registry and Copyright under the Ministry of Commerce and Industry, Customs, and the Attorney General), under the leadership of the Ministry of Commerce and Industry, is responsible for development of intellectual property policy in Panama.

In 2012, Panama updated its legislative framework in order to implement the requirements of the TPA, which called for improved standards for the protection and enforcement of a broad range of IPR. These include enhanced protections for patents, trademarks, undisclosed test and other data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals, digital copyrighted products such as software, music, text, and videos, and further deterrence of piracy and counterfeiting.

In 2013, Panama began implementing a system identifying geographical indications (GIs) in response to European Union applications to register a range of GIs in Panama. The United States has engaged extensively with Panama to ensure that market access for U.S. agricultural producers is preserved and will continue to do so.

INVESTMENT BARRIERS

While Panama maintains an open investment regime and is generally receptive to foreign investment, U.S. investors and individual property holders continue to raise concerns about property disputes. Many of these disputes appear to stem from the general lack of titled land in Panama and inadequate government administration of the property system. Although Panama enacted a law in 2009 (Law 80) that attempted to address the lack of titled land in certain parts of the country, decisions taken by the National Land Authority

established by the law have reinforced investors' concerns regarding government administration, corruption, and the ability of the judicial system to resolve these types of disputes.

In 2013, Panama enacted Law 41, which stipulates that Panamanian nationals must own at least 75 percent of companies or vessels engaged in auxiliary maritime services. The United States and the EU each expressed concern regarding aspects of this law in light of Panama's obligations under its free trade agreements. On February 11, 2015, in Law 4 of 2015, Panama rescinded the provisions of concern in Law 41.

OTHER BARRIERS

Corruption

Panama has domestic anticorruption mechanisms, such as asset forfeiture, protection for witnesses and whistleblowers, and conflict-of-interest rules. In addition, Panama ratified the United Nations Convention against Corruption in 2005 and the Organization of American States Inter-American Convention against Corruption in 1998. However, the general perception is that anticorruption laws are not applied rigorously, and that government enforcement bodies and the courts have been ineffective in pursuing and prosecuting those accused of corruption, particularly in high profile cases. There is also a perception that Panama could do more to implement the conventions and respond to official recommendations.

There is also a low level of confidence in the competence and independence of the judicial system. The United States continues to stress the need to increase transparency and accountability in government procurement and judicial processes.

President Juan Carlos Varela, inaugurated on July 1, 2014, has pledged to pursue reports of corruption, for example, by increasing transparency in tendering for government procurement and ensuring that government tenders are awarded transparently and fairly. In December 2014, the government cancelled the contract for a 550 MW Liquid Natural Gas plant that was awarded by the previous administration on the ground that the tendering had not been transparent.

PARAGUAY

TRADE SUMMARY

U.S. goods exports in 2014 were $2.1 billion, up 8.5 percent from the previous year. Paraguay is currently the 62nd largest export market for U.S. goods. Corresponding U.S. imports from Paraguay were $196 million, down 29.2 percent. The U.S. goods trade surplus with Paraguay was $1.9 billion in 2014, an increase of $245 million from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Paraguay has banned all U.S. live cattle, beef, and beef products since 2003 due to the detection of a case of bovine spongiform encephalopathy (BSE) in the United States. In October 2014, the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service sent a letter to Paraguay's National Animal Health and Quality Service (SENACSA) requesting that SENACSA work with USDA to remove the remaining BSE trade restrictions on imports of these products from the United States. The United States will continue to engage with SENACSA to open the Paraguayan market to U.S. exports of these products, taking into account the World Organization for Animal Health (OIE) guidelines and the negligible risk status of the United States.

IMPORT POLICIES

Tariffs

Paraguay is a founding member of the MERCOSUR common market, formed in 1991. MERCOSUR's full members are Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR suspended Paraguay from participating in MERCOSUR meetings following the June 2012 impeachment of Paraguayan President Fernando Lugo. MERCOSUR lifted Paraguay's suspension after President Horacio Cartes took office in August 2013.

MERCOSUR's Common External Tariff (CET) averages 11.5 percent and ranges from 0 percent to 35 percent *ad valorem*, with a limited number of country-specific exceptions. Paraguay's average bound tariff rate in the WTO is significantly higher at 33.5 percent. Paraguay's applied import tariffs tend to be much lower than the CET, ranging from 0 percent to 30 percent, with an average applied tariff rate of 10 percent in 2013. Paraguay is permitted to maintain a list of 649 exceptions to the CET until December 31, 2019.

According to current MERCOSUR procedures, any good imported into any member country must pay the CET to that country's customs authorities. If the product is re-exported to any other MERCOSUR country, the CET must be paid again to the second country upon importation there. Thus, for any U.S. good imported into landlocked Paraguay via any other MERCOSUR country, all of which have ocean ports, the CET is effectively doubled.

The MERCOSUR Common Market Council moved toward the establishment of a Customs Union with its approval of a Common Customs Code (CCC) in August 2010 and its Decision 5610 in December 2010 to adopt a plan to eliminate the double application of the CET within MERCOSUR. The plan was to take effect in three stages, with the first phase to have been implemented no later than January 1, 2012, but the deadline was not met. In November 2012, Argentina became the first MERCOSUR member to

ratify the CCC. The CCC still must be ratified by the other MERCOSUR member countries, including Paraguay.

Nontariff Barriers

Paraguay requires non-automatic import licenses on personal hygiene products, cosmetics, perfumes and toiletries, textiles and clothing, shoes, insecticides, agrochemicals, poultry, barbed wire, wire rods, and steel and iron bars. Obtaining a license requires review by the Ministry of Industry and Commerce. Imports of personal hygiene products, cosmetics, and perfumes and toiletries also require a health certification and therefore must undergo a review by the Ministry of Health. The import license process usually takes 10 days, but for goods that require a health certification, it can take up to 30 days. Once issued, the health certifications are valid for 30 days.

Paraguay prohibits the importation of used cars over 10 years old and used clothing. Also, seasonal restrictions on some vegetables (*e.g.*, tomatoes, bell peppers, and onions) are sometimes implemented to protect local producers.

Customs Procedures

Paraguay requires that specific documentation for each import shipment (*e.g.*, commercial receipt, certificate of origin, and cargo manifest) be certified by either the Paraguayan consulate in the country of origin or, subject to payment of a fee, at the Ministry of Foreign Affairs in Paraguay.

Paraguay requires all companies operating in the country to contract the services of a customs broker. Customs broker fees are standardized by Paraguayan law.

GOVERNMENT PROCUREMENT

Paraguay's Public Contracting Law stipulates that all public contracting at the national and local levels with a value in excess of approximately $6,000 must be done via the National Directorate for Public Contracts. Foreign firms can bid on tenders deemed "international" and on "national" tenders through the foreign firms' local legal agents or representatives. Paraguayan law gives preference to locally produced goods in public procurements open to foreign suppliers, even if the domestic good is up to 20 percent more expensive than the imported good. Paraguay's public procurements have historically involved widespread corruption, although the government is making efforts to enhance transparency and accountability.

In October 2013, the Paraguayan Congress passed a law to promote Public-Private Partnerships (PPPs) in public infrastructure and allow for private sector entities to participate in the provision of basic services such as water and sanitation. Implementing regulations for the PPP law were signed in March 2014. As a result, the Executive Branch can now enter into agreements directly with the private sector without the need for Congressional approval. To date, there have been no PPPs in public infrastructure.

Paraguay is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Paraguay remained on the Special 301 Watch List in 2014, and the United States continues to monitor Paraguay under Section 306. The United States is encouraged by the work of the National Directorate of Intellectual Property and the enhanced administrative and border enforcement activity occurring in Paraguay. Issues that affect market access for U.S. firms and require Paraguay's attention include: the level of enforcement against rampant piracy and counterfeiting, particularly under the criminal laws, in areas

such as Ciudad del Este (which has been named to USTR's Notorious Markets List for several years); judicial inefficiency in intellectual property rights (IPR) cases; lack of protection against unfair commercial use of undisclosed test or other data submitted to the government by agrochemical or pharmaceutical companies; and the use of unlicensed software by the government. The United States will continue to engage Paraguay on these issues, including through the Special 301 process and the renegotiation of our bilateral IPR Memorandum of Understanding in 2015.

INVESTMENT BARRIERS

Under Paraguayan law, foreign companies must demonstrate "just cause" to terminate, modify, or decide not to renew contracts with Paraguayan distributors. Severe penalties and fines may result if a court determines that the foreign company ended the relationship with its distributor without first having established that such "just cause" exists. This requirement often leads to expensive out-of-court settlements. The law has effectively discouraged foreign investment, given concerns about potential lawsuits and contractual interference.

Judicial uncertainty and corruption mar Paraguay's investment climate. Many investors find it difficult to adequately enforce contracts, and are frustrated by lengthy bureaucratic procedures. The government of Paraguay took steps in 2014 to increase transparency and accountability, but corruption and impunity continue to affect the investment climate.

A plaintiff pursuing a lawsuit may seek reimbursement from the defendant of legal costs, calculated as a percentage of claimed damages. In larger suits, the amount of reimbursed legal costs often far exceeds the actual legal costs incurred. Such measures can serve as a disincentive to foreign investment in Paraguay.

PERU

TRADE SUMMARY

U.S. goods exports in 2014 were $10.1 billion, down .3 percent from the previous year. Peru is currently the 32nd largest export market for U.S. goods. Corresponding U.S. imports from Peru were $6.1 billion, down 25.1 percent. The U.S. goods trade surplus with Peru was $4.0 billion in 2014, an increase of $2.0 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Peru was $10.1 billion in 2013 (latest data available), up from $8.7 billion in 2012. U.S. FDI in Peru is led by the mining, and manufacturing sectors.

Trade Agreements

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. The PTPA is a comprehensive free trade agreement that resulted in significant liberalization of trade in goods and services between the United States and Peru. Under the PTPA, Peru immediately eliminated most of its tariffs on U.S. exports, with all remaining tariffs phased out over defined time periods. The PTPA also includes important disciplines with respect to customs administration and trade facilitation, technical barriers to trade, government procurement, services, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environmental protection. Since 2009, two-way trade between the U.S. and Peru has increased by 76.6 percent, reaching nearly $16.2 billion in 2014.

Peru is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Peru, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Moratorium on Agricultural Biotechnology

On November 3, 2011, the Peruvian Congress approved Law 29811, which declared a ten-year moratorium on the importation or production of products derived from agricultural biotech because of concerns they may adversely affect the environment. Risk assessment standards conducted under the November 14, 2012, implementing regulations (Supreme Decree 008-2012) were vague, and have not clarified exemptions in the 2011 law for controlled research, pharmaceutical and veterinary products, and biotech-derived products for human consumption, feed or processing. Peru's lack of specific regulatory standards on risk

assessments threatens to impede trade of both biotech seeds for controlled experiments as well as conventional seeds for planting.

U.S. government efforts to address concerns related to the moratorium have included frequent discussions with Peruvian government officials and business associations. Among other venues, the issue was raised by the United States at the annual meetings of the PTPA Standing Committee on Sanitary and Phytosanitary Measures (PTPA SPS Committee), held in June 2012, June 2013, and August 2014.

Labeling of Foods Derived from Agricultural Biotech

Article 37 of the Consumer Defense Code, approved by Congress in March 2011, mandates the labeling of products containing agricultural biotech ingredients. Although the law required publication of implementing regulations within 180 days of approval of the Consumer Defense Code, these remain pending as INDECOPI, the Peruvian government's intellectual property and consumer protection agency, struggles to draft implementing regulations that will not interrupt normal trade.

The law specifies that labels must detail the percentage of biotech content for each input that exceeds a minimum threshold of detection, instead of indicating that the final product contains biotech content, *i.e.,* one or more ingredients derived from plants grown from biotech seeds. The scientific and technical considerations involved in setting minimum thresholds are highly complex and would require sophisticated and expensive regulatory capacity to set, monitor and enforce such standards that Peru currently lacks.

U.S. government efforts to engage on this issue have included repeated discussions with Peruvian government officials at both the working and policy levels. The issue was also raised during the meeting of the PTPA's Committee on Technical Barriers to Trade (PTPA TBT Committee) in June 2014.

Labeling Requirements for "Unhealthy" Prepackaged Food Items

President Humala signed the "Act to Promote Healthy Eating among Children and Adolescents" on May 16, 2013, which was notified to the WTO. The law establishes a mandatory front-of-pack warning statement on food labels for prepackaged foods that pass an established threshold for sugar, sodium, and saturated fats, and for all food products that contain trans-fats. The Act also establishes restrictions on advertising and promoting such food products to children and adolescents. Following approval of the law, Peru's Ministry of Health (MOH) had 60 days to develop implementing regulations. To date, MOH has not met this deadline; however, Peruvian authorities have confirmed they are developing the regulations and that they plan to notify any proposed regulations to the WTO. Once the WTO is notified, a 90-day period would be set for comment. The regulations would include a six-month period for entry into force. The United States will continue to engage with the Peruvian government on this issue as appropriate.

Sanitary and Phytosanitary Barriers

Pork

Peru requires that U.S. pork be shipped to Peru frozen, or be tested upon arrival in Peru, due to concern over trichinae, a parasitic nematode. The United States believes this requirement is unnecessary as U.S. producers maintain stringent biosecurity protocols that limit the incidence of trichinosis, the disease caused by eating undercooked pork infected with trichinae larvae, in the United States to extremely low levels.

The United States has requested that Peru revise these requirements for fresh and chilled pork and provided evidence to Peru in March 2012 that supports this request. The United States raised the issue at the PTPA

SPS Committee meetings held in June 2012, June 2013, and August 2014. In March 2013, Peru requested that the United States complete a questionnaire so that they could initiate a risk assessment of pork shipments. The United States submitted the completed questionnaire in September 2013 and raised the issue again in a bilateral meeting in January 2015.

Peru is requesting U.S. government oversight surveillance and certification of export shipments. As the trichinae risk is so insignificant, the position of the United States is that no additional certification should be required. The United States will continue to engage with Peru in seeking a favorable resolution to the trichinae issue.

Live Cattle

Peru prohibits U.S. live cattle from entry into Peru ostensibly due to concerns over bluetongue, a viral disease that affects ruminants such as sheep and cattle, and bovine spongiform encephalopathy (BSE). The United States has requested the removal of the bluetongue measures, noting that the United States has been exporting cattle since the 1960s to the Western Hemisphere, including Central and South America, without a single clinical case of bluetongue reported in animals imported from the United States. Peru does not meet the conditions to self-declare itself free of bluetongue, since it neither undertakes surveillance nor maintains control programs. Following the World Organization for Animal Health (OIE) recognition of the United States as a country with negligible risk for bovine spongiform encephalopathy (BSE), the United States answered questions from Peru in a new proposal in September 2013. The proposal addresses BSE and other diseases of concern.

The United States continues to engage with Peru to re-open its market for U.S. live cattle closed since and has raised the issue at the PTPA SPS Committee meetings held in June 2012 and June 2013. The United States again raised these issues during the August 2014 PTPA SPS Committee Meeting, submitting complementary information on the status of bluetongue in Peru and details on the U.S. surveillance and control programs. The United States raised this issue in January 2015, and will continue to work with Peru to secure a favorable resolution to this issue.

Beef Export Verification (EV) Program

Peru established sanitary requirements for importing U.S. beef into Peru under the PTPA on October 10, 2006. The requirements included certification that Canadian beef and specified risk materials (SRMs), such as spinal cord, brain, eyes and other organs, were not being imported into Peru. This condition could only be met at the time through the establishment of an export verification (EV) program, administered by the U.S. Department of Agriculture.

Since the implementation of the PTPA, the sanitary conditions regarding beef have changed. First, Peru granted access to Canadian beef on May 10, 2012, and subsequently, the OIE changed the sanitary status of the United States regarding BSE to negligible risk in May 2013.

In light of these developments, the United States has been engaging with Peru with the objective of updating the import requirements for U.S. beef such that the EV program will no longer be required. The issue was discussed at the PTPA SPS Committee meeting, held in August 2014, and again in a bilateral meeting in January 2015. The United States will continue its efforts to secure a favorable outcome.

IMPORT POLICIES

Tariffs

According to the WTO, Peru's average bound WTO tariff rate was 29.5 percent in 2013 and its average most favored nation (MFN) applied tariff rate was 3.4 percent. Under the PTPA, more than 80 percent of U.S. exports of consumer and industrial products now enter Peru duty-free. All remaining tariffs on U.S. consumer and industrial goods exports to Peru will be phased out by 2018. More than two-thirds of current U.S. agricultural exports enter Peru duty-free; the remaining tariffs on U.S. agricultural exports to Peru will be phased out by 2025. In accordance with its PTPA commitments, Peru has eliminated its price band system on trade with the United States.

Nontariff Measures

The Government of Peru has eliminated many of Peru's nontariff barriers, and under the PTPA, it subjects remaining measures, including subsidies, to additional disciplines.

Peru currently restricts imports of certain used goods, including used clothing and shoes (except as charitable donations), used tires, cars over five years old, and heavy trucks (weighing three tons or more) over eight years old. A 45-percent excise tax applies to used cars and trucks (compared to 20 percent for a new car). However, if these used cars and trucks undergo refurbishment in an industrial center in the south of the country (located in Ilo, Matarani, or Tacna) after importation, no excise tax applies.

Imported spirits are assessed an effective tax rate that is higher than the tax assessed on domestically-produced Pisco products, thus putting distilled spirits produced in the United States at a competitive disadvantage.

Peru currently requires that biopharmaceutical companies submit a "Batch Release Certificate" issued by the competent authority of the country of origin. The United States Food and Drug Administration (FDA) does not issue such certificates for all types of biological pharmaceuticals. As a result, this requirement adversely affects market access for some biologics produced in the United States. Other administrative processing requirements and duplicative product testing have a negative impact on access to the Peruvian market. For instance, the Peruvian Ministry of Health allows the registration of biosimilars of biologic drugs with only an affidavit that successful clinical trials have taken place and that the drug is safe for use. As a result, local companies can register biosimilar products that infringe on patented biologic drugs. In September 2014, the Ministry of Health proposed draft regulations that would close this loophole, but grandfather all biosimilar applications submitted under the old regime. There is currently no timetable on when these new regulations will be adopted.

Peru passed Presidential Supreme Decree DS053-2010-MTC in 2010, which requires exporters of remanufactured auto parts to provide documentation from the original manufacturer granting them consent to remanufacture and export the auto part.

GOVERNMENT PROCUREMENT

The PTPA requires that procuring entities use fair, nondiscriminatory, and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurements covered by the Agreement. Under the PTPA, U.S. suppliers can bid on procurements of most Peruvian central government entities on the same basis as Peruvian suppliers. This includes procurements by covered state-owned enterprises, such as Peru's oil company and Peru's electrical company. Some American companies have commented that Peru's arduous bureaucratic requirements makes it challenging

for them to successfully participate in, let alone win, government tenders. Peru is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Peru was listed on the Watch List in the 2013 Special 301 Report. Pirated and counterfeit goods remain widely available in Peru. Challenges including inadequate resources for law enforcement, lack of coordination among enforcement agencies, and the need for improvements at Peru's border and in its judicial system remain. Piracy over the Internet continues to be a growing problem, especially with respect to music, software, and video content (movies and TV programs). There has been improvement in removing unlicensed software from government computers, but further steps are needed to ensure adequate intellectual property protection.

INVESTMENT BARRIERS

Peruvian law prohibits majority foreign ownership in the broadcast media sector. Peruvian law also restricts foreigners from owning land or investing in natural resources located within 50 kilometers of its border, although the government may grant special authorization to operate within those areas. Under current law, foreign employees may generally not comprise more than 20 percent of the total number of employees of a local company (whether owned by foreign or Peruvian persons) or more than 30 percent of the total company payroll.

Both U.S. and Peruvian firms remain concerned that executive branch ministries, regulatory agencies, the tax agency, and the judiciary often lack the resources, expertise, or impartiality necessary to carry out their respective mandates. U.S. and Peruvian investors have also expressed concerns about reinterpretation of rules by SUNAT, Peru's customs and tax agency, as well as the imposition of fines by SUNAT perceived by investors to be disproportionate.

THE PHILIPPINES

TRADE SUMMARY

U.S. goods exports in 2014 were $8.5 billion, up 0.7 percent from the previous year. The Philippines is currently the 33rd largest export market for U.S. goods. Corresponding U.S. imports from the Philippines were $10.2 billion, up 9.6 percent. The U.S. goods trade deficit with the Philippines was $1.7 billion in 2014, an increase of $834 million from 2013.

U.S. exports of services to the Philippines were $2.5 billion in 2013 (latest data available), and U.S. imports were $3.8 billion. Sales of services in the Philippines by majority U.S.-owned affiliates were $3.7 billion in 2012 (latest data available), while sales of services in the United States by majority Philippines-owned firms were $31 million.

The stock of U.S. foreign direct investment (FDI) in the Philippines was $4.4 billion in 2013 (latest data available), up from $4.1 billion in 2012. U.S. FDI in the Philippines is led by the manufacturing, nonbank holding companies, and wholesale trade sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Meat Handling Regulations

The Philippines maintains a two-tiered system for regulating the handling of frozen and freshly slaughtered meat for sale in local "wet" markets. Under this system, the Philippines imposes much more burdensome requirements on the sale of frozen meat, which is primarily imported, than it does on the sale of freshly slaughtered meat, which is domestically raised exclusively. The United States provided comments in early January 2015 on the risk assessment that the Philippines used to support the two-tiered treatment of frozen and freshly slaughtered meat and will continue to work to address this issue.

Import Clearance

The Philippines Department of Agriculture requires importers to obtain an SPS permit prior to shipment for any agricultural product and to transmit the permit to the exporter. This requirement adds costs, complicates the timing of exports, and prevents the transshipment of products to the Philippines originally intended for other markets. It also prevents an exporter from reselling an imported product if the importer refuses to accept delivery or abandons the shipment.

IMPORT POLICIES

Tariffs

The Philippines' simple average most favored nation tariff is 7.12 percent. Six percent of its applied tariffs are 20 percent or higher. All agricultural tariffs and about 60 percent of non-agricultural tariff lines are bound under the Philippines' WTO commitments. The simple average bound tariff in the Philippines is 25.7 percent. Products with unbound tariffs include certain automobiles, chemicals, plastics, vegetable textile fibers, footwear, headgear, fish, and paper products. Applied tariffs on fresh fruit, including grapes, apples, oranges, lemons, grapefruits, and strawberries, as well as on processed potato products, including

frozen fries, are between 7 percent and 15 percent, whereas bound rates are much higher at 35 percent and 45 percent.

High in-quota tariffs for agricultural products under the Philippines' tariff-rate quota program, known locally as the Minimum Access Volume (MAV) system, significantly inhibit U.S. exports to the Philippines. Under the MAV system, the Philippines imposes a tariff rate quota on numerous agricultural products, including corn, coffee and coffee extracts, potatoes, pork, and poultry products. In-quota tariffs range from 30 percent to 50 percent. Sugar has the highest in-quota tariff at 50 percent, followed by rice, poultry, and potatoes at 40 percent. The in-quota tariff for corn is 35 percent, while pork and raw coffee have in-quota tariffs of 30 percent. Since 2005, the Philippines has maintained MAV levels at its Uruguay Round commitments despite dramatically increasing demand in the Philippine market for MAV products. The Philippine government increases in-quota volumes of affected MAV commodities in times of shortages, but because of its lack of predictability, the practice does not serve to relax the Philippines' restrictive import regime.

Quantitative Restrictions

The National Food Authority (NFA) controls rice imports through quantitative restrictions and provides price support to rice growers. The NFA's stated objectives are to achieve self-sufficiency and to ensure sufficiently high and stable food prices to enhance farm incomes and alleviate rural poverty. NFA's policies have contributed to the sector's uncompetitiveness by reducing incentives for farmers to minimize production costs and improve efficiency. Philippine rice farmers are protected from global prices by a high tariff of 40 percent, which U.S. stakeholders report has the unintended consequence of encouraging widespread smuggling.

The Philippines previously benefited from special treatment for rice under Annex 5 of the WTO Agreement on Agriculture. Pursuant to Annex 5, the Philippines maintained a rice quota of 350,000 metric tons (MT), but that special treatment expired on June 30, 2012. In July 2014, the WTO approved an extension of the Philippine rice quantitative restrictions up to 2017. The 2014 to 2017 extension is covered by a waiver of the Philippine obligation to convert quantitative restrictions on agricultural imports into tariff measures. In exchange for the extension, the Philippine's MFN rice import tariff will be reduced from 40 percent to 35 percent, and the MAV quota will increase from 350,000 MT to 805,200 MT. The Philippine government has yet to issue an executive order implementing these changes. In connection with the WTO approval of the extension of rice special treatment, the United States and the Philippines reached a bilateral agreement on Philippine agricultural concessions in June 2014. As part of this agreement, the Philippines will reduce tariffs on a variety of agricultural products, including buttermilk, cheese, grapes, poultry, and walnuts, covering over $66 million of U.S. agricultural exports to the Philippines.

Automobile Sector

The Philippines continues to apply high tariffs on finished automobiles and motorcycles, including a 30-percent tariff on passenger cars; tariffs of 20 percent to 30 percent on vehicles for the transport of goods; and tariffs of 15 percent to 20 percent on vehicles for the transport of persons, depending on vehicle weight. ASEAN countries and Japan enjoy preferential import tariffs on new vehicle imports under the ASEAN Free Trade Agreement and the Japan-Philippines Economic Partnership Agreement, respectively. The Philippines continues to extend duty-free treatment on imports of capital equipment, spare parts, and accessories by motor vehicle manufacturers and other enterprises registered with the Board of Investments.

Motor vehicle production is covered under the Philippine Motor Vehicle Development Program. This program, implemented by the Board of Investments, is designed to spur exports and encourage local assembly through low tariffs on components. A one percent tariff applies to completely knocked-down kits

(CKDs) imported by participants registered under the development program. CKDs of alternative fuel vehicles enter duty free. The policy also prohibits the importation of used motor vehicles.

Manufacture and assembly of motor vehicles, parts, and components is a preferred activity under the 2014 Philippine Investment Priorities Plan (*see Subsidies section below*). Meanwhile, the Board of Investments has identified a set of non-fiscal incentives, including the retirement of old vehicles for the automotive industry, as a key component under the Comprehensive Automotive Resurgence Strategy to improve local demand for motor vehicles. The proposed Executive Order that approves and authorizes the implementation of this program is pending in the Office of the President.

Safeguards

Since 2002, the Philippine Department of Agriculture has maintained a price-based special safeguard on imports of chicken, approximately doubling the effective rate of protection for out-of-quota imports. The imposition of the special safeguard reportedly stems from domestic industry pressure for import protection.

Customs Barriers

Reports of corruption and irregularities in customs processing persist, including undue and costly delays (*e.g.*, irregularities in the valuation process, 100 percent inspection and testing of some products, and customs officials seeking the payment of unrecorded facilitation fees). In particular, despite a firm commitment from the Bureau of Customs to use transaction values to assess duties on imports, as provided for in the Customs Valuation Agreement, importers have reported that reference prices for meat and poultry are still used for valuation. The Customs Bureau has assigned a single reference value for all "other" pork offals (jowls, ear base, tongue, etc.), which does not reflect the actual prices. Traders have reported that reference prices are frequently well above the transaction prices, which has the effect of imposing an artificially high tariff.

GOVERNMENT PROCUREMENT

Government procurement laws and regulations favor Philippine companies and locally produced materials and supplies. The 2003 Government Procurement Act sought to consolidate procurement laws, simplify prequalification procedures, introduce objective and nondiscretionary criteria in the selection process, and establish an electronic single portal for government procurement activities. However, implementation of the Act remains inconsistent. U.S. companies have expressed concern about delayed procurement decisions and payments, as well as differing interpretations of the procurement law among Philippine government agencies.

All government procurements of imported equipment, materials, goods and services require a countertrade requirement of 50 percent of the value of the supplier's supply contract, amounting to at least $1 million, and with penalties for nonperformance of countertrade obligations.

The Philippines is not a signatory to the WTO Agreement on Government Procurement.

SUBSIDIES

The Philippines offers a wide array of fiscal incentives for export-oriented investment, particularly investment related to manufacturing. These incentives are available to firms located in export processing zones, free port zones, and other special industrial estates registered with the Philippine Economic Zone Authority. The available incentives include: income tax holidays or exemption from corporate income tax for four years, renewable for a maximum of eight years; after the income-tax-holiday period, payment of a

special five percent tax on gross income in lieu of all national and local taxes; exemption from duties and taxes on imported capital equipment, spare parts and supplies, and raw materials; domestic sales allowance of up to 30 percent of total sales; exemption from wharfage dues, imposts, and fees; zero VAT rate on local purchases, including telecommunications, electricity, and water; and exemption from payment of local government fees (*e.g.*, mayor's permit, business permit, health certificate fee, sanitary inspection fee, and garbage fee). Furthermore, under the Omnibus Investment Code, which is administered by the Board of Investments, tax incentives are available to producers of non-traditional exports, including electronics, garments, textiles, and furniture, and for activities that support exporters, such as logistics services and product testing.

The Philippine government offers incentives to companies for investment in less developed economic areas and in preferred sectors, as outlined in the Board of Investment's Investment Priorities Plan. The incentives include: income tax holidays; tax deductions for wages and certain infrastructure investments; tax and duty exemptions for imported breeding stock and genetic materials; and tax credits on local purchases of breeding stock and materials. An enterprise with less than 60 percent Philippine equity may enjoy incentives if its projects are classified as "pioneer" under the Investment Priorities Plan. Pioneer status can be granted to Investment Board-registered enterprises that are engaged in the production of new products or using new methods, producing goods deemed highly essential to the country's agricultural self-sufficiency program, or producing or utilizing non-conventional fuel sources. Export-oriented firms, defined as exporting at least 70 percent of production, may also qualify for incentives under the plan.

The Philippines has not filed a subsidy notification under the WTO Agreement on Subsidies and Countervailing Measures since September 1997. In its last trade policy review in 2012, the Philippines maintained that it does not provide export subsidies.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The Philippines was removed from the Special 301 Watch List in 2014 due to sustained efforts by the Philippine government to improve IPR and civil and administrative enforcement. That effort included amendments to the Philippines' Intellectual Property Code in 2013, which contain measures on secondary liability and statutory damages, as well as legislation addressing cable signal piracy and IPR infringement relating to money laundering. The new measures also granted new administrative IPR enforcement powers. Rights holders report improved coordination and effectiveness of the Philippines enforcement efforts and say that incidents of unauthorized camcording remain relatively few in number.

While there have been significant improvements in the Philippine IPR environment in recent years, U.S. rights holders report concerns about increasing Internet-based piracy, counterfeit drugs, and provisions in patent law that may preclude the issuance of patents on certain chemical forms unless the applicant demonstrates increased efficacy. They also have expressed concerns about the availability of pirated and counterfeit goods in the Philippines and judicial inexperience regarding IPR enforcement.

SERVICES BARRIERS

Telecommunications

Philippine regulators have defined telecommunications services as a public utility, which under the Philippine Constitution limits foreign equity ownership in telecommunications companies to 40 percent. Foreigners may not serve as executives or managers of telecommunications companies, and the number of foreign directors allowed is tied to the proportion of foreign investment in the company. The United States has urged the Philippines to reclassify telecommunications outside of the utility definition, as it has done for electricity generation. Efforts to liberalize the foreign investment regime in the telecommunications

sector suffered a setback in 2013 when the Philippines Security and Exchange Commission, based on a 2011 Philippines Supreme Court ruling, upheld an expansive interpretation of what constituted a utility. This action effectively limited foreign ownership to levels set out in the Philippines General Agreement on Trade in Services (GATS) schedule.

The Philippines also applies the public utility designation to value-added services, which is particularly burdensome to service suppliers and inconsistent with international practice. Finally, foreign equity in private radio communications is limited to 20 percent, and foreign ownership of cable TV and all other forms of broadcasting and media is prohibited.

Insurance

While the Philippines only binds foreign ownership in the insurance sector at 51 percent in its GATS commitments, it permits up to 100 percent foreign-ownership in the insurance sector. Minimum capital requirements increase with the degree of foreign equity.

Generally, only the state-owned Government Service Insurance System may provide insurance for government-funded projects. A 1994 order requires sponsors of build-operate-transfer projects and privatized government corporations to secure their insurance and bonding from this insurance system at least to the extent of the government's interest. All reinsurance companies operating in the Philippines must cede to the industry controlled National Reinsurance Corporation of the Philippines at least 10 percent of outward reinsurance placements.

Banking

A law signed on July 15, 2014, liberalizes the entry of foreign banks into the Philippine market. If the banks meet certain requirements, such as reciprocity, diversified ownership, and public listing in the country of origin, foreign banks can establish foreign branches or be permitted to own up to 100 percent of the voting stock of locally incorporated subsidiaries. The new law indefinitely abandons a provision in a 1994 law that capped the number of foreign bank branches in the Philippines at ten and generally limited the ownership of foreign banks in local banking institutions to 60 percent. Banks that seek entry as foreign branches under the new law cannot open more than six branch offices.

As a general rule, foreign non-bank investors are subject to a 40 percent ownership ceiling in domestic banks (reduced from 70 percent under the 1994 law).

Other Financial Services

For a mutual fund, all members of the board of directors must be Philippine citizens. Current laws limit foreign ownership of financing and of securities underwriting companies to 60 percent of voting stock.

The 2007 Lending Company Regulation Act requires majority Philippine ownership for credit enterprises not clearly under the scope of other laws.

Advertising

The Philippine Constitution limits foreign ownership of advertising agencies to 30 percent. All executive and managing officers must be Philippine citizens.

Public Utilities

The Philippine Constitution limits foreign investment in the operation and management of public utilities to 40 percent. Philippine law defines "public utility" to include a range of sectors, including water and sewage treatment, electricity transmission and distribution (although not electricity generation), telecommunications, and transport. All executive and managing officers of public utility companies must be Philippine citizens, and foreign investors may serve on governing bodies only in proportion to their equity.

Professional Services

The Philippine Constitution limits licensing for the practice of professions to Philippine citizens. Under Philippine law, the practice of professions is defined to include law, medicine, nursing, accountancy, engineering, criminology, chemistry, environmental planning, forestry, geology, interior design, landscape architecture, and customs brokerage.

Express Delivery Services

Foreign equity participation in the domestic express delivery services sector is limited to 40 percent.

Retail Trade

Philippine law restricts foreign investment in small retail ventures to Philippine nationals. Foreigners may own larger retail ventures subject to several requirements, including paid-up capital of $2.5 million or more, an $830,000 minimum investment per store, and parent company net worth of over $200 million. In addition, the retailer must either own at least five retail stores elsewhere or have at least one outlet with capitalization of $25 million or more. For retailers of high end or luxury products, the minimum investment in each retail store is $250,000, and the net worth of the parent company must exceed $50 million.

Foreign retailers are prohibited from engaging in trade outside their accredited stores, such as through the use of carts, sales representatives, or door-to-door selling. Retail enterprises with foreign ownership exceeding 80 percent of equity must offer at least 30 percent of their shares to local investors within eight years of the start of operations through public offering of stock.

INVESTMENT BARRIERS

Significant restrictions apply to foreign investment in the Philippines. The Foreign Investment Negative List enumerates foreign investment restrictions in two parts: List A details restrictions mandated by the Constitution or in specific laws, while List B lists restrictions mandated for reasons of national security, defense, public health and morals, and the protection of small and medium sized enterprises (SMEs). Foreign investment in sectors enumerated in the negative list may be prohibited outright (*e.g.*, mass media, practice of professions, small-scale mining) or subject to limitation (*e.g.*, natural resource extraction, investment in SMEs). The current list was issued in October 2012. In May 2013, the Philippines Security and Exchange Commission issued guidelines to monitor corporations for compliance with the foreign equity restrictions mandated by the FINL. Removing investment restrictions in specific laws cited in FINL has been identified as a priority by the Aquino Administration.

The Philippine Constitution prohibits foreigners from owning land in the country, but allows for 50-year lease, with one 25-year renewal. An ambiguous deed and property system can make it difficult to establish clear ownership of leased land, however, and an inefficient judiciary results in land disputes that can extend

indefinitely. U.S. investors report that these disputes can be a particularly significant barrier to investment in mineral exploration and processing sectors.

Trade Related Investment Measures

The Board of Investments imposes a higher export performance requirement on foreign-owned enterprises (70 percent of production) than on Philippine-owned companies (50 percent of production).

OTHER BARRIERS

Corruption is a pervasive and longstanding problem in the Philippines. Both foreign and domestic investors have expressed concern about the propensity of Philippine courts and regulators to stray beyond matters of legal interpretation into policymaking and about the lack of transparency in judicial and regulatory processes. Concerns also have been raised about courts being influenced by bribery and improperly issuing temporary restraining orders to impede legitimate commerce.

QATAR

TRADE SUMMARY

U.S. goods exports in 2014 were $5.2 billion, up 4.3 percent from the previous year. Qatar is currently the 45th largest export market for U.S. goods. Corresponding U.S. imports from Qatar were $1.7 billion, up 27.4 percent. The U.S. goods trade surplus with Qatar was $3.5 billion in 2014, a decrease of $140 million from 2013.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization, issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials are discussing concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

In October 2014, the Public Health Department of Qatar's Supreme Council of Health announced that it would accept halal slaughtering certificates for imports of U.S. meat and poultry products only from U.S. halal certifiers that have also been approved by the United Arab Emirates.

GCC Member States have notified the WTO Committee on Sanitary and Phytosanitary (SPS) Measures of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. As currently drafted, stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also will impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States has raised specific concerns about the Guide and has requested that GCC Member States delay entry into force of the Guide until food safety experts have an opportunity to discuss these concerns.

IMPORT POLICIES

Tariffs

As a member of the GCC, Qatar applies the GCC common external tariff of 5 percent with a limited number of GCC-approved country-specific exceptions. Qatar's exceptions include alcohol (100 percent) and tobacco (150 percent), as well as wheat, flour, rice, feed grains, and powdered milk. In addition, Qatar applies a 20 percent tariff on the import of iron bars and rods, steel and cement; a 30 percent tariff on urea and ammonia; and a 15 percent tariff on imports of musical records and instruments.

Import Licensing

Qatar requires a license for the importation of most products, and only issues import licenses to Qatari nationals. The government has on occasion established special import procedures through government-owned companies to address increases in demand.

Only authorized local agents are allowed to import goods produced by the foreign firms they represent in the local market. However, this requirement may be waived if the local agent fails to provide the necessary spare parts and customer services for the product.

The Qatar Distribution Company, a subsidiary of the national air carrier Qatar Airways, has sole authority to import pork and pork products and alcohol.

Documentation Requirements

The Qatari Embassy, Consulate, or Chamber of Commerce in the United States must authenticate import documentation for imports from the United States. Imported beef and poultry products require a health certificate and a halal slaughter certificate issued by an approved Islamic authority.

GOVERNMENT PROCUREMENT

Qatar provides a 10 percent price preference for goods with Qatari content and a 5 percent price preference for goods containing GCC content. Tenders with a value less than QR 1,000,000 ($275,000) are limited to local contractors, suppliers, and merchants registered with the Qatar Chamber of Commerce.

In October 2013, the government implemented a set-aside that requires foreign companies participating in "mega" infrastructure projects to procure 30 percent of goods and services locally. However, detailed regulations have yet to be announced. In November 2013, the Qatari Ministry of Finance issued a circular requiring all ministries and government agencies, public corporations, and other institutions that receive government support to give a preference to Qatari products when procuring goods to meet day-to-day operational requirements.

Qatar is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Qatar was not listed in the 2014 Special 301 Report. To improve regulation of intellectual property rights (IPR) and encourage foreign direct investment to Qatar, the Office of Intellectual Property Rights was transferred to the Ministry of Economy and Commerce from the Ministry of Justice.

In 2014, Saudi Arabia, Bahrain and Qatar approved the GCC Trademark Law. Kuwait, Oman and the United Arab Emirates are expected to approve the law in 2015, after which implementing regulations will be issued. As the six GCC Member States explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

SERVICES

Agent and Distributor Rules

Only Qatari entities are allowed to serve as local agents or sponsors. However, exceptions are granted for 100 percent foreign-owned firms in the agricultural, industrial, tourism, education, and health sectors. Additionally, some Qatari ministries waive the local agent requirement for foreign companies that have contracts directly with the Qatari government.

Banking

Although foreign banks are permitted to open branches and authorized to conduct all types of business in the Qatar Financial Center (QFC), including provision of Islamic banking services, foreign banks are informally "advised" not to offer services related to retail banking business. Laws and regulations applied to foreign banks registered in the QFC are different from the ones adopted by Qatar Central Bank and more closely resemble international standards.

INVESTMENT BARRIERS

The Organization of Foreign Capital Investment Law (Law 13 of 2000, as amended) governs foreign investment in Qatar. It requires that 51 percent of the share capital in any local venture be held by a Qatari national. Exceptions to these rules may be granted for foreign companies to own up to 100 percent of projects in the agricultural, industrial, health, education, tourism, development and exploitation of natural resources, distribution services, technical and information consultancy, cultural, sports and entertainment services, and energy and mining sectors. Foreign investment is generally not permitted in banking and insurance, or in commercial agency or real estate activities.

In August 2014, Qatar issued Law No. 9 of 2014, amending provisions of the Organization of Foreign Capital Investment Law regarding investment of non-Qatari capital in the Qatar Exchange, allowing foreign investors to own up to 49 percent of the shares of Qatari shareholding companies listed on the exchange, an increase from the previous 25 percent threshold.

Foreign ownership of residential property is limited to select real estate projects. Foreigners can receive residency permits without a local sponsor if they own residential or business property, but only if the property is in a designated "investment area."

RUSSIA

TRADE SUMMARY

U.S. goods exports in 2014 were $10.8 billion, down 3.3 percent from the previous year. Russia is currently the 29th largest export market for U.S. goods. Corresponding U.S. imports from Russia were $23.7 billion, down 12.5 percent. The U.S. goods trade deficit with Russia was $12.9 billion in 2014, a decrease of $3.0 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Russia was $14.6 billion in 2013 (latest data available), down from $14.8 billion in 2012. U.S. FDI in Russia is led by the manufacturing, banking, and wholesale trade sectors.

Since early 2014, Russia's illegal actions in Ukraine and the Crimea have been condemned by the international community and resulted in the imposition of economic sanctions by Russia's major trading partners, including the United States. While the U.S. Government has curtailed bilateral engagement with Russia on trade and commercial issues in response to Russia's actions in Ukraine, we will continue to work through the World Trade Organization (WTO) to monitor Russia's trade and investment regime to ensure that Russia implements fully its WTO commitments. If circumstances change, and if warranted, USTR will reengage in bilateral discussions on Russia's market access barriers.

Membership in the World Trade Organization

On August 22, 2012, Russia became the 156th Member of the WTO, and on December 14, 2012, following the termination of the application of the Jackson-Vanik Amendment to Russia, the United States and Russia consented to the application of the WTO Agreement between the two countries. As a consequence, following nearly 20 years of negotiations, the United States and Russia are applying the terms and conditions of the WTO Agreement to each other. In June 2014, USTR issued its second annual "Report on WTO Enforcement Actions: Russia," and in December 2014, its second annual "Report on Russia's Implementation of the WTO Agreement." (These reports are available at http://www.ustr.gov).

Russia-Kazakhstan-Belarus Customs Union and the Eurasian Economic Union

On January 1, 2010, the Russia-Kazakhstan-Belarus Customs Union began implementing a customs union (the Customs Union or CU) by adopting a common external tariff (CET) with the majority of the tariff rates established at the level that Russia applied at that time. (When Russia joined the WTO in 2012, the CU adopted Russia's WTO schedule of tariff bindings.) On January 1, 2015, Russia, Kazakhstan, and Belarus continued their move toward regional economic integration with the establishment of the Eurasian Economic Union (EAEU) as the successor to the CU. Armenia joined the EAEU on January 2, 2015, and Kyrgyzstan has approved a "Roadmap" to join the EAEU.

A common Customs Code applies to the EAEU Member States, and the Member States abolished all customs posts on their internal borders, allowing for the free flow of most goods among the Member States. The Eurasian Economic Commission (EEC) is the supranational body charged with implementing external trade policy for Members States and with coordinating economic integration among Member States, having replaced the CU Commission in that role.

As a consequence of its membership in the EAEU, Russia's import tariff levels, trade in transit rules, nontariff import measures (*e.g.*, tariff-rate quotas, import licensing, and trade remedy procedures), and

customs policies (*e.g.*, customs valuation, customs fees, and country of origin determinations) are based on the CU/EAEU legal instruments. On these and other issues involving goods, CU Agreements and CU/EEC Decisions establish the basic principles that are implemented at the national level through domestic laws, regulations, and other measures. CU Agreements and CU/EEC Decisions also cover issues such as border enforcement of intellectual property rights, trade remedy determinations, establishment and administration of special economic and industrial zones, and the development of technical regulations and sanitary and phytosanitary measures. The Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011 establishes the priority of the WTO rules in the CU/EAEU legal framework.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

U.S. companies cite technical regulations and related product testing and certification requirements as major obstacles to U.S. exports of industrial and agricultural goods to Russia. Russian authorities require product testing and certification as a key element of the product approval process for a variety of products, and only an entity registered and residing in Russia can apply for the necessary documentation for those product approvals. Consequently, opportunities for testing and certification performed by competent bodies outside Russia are limited. For example, U.S. companies have observed that the procedures associated with Russia's requirement to have a "supplier's declaration of conformity" are unnecessarily burdensome. This document is meant to confirm the safety of products for the environment and the health of people and animals. Manufacturers of telecommunications equipment, oil and gas equipment, and construction materials and equipment, in particular, have reported serious difficulties in obtaining product approvals within Russia. Other member countries of the EAEU are in the process of adopting a similar system.

Alcoholic Beverages – Conformity Assessment Procedures, Standards, and Labeling

Russia's regulation of the alcoholic beverages market has raised a number of concerns about consistency with the substantive requirements of the WTO TBT Agreement. At the national level, there has been a long-standing requirement to register alcoholic beverage products with the Federal Supervisory Service for Protection of Customers Rights and Human Well-Being (Rospotrebnadzor). Since 2013, FSR has maintained additional procedures establishing a notification requirement for both existing and new-to-market alcoholic beverages to be sold in the Russian market. Much of the information required by FSR in its notification appears duplicative of information provided to Rospotrebnadzor in the registration process. Furthermore, FSR provided a transition period of only four months between publication and implementation. In addition, the EEC is considering yet another level of registration, administered by at least three different government authorities, all of which appear to have the same objective of data registration, further duplicating in large part the registration and notification procedures applied at the national level. U.S. officials have raised concerns with the Russian government about these duplicative notification measures and the short timeframes for implementation (as well as the warehouse and distribution licensing practices discussed above), and have requested that Russia notify these measures to the WTO. The United States will continue to work to eliminate the completion of the regulation of alcoholic beverages by eliminating duplicative conformity assessment procedures administered by different agencies and to ensure Russia's alcoholic beverages control regime is consistent with its WTO commitments.

The draft CU "Technical Regulation on Alcoholic Product Safety" also introduces burdensome and unique requirements to label all alcoholic beverages with an expiration date, or include a label indicating that "the expiry date is unlimited if the storage conditions are observed." U.S. stakeholders note that the proposed requirement does not provide accurate or beneficial information for products containing more than ten percent alcohol, because these products do not expire. Furthermore, the proposed expiration date

requirement appears inconsistent with international guidelines which exempt beverages containing ten percent or more by volume of alcohol from such date marking requirements. The United States will encourage Russia to eliminate this requirement for alcoholic beverages containing more than ten percent alcohol by volume, and urge Russia to adopt international standards or guidelines for such products.

The proposed technical regulation gives rise to other issues that could adversely affect U.S. exports of alcoholic beverages, including unclear definitions for wine and wine beverages and a requirement that whiskey be aged no less than three years. The United States will continue to work with Russia on this matter in the context of the WTO TBT Committee.

Pharmaceuticals

In December 2014, the Russian Duma approved amendments to the Federal Law on Circulation of Medicines, including a definition for biologics. The United States will continue to monitor this issue to determine whether specific market access concerns arise. In addition, U.S. stakeholders have raised concerns over mandatory testing of clinical trial samples, asserting that Russia's requirements lack clarity and are too vague to implement. In addition, the Ministry of Industry and Trade proposed a draft decree on September 3, 2014, which would bar foreign drugs from competing in government tenders if there are two equivalent drugs available from Russian or other EAEU Member States. Lastly, Russia requires mandatory Russian patient participation in clinical trials. These requirements are often onerous for companies to meet, especially for drugs for rare medical conditions, where by definition, population samples are low.

Medical Devices

According to U.S. stakeholders, shifting registration requirements for medical devices has led to confusion and delays in bringing products to the Russian market. In 2012, Russia introduced new registration procedures requiring that all medical devices previously approved for use in Russia be re-registered with Roszdravnadzor, the Russian regulatory body in charge of medical devices, by the end of 2013. Due to objections from the U.S. Government and stakeholders concerning the short deadlines, as well as to delays in re-registration, the deadline was pushed back to January 1, 2017. Roszdravnadzor is again revising its medical device registration system based on EAEU requirements. The EAEU requirements contain inadequate definitions, insufficient transition periods and duplicative reporting requirements, raising questions for U.S. companies as to when and how to properly register medical devices with the Russian government.

Transparency

The United States has continued to emphasize to Russia the importance of timely notifications to the WTO of draft technical regulations so as to enable other WTO Members to provide comments prior to finalization. Although Russia has notified numerous technical regulations to the WTO, it appears to be taking a narrow view regarding the types of measures that need to be notified. Consequently, its notifications in 2014 may not reflect the full set of technical regulations or conformity assessment procedures that Russia or the EEC proposed that year and that should have been notified under the WTO TBT Agreement. For example, Russia has not notified measures related to new registration requirements for alcoholic beverage products; amendments to its Federal Law on Circulation of Medicines; or certain technical standards and regulations governing the required installation of GLONASS-compatible navigational systems in civil aircraft. The United States has used a variety of fora, including WTO TBT Committee meetings and inquiry point requests, to urge Russia to notify proposed technical regulations and conformity assessment procedures. To date, Russia has followed up by notifying some proposed technical regulations and conformity assessment procedures in a reasonable period of time. In addition, the United States has raised concerns about the comment periods provided by Russia or the EEC, as appropriate, on draft technical regulations to

ensure that the United States and interested parties have adequate time to comment. The United States will continue to urge Russia to identify and use a single inquiry point and to notify at an earlier stage proposed technical regulations and conformity assessment procedures (including proposed amendments) that may have a significant effect on trade. The United States also continues to remind Russia of its obligation to take into account comments submitted by other WTO Members.

Sanitary and Phytosanitary Barriers

Russia is obligated, like all other WTO Members, to ensure that its SPS measures comply with the requirements of the SPS Agreement (*e.g.*, they are based on scientific principles, not maintained without sufficient scientific evidence, and are only applied to the extent necessary to protect human, animal, or plant life or health). Russia must also comply with its commitments on SPS matters contained in its protocol of accession to the WTO. Nevertheless, Russia often uses SPS measures to block imports of U.S. agricultural products in a seemingly arbitrary and discriminatory manner. Russia's SPS standards are often overly prescriptive with detailed requirements on facilities and the method of production rather than focusing on the wholesomeness of the product. In some cases, Russia's minimum residue levels (MRLs) differ from international standards, but Russia does not appear to have provided risk assessments that conform to international guidelines.

Beef and Beef Products

Currently, U.S. producers may not export to Russia deboned beef, bone-in beef, and beef by-products from cattle under the age of 30 months, and Russia also maintains a ban on imports of ground beef from cattle of any age purportedly to mitigate the risk of bovine spongiform encephalopathy (BSE). Moreover, Russian BSE requirements effectively preclude any U.S. cooked beef from qualifying for importation into Russia. The United States will continue to urge Russia to open its market fully to U.S. beef and beef products based on science, the OIE guidelines, and the U.S. BSE negligible risk status.

In addition, Russia has adopted a zero tolerance for beta-agonists and trenbolone acetate, standards that are more stringent than Codex's MRLs for beef. Russia does not appear to have provided risk assessments that conform to Codex guidelines for any of these products. Although the United States has established a "Never Fed Beta Agonists Program," the Russian prohibition on these hormones has deterred U.S. exporters from re-entering the Russian market. These measures remain more stringent than the relevant international standards and a market access barrier of concern to the United States. The United States will continue to press for the removal of these barriers to exports of U.S. beef and beef products.

Milk and Milk Products

Despite concluding negotiations in 2014 on a United States-CU veterinary certificate for heat-treated milk products, Russia has effectively banned the importation of U.S. dairy products since September 2010, when Rosselkhoznadzor (Russia's Federal Service for Veterinary and Phytosanitary Surveillance) instructed customs officials to allow shipments only from exporters on Rosselkhoznadzor-approved lists. This directive appears inconsistent with Russia's WTO commitment and with EAEU legislation requiring the elimination of the requirement that a foreign producer be included on Rosselkhoznadzor lists to be eligible to export dairy products to Russia. The United States continues to work with Russia and its EAEU partners to eliminate the listing requirement for exporters of low-risk products (*e.g.*, dairy).

Pork and Pork Products

Russia maintains near-zero tolerance levels for tetracycline-group antibiotics, a standard that is more stringent than Codex. Russia agreed as part of its WTO accession commitments to submit a risk assessment

for tetracycline antibiotics conducted in accordance with Codex methodology or align its tetracycline standards with Codex standards. However, to date, Russia has yet to pursue either approach. In addition, the adverse impact on U.S. exports of beef and beef products resulting from Russia's adoption of a zero tolerance for both beta-agonists and trenbolone acetate (described above) has similarly deterred U.S. pork and pork products producers from re-entering the Russian market. These measures remain a market access barrier of concern to the United States. The United States will continue to press for the removal of these barriers to exports of U.S. pork and pork products.

Russia also requires U.S. pork to be frozen or tested for trichinosis, a requirement that constitutes a significant impediment to exports of U.S. fresh and chilled pork to Russia. The United States does not consider these requirements related to trichinosis to be necessary, because U.S. producers maintain stringent biosecurity protocols that limit the existence of trichinae in the United States to extremely low levels in commercial swine. The United States will continue to work with regulatory authorities in Russia to resolve this trade concern.

Poultry

On January 1, 2010, Russia banned the importation and sale of chicken that had been treated with chlorine to reduce the threat of pathogens. This measure essentially halted all imports of U.S. poultry into Russia. As a result of bilateral negotiations, trade in poultry products resumed in September 2010 with exports of non-chlorine-treated poultry. Russian regulations also place an upper limit on the amount of water content in chilled and frozen chicken, despite calls by stakeholders and the U.S. Government to adopt the alternative of requiring labeling regarding water content. In addition, Russia continues to ban the importation and sale of certain frozen poultry for use in baby food and special diets. Russia has not yet provided the United States with risk assessments that conform to international standards to support these various regulations related to poultry. The United States will continue to work with regulatory authorities in Russia to resolve these trade concerns.

Pet Food and Animal Feed

Russia requires a veterinary certificate to ship pet food and animal feed to Russia, as well as a letter from the producer either attesting to the absence of feed derived from agricultural biotech, or a copy of the agricultural biotech registration provided by the Russian Ministry of Agriculture. Additionally, Russia restricts the use of most U.S. ruminant-origin ingredients in pet foods and animal feeds, further impeding the access of U.S. exports to this market.

Agricultural Biotech

Although Russia has established a system for the approval of agricultural biotech food and feed products, the United States continues to have concerns with the implementation of this system, including Russia's requirements that registrations for agricultural biotech feed products are time limited and labeling of agricultural biotech products. Registrations for food are effective for an unlimited period, while feed registrations are granted for five years. Each application fee (the first for both food and feed and the second for re-registration of feed events) costs on average $100,000. The fee is unnecessarily onerous.

Labeling requirements, governed by technical regulations of the EAEU, mandate labeling of all food that contains more than 0.9 percent agricultural biotech products, wrongly implying that these products are unsafe. A technical regulation for the labeling of agricultural biotech feed has not yet been adopted by the EAEU, leaving feed subject to the Russian regulations, creating further confusion for suppliers. Additionally, the United States is monitoring implementation of a system to approve agricultural biotech products for cultivation. Although Russia approved a framework of rules for the registration of agricultural

biotech products for cultivation to start in July 2014, in June 2014, the Government delayed this start by three years, to 2017. Because the registration process takes five to six years, cultivation of agricultural biotech crops in Russia cannot be expected before 2023-2024, delaying any opportunity for the trade of agricultural biotech seeds. The United States has encouraged Russia to address these specific concerns, as well as to promote greater cooperation on agricultural biotech generally.

Zero Tolerance for Veterinary Drugs and Pathogens

Russia maintains a zero tolerance policy for residues of those veterinary drugs that Russia has not approved, many of which are commonly used in U.S. animal production. Findings of veterinary drug residues during Russian border inspection of U.S. products have resulted in trade disruptions, including the de-listings of U.S. beef, pork, and poultry facilities as approved sources for exported product to Russia. Russia similarly maintains a zero tolerance policy for all food products, including raw meat and poultry, for *Salmonella*, *Listeria*, coliforms, and colony-forming units of aerobic and anaerobic bacteria. Such a policy is unwarranted with regard to raw products, because it is generally accepted by food safety experts and scientists that these pathogens are often closely associated with raw meat and poultry products and cannot be removed from the product. Russia has failed to provide an adequate risk assessment to justify its more stringent standards.

Veterinary Certificates

Russia and the EAEU require veterinary certificates to include broad statements by U.S. regulatory officials that the products satisfy EAEU sanitary and veterinary requirements, including meeting certain chemical, microbiological, and radiological standards. This requirement is problematic because many EAEU sanitary and veterinary requirements appear excessively restrictive and appear to lack scientific justification.

Systemic Issues

U.S. exporters continue to face systemic issues related to the export of agricultural products to Russia. Russia requires export certificates for products for which certifications are unnecessary. For example, Russia requires phytosanitary attestations for shipments of certain plant-origin products destined for further processing, such as corn for popcorn, even though such processing removes any potential risk. Likewise, Russia requests U.S. exporters to submit certifications stating that the United States is free from various livestock diseases, even where there is no risk of transmission from the product in question. The United States is also concerned with Russia's implementation of WTO obligations to remove certain veterinary control measures for lower risk products.

Russia, pursuant to an EEC, allows imports only from facilities on a list approved by all EAEU Member States. The United States has worked with Russian and other EAEU authorities to narrow the scope of products subject to this listing requirement, with some success, but much of this work remains ongoing. . Pursuant to a bilateral agreement signed in November 2006, Russia agreed to grant U.S. regulatory officials the authority to certify new U.S. facilities and U.S. facilities that have remedied a deficiency. In practice, however, Russia has not consistently recognized the authority of U.S. regulatory officials to certify additional U.S. facilities, and there have been delays in responding to U.S. requests to update the list of approved U.S. facilities. The EAEU has competence for facility inspections and approvals. The United States worked with Russia and EAEU authorities to negotiate a new EAEU inspection regulation that allows the EAEU to accept the certification of additional facilities provided by SPS authorities in third countries that certify new facilities. However, implementation of this regulation has lacked predictability and transparency, because EAEU Member States often continue to insist on conducting their own inspections prior to approval of a facility, without providing any rationale. The United States will work closely with Russia to ensure that the EAEU inspection regulation is fully implemented.

IMPORT POLICIES

On August 6, 2014, Russia issued an order banning certain agricultural imports from the United States, the European Union, Canada, Australia, and Norway for a period of one year. The products banned include certain beef, pork, poultry, fish and seafood products, fruits and nuts, vegetables, some sausages, and prepared foods. In calendar year 2013, the United States shipped $1.3 billion of agricultural and related food products (including fish and forestry products) to Russia, and of this amount approximately 55 percent is attributable to products that are now restricted. The United States has a relatively small market share in Russia, accounting for only approximately 4 percent of Russia's total agricultural imports in 2013 (most recent data available). In addition to the ban on agricultural products, in November 2014, Rosselkhoznadzor began subjecting shipments from Belarus to Kazakhstan to additional scrutiny, effectively preventing banned goods from transiting through Russia.

Tariffs, Customs Issues and Taxes

Although Russia implemented the second round of annual tariff reductions in August 2014 as required by its WTO commitments, the implementation of some of its other tariff commitments has raised concerns. One source of concern stems from Russia's implementation of decisions of the EEC (the EAEU body responsible for administering the CET). In particular, pursuant to those decisions, Russia appears to have changed the type of duty on certain tariff lines by augmenting the *ad valorem* rates with an additional minimum specific duty (thereby creating a "combined tariff"). Under WTO rules, the resulting combined tariff must not exceed Russia's bound tariff commitments. However, Russia has not made clear to WTO Members whether the combined tariffs are within the limits of its bound tariff commitments. In addition, although Russia joined the Information Technology Agreement on September 13, 2013, it has not yet notified the WTO of the requisite modifications to its WTO tariff schedule to reflect its tariff elimination commitments. The United States continues to pursue these issues in the WTO to ensure that Russia is not exceeding its bound rates.

A requirement that all customs duties, excise taxes, and value-added taxes on alcohol be paid in advance of customs entry using a bank guarantee and deposit is a longstanding customs challenge faced by importers of alcoholic products. Russian Customs often requires bank guarantees far in excess of the actual tax liability of the covered goods, especially for lower value products. Russian law permits the Customs Service to set the bank guarantee at the highest amount that could be due if the actual amount due cannot be calculated; however, stakeholders claim that information sufficient to calculate a more accurate (and usually lower) bank guarantee amount is generally available to Russian Customs. In addition, stakeholders have reported that refunds of these guarantees are sometimes delayed for as long as seven months. The advance payment requirement for duties and taxes, and the long delay in bank guarantee refunds, may limit trade volumes due to the amount of money that importers must dedicate to guarantees. Furthermore, some Russian customs posts have interpreted EAEU rules to require both a CU bank guarantee as well as a Russian bank guarantee, effectively establishing a double bank guarantee.

U.S. stakeholders have raised concerns that the practice of Russian Customs of assessing tariffs on the royalty amounts for the domestic use of imported audiovisual materials, such as TV master tapes, represents a form of double taxation because royalties are also subject to withholding, income, value-added (VAT), and remittance taxes. U.S. consumer goods companies have also reported that Russian customs authorities calculate customs duties based on the value of the product plus the amount of royalty payments that the Russian subsidiary must pay to the overseas parent company for the use of the parent company's trademarks. U.S. companies contend that this methodology leads to inflated valuations for tariff purposes. Of further concern is Russia's rebate of VAT on payments for the "right to use" cinema products. The VAT payments on royalties paid for screening "Russian" movies (as defined in the Russian tax code) can

be rebated but not VAT payments on royalties for screening U.S. (or other non-Russian) films. This practice increases the cost of screening U.S. films.

U.S. stakeholders has also raised concerns about Russia's copyright levy system. Russia collects a levy on both domestically produced and imported products that can be used to reproduce copyrighted material for personal use (*e.g.*, video recorders, voice recorders, and photocopy machines). Those levies are provided to an accredited royalty collecting society for distribution to rights holders. However, the list of domestically produced products on which the levies are paid appears to differ from the list of imported products on which the levies are paid. In addition, the reporting and payment systems also appear to differ. Russian Customs provides information on imports to the Ministry of Culture, which in turn provides the information to the collecting society to verify the payment of the levies, whereas domestic manufacturers pay based on sales, and self-notify. Further, although Russia accredited a collecting society to undertake the collection of levies and distribution of royalties, U.S. stakeholders have raised concerns regarding the lack of transparency in this process. The legitimacy of that collecting society has also been challenged in the Russian courts, creating uncertainty as to its credibility and reliability. U.S. officials have raised concerns about these issues with Russia's Ministry of Culture and the Ministry of Economic Development and Trade.

U.S. stakeholders also reports that Russia does not publish all regulations, judicial decisions, and administrative rulings of general application on customs matters. In addition, U.S. exporters report that customs enforcement varies by region and port of entry, and that frequent changes in regulations are unpredictable, adding to costs and delays at the border. In its WTO accession protocol, Russia committed to publish all trade-related measures and implement notification, public comment, and other transparency requirements for a broad range of trade-related measures. U.S. officials have pressed Russia to meet these important WTO transparency requirements.

Import and Activity Licenses

Although Russia simplified its licensing regimes when it became a WTO Member, the processes to obtain an import or activity license remain burdensome and opaque. For example, in its WTO accession protocol, Russia committed to reform its import licensing regime for products with cryptographic functionalities ("encryption products"). However, U.S. exporters report that Russia continues to limit the importation of encryption products through the use of import licenses or one-time "notifications." Issues have been raised regarding the process for importing consumer electronic products considered to be "mass market" products under the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (the "Wassenaar Arrangement"). A simple notification process is supposed to apply to these products; however, the EAEU regulations governing the definition of "mass market" products do not accurately reflect the definition of such products under the Wassenaar Arrangement or Russia's WTO commitments. Moreover, the Russian requirements to meet the definition of "mass market" are burdensome and appear to go beyond what is required under the EAEU regulations. As a result, U.S. exports of encryption products, particularly common consumer electronic products, continue to be inhibited.

In addition, in 2012, Russia amended the regulations governing activity licenses for the distribution, among other activities, of encryption products. In doing so, Russia reasserted control over many consumer electronic products that had previously not required an activity license to distribute. Because an activity license to distribute encryption products is required to obtain an import license for encryption products, the 2012 amendments impose an additional indirect burden on the importation of such products.

When Russia became a WTO Member, it abolished the requirement to obtain an import license for alcohol. However, Russia's Federal Service for the Regulation of the Alcohol Market (FSR) still requires an activity

license to warehouse and distribute alcohol in Russia, and stakeholders assert that the difficulty and expense involved in obtaining this license is disruptive to trade. The process is burdensome and expensive, and the license once issued is valid for only five years. In fact, several U.S. exporters have experienced months of delays and expended thousands of dollars seeking to bring their warehousing practices into conformity with relevant regulations after inspections raised compliance issues

Furthermore, alcohol distributors have raised concerns about seemingly onerous and arbitrary requirements of Russian Order #59 governing the conditions for the storage of alcoholic beverages and which must be met in order to obtain an activity license. For example, Order #59 prohibits the storage of different types of alcohol on one pallet; precludes the storage of other goods with alcohol products and requires certificates from third-party government agencies that require a great deal of time and effort to obtain. Notwithstanding revisions in 2012 that improved slightly the terms of conditions imposed by Order #59, concerns remain. The United States has sought clarification regarding the specificity of warehouse construction requirements, the stringency of warehouse inspections, and temperature controls, which appear to exceed international standards. In addition, Russian importers of U.S. products have complained that FSR is denying their applications for a warehouse license on spurious grounds apparently to limit the number of importers in this sector. The United States has raised concerns about Russia's warehousing requirements but has yet to receive a response from the Russian government. The United States will continue to work to ensure that Russia's alcohol warehouse licensing provisions are WTO consistent, transparent and not unnecessarily burdensome. In addition, Russia (and the EAEU) imposes various (and duplicative) technical requirements governing the alcoholic beverage sector (see discussion on Technical Barriers to Trade).

Import licenses and/or activity licenses to engage in wholesale and manufacturing activities are also necessary for the importation of pharmaceuticals, explosive substances, narcotics, nuclear substances, equipment to be used at nuclear installations and corresponding services, hazardous wastes (including radioactive waste), and some food products (*e.g.*, unprocessed products of animal origin). The process for obtaining these licenses is often unpredictable, nontransparent, time-consuming and expensive. Similarly, Russia's opaque and burdensome activity licensing regime allows it to control access to many sectors, such as mining. U.S. officials have raised concerns about these import licensing issues with Russian and EAEU officials.

Automotive and Vehicle Recycling Fees

On September 1, 2012, Russia introduced a "recycling fee" on automobiles and certain other wheeled vehicles. Under the new law, importers and manufacturers in Russia of automobiles and certain other wheeled vehicles pay a fee, determined by the age, total mass and engine size of the vehicle, intended to cover the cost of recycling the automobile at the end of its useful life. Rates range from 2,000 rubles to 5.5 million rubles (approximately $37 to $101,000) for new vehicles and from 3,000 rubles to 6 million rubles (approximately $56 to $111,000) for used vehicles. Originally, automobile manufacturers located in Belarus, Kazakhstan, and Russia were not required to pay this fee if they agreed to establish procedures designed to dispose of a vehicle at the end of its useful life. Russian officials justified the new program on environmental grounds, and promised that the fee would be temporary. The United States, as well as other WTO Members, raised concerns about the consistency of this program with Russia's WTO obligations. On October 10, 2013, the EU requested the establishment of a WTO dispute settlement panel. On October 21, 2013, President Putin signed a law extending the recycling fee to domestic automobile manufacturers, regardless of any producer's commitment to recycle its vehicles. Vehicles imported from Kazakhstan and Belarus are also now subject to the recycling fee. However, concerns remain regarding the overall level and calculation of the fee for heavy duty commercial vehicles. Although a WTO dispute settlement panel has been established, the members of the panel have not been selected.

Import Substitution Policies

In 2014, the Russian government accelerated its promotion of import substitution and called for more local production across a variety of sectors. Government officials, including President Putin, have signaled that import substitution is now a central tenet of Russian economic policy. The medical device and pharmaceutical industries (see below) are examples of sectors in which localization policies have been developed and implemented over several years. In addition, there are currently sectorial import substitution proposals for defense, health care, consumer goods, oil and gas equipment, information technology (IT), light industry, textiles, and agriculture. The preferred mechanism for implementing these policies appears to be through government procurement, which may also be extended to state-owned enterprise (SOE) procurement in 2015 (see discussion below on Government Procurement).

Russian government officials have targeted various sectors for localization. After the import ban on certain agriculture products (see above) was implemented, government officials pressed for greater food self-sufficiency. For heavy machinery, the Minister of Industry and Trade has called for increasing the share of machinery and tool equipment produced domestically from the current 10 percent to 60 percent by 2020. Pharma 2020, the government's pharmaceutical industry development plan, calls for Russian manufacturers to account for at least 50 percent of total domestic sales (based on value) by 2020. Other healthcare- related policies that discriminate against U.S. exporters in favor of domestic producers include a reimbursement system that allows only domestic companies to request annual adjustment of prices registered by the Ministry of Health, and a 15 percent price preference for Russian (and Belarusian) companies in federal and municipal procurement auctions. Russia also has proposed a ban on government procurement of certain medical devices manufactured outside the EAEU or by a company which does not have an agreement on the localization of production in Russia. Opening market access for non-Russian pharmaceutical firms will remain an ongoing challenge in light of Russia's desire to develop an indigenous industry.

The Ministry of Economic Development and the Ministry of Industry and Trade set the parameters for determining what constitutes domestic telecommunications equipment, and therefore what equipment could be used in specified applications or projects. The localization level depends on the scope of the research activities and technological operations carried out in Russia, resulting in localization levels from 60 percent to 70 percent. Moreover, to qualify, a company manufacturing telecommunications equipment must be a Russian resident and at least less 50 percent owned by a Russian party or entity. Also, the manufacturer must have the legal rights to the technologies and software, possess its own production base, manufacture printing boards, and carry out final assembly of the telecommunications equipment in Russia.

Russia developed a global navigation positioning technology called GLONASS as an alternative to the U.S. GPS system. Russia's Ministry of Transport issued a rule in March 2012 requiring that GLONASS-compatible satellite navigation equipment must be installed on all Russian-manufactured aircraft, with varying deadlines depending on the use, age, and size of the aircraft, but on all aircraft not later than 2016. In addition, any foreign-manufactured aircraft listed in a Russian airline's Air Operator Certificate must have GLONASS or GLONASS/GPS compatible satellite navigation equipment installed by January 1, 2018 or earlier, depending on the size of the aircraft. Because U.S. aircraft are not currently configured for GLONASS, modifications to the aircraft would be necessary to meet this new rule.

EXPORT POLICIES

Although Russia has eliminated export duties on a few products, it maintains export duties on 240 types of products for both revenue and policy purposes. For example, a variety of products are subject to export tariffs, such as certain fish products, oilseeds, fertilizers, non-ferrous metals, hides and skins, and wood products. Russia has indicated that it intends to eliminate gradually most of these duties, except for products deemed strategic, such as hydrocarbons and certain scrap metals. Government Resolution No. 705, dated

July 25, 2014, decreased export duties on certain types of fish, seafood, oilseeds, wood products, and some other non-agricultural products. Although Russia also committed to decrease export duties on timber to levels between 5 percent and 15 percent, domestic industry pressure continues to delay implementation.

On December 25, 2014, the Russian government approved Resolution No. 1495, "On introduction [of] changes into export customs tariff rates for commodities, exported from the Russian Federation outside of the boundaries of states - members of the Customs Union Agreement." As a result, starting February 1, 2015, and ending June 30, 2015, an export tariff will be imposed on wheat in the amount of 15 percent of the customs value plus 7.5 Euros, but not less than 35 Euros, per metric ton. Such export taxes can distort trade flows by limiting supplies of key staple commodities, undermining global food security and providing an incentive for trade distorting self-sufficiency policies in net importing countries.

Historically, Russia established high export duties on crude oil to encourage domestic refining. However, Russia committed to cut its export duty on oil and oil products to the level of Kazakhstan as part of the process to establish the EAEU. Amendments to the Tax Code signed into law on November 24, 2014, will gradually reduce export duties on oil and light oil products and increase the mineral extraction tax and export duties for refined products to compensate for the resulting loss of federal budget revenues. The change will make domestic crude more expensive for domestic refiners. At the same time, Russia continues to implement a variety of *ad hoc* tax breaks designed to encourage the development of resources that are difficult to extract. Separately, the government maintains a 30 percent export tax on natural gas.

Uncertainty in the availability of Russian ferrous scrap on the world market continues to cause concern among U.S. stakeholders of possible market distortions. In February 2015, the Russian government introduced a proposal that could temporarily ban the export of scrap metal in order to counteract recent domestic price increases. Moreover, stakeholders claim that Russia has placed higher rail freight rates on certain raw materials intended for export, contrary to its commitment to eliminate discrepancies in such rates by July 1, 2013. In addition, it has not published any changes to rates or notified the WTO of elimination of differential freight rates.

SUBSIDIES

Gazprom, a Russian state-owned company that currently has a monopoly on exports of pipeline natural gas produced in Russia, charges higher prices on exports of natural gas than it charges to most domestic customers. U.S. stakeholders have concerns that Russia's natural gas pricing policies effectively operate as a subsidy to domestic industrial users in energy-intensive industries such as the steel industry and the fertilizer industry (which uses natural gas as an input).

GOVERNMENT PROCUREMENT

Although not yet a signatory to the WTO Agreement on Government Procurement (GPA), as part of its WTO accession, Russia committed to initiate negotiations for accession to the GPA by 2016. Russia became an observer to the GPA in May 2013. When it joined the WTO, Russia committed that its government agencies would award contracts in a transparent manner according to published laws, regulations, and guidelines.

As discussed below, Russia has adopted certain local content requirements which it argues are not subject to the national treatment obligations of the General Agreement on Tariffs and Trade (GATT) and General Agreement on Trade in Services (GATS) because they relate to government procurement. Given the breadth of the government's role in the economy and the scope of "buy Russia" policies, such measures impede trade because U.S. exports are excluded from a broad section of the Russian economy.

In 2014, Russia adopted three "buy Russia" requirements. First, on March 25, Russia's Ministry of Economic Development established a 15 percent preference for goods (including pharmaceuticals) of Russian or Belarussian origin in purchases for government use (MED Order 155, March 25, 2014). Second, Russia adopted Resolution #656 on July 14 banning states and municipalities from purchasing foreign-made automobiles, other vehicles and machinery. Foreign-brand automobiles that meet the localization requirement are not restricted. Third, the Russian government has also banned procurement of a broad array of foreign light industrial goods (Decree No. 791 issued August 11, 2014) that are produced outside Russia or the EAEU Member States.

There are at least seven proposed or draft measures currently under consideration to implement "buy Russia" requirements. The Ministry of Industry and Trade proposed four such measures, in the form of draft resolutions: (1) to restrict foreign pharmaceutical manufacturers from participating in government drug tenders if two equivalent drugs are produced in Russia or EAEU Member States; (2) to ban purchases by major state-owned enterprises (SOEs) of imported automobiles, metal products, and heavy machinery except those goods with no equivalents made in Russia; (3) to require SOEs to use domestic software, possibly giving a 15 percent price preference; (4) to restrict government and SOE purchases to a specific list of medical devices produced in the EAEU when Russian supply is insufficient to meet national needs. Other ministries also proposed "buy Russia" restrictions in 2014. The Ministry of Communications proposed restricting government procurement of foreign software products to only those purchased from companies listed on special register of Russian or EAEU firms. The Ministry of Economic Development proposed amending the Federal Public Procurement Law to prohibit government procurement of foreign-made goods and services if there are two or more domestic producers also bidding; this proposal is in addition to the aforementioned 15 percent price preference already provided to EAEU firms. Finally, the Russian Ministry of Agriculture proposed a government order that would ban all government purchases of imported agricultural products, with the intention of persuading all EAEU Member States to follow suit.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Russia remained on the Priority Watch List in the 2014 Special 301 Report. The Report identifies online piracy, inadequate enforcement, counterfeiting and lack of transparency as some of the significant obstacles to adequate and effective protection of intellectual property rights (IPR) in Russia. U.S. and multinational companies continue to report counterfeiting of trademarked goods, especially of consumer goods, distilled spirits, agricultural chemicals and biotech products, and pharmaceuticals.

While Russia's IPR legislation has been strengthened as a result of its WTO accession, and physical counterfeiting appears to be on the decline, digital copyright violations for films, videos, sound recordings and computer software remain a significant problem, particularly online. On November 23, 2014, President Putin signed into law an expansion of the anti-piracy provisions to cover all copyright protected material except photographs. The United States will monitor closely evolving laws and practices related to online piracy, as Russia's record of enforcement of copyright laws is inconsistent and often unclear.

In December 2012, the United States and Russia negotiated the United States-Russian Federation IPR Action Plan, under the auspices of the United States-Russian Federation Intellectual Property Working Group (IPR Working Group). That Plan sets forth concrete proposals to address weaknesses in Russia's IPR regime that create obstacles to U.S. exports and investment. Due to the reduction in bilateral engagement with the government of Russia following the Ukraine crisis, there were no meetings of the IPR Working Group in 2014.

SERVICES BARRIERS

Russia's services market is largely open to U.S. services suppliers, including in areas such as financial services, education, legal services, and distribution.

However, specific problems remain in particular areas. Russia continues to prohibit foreign banks from establishing branches in Russia. In addition, the ability for foreign services providers to provide services to public utilities and certain energy-related services remains limited. Although Russia raised the limit on foreign capital in the insurance sector from 25 percent to 50 percent, a lack of transparency regarding the issuance of licenses, among other issues, hinders foreign investment in the market. Stakeholders report that the process for an individual or a company to obtain a license to provide a service remains difficult, and limitations on the form of commercial establishment adversely affect some sectors. For example, Russia has not yet amended its legislation to reflect its WTO commitment to remove the limitation on sales of biologically active substances to pharmacies and specialized stores only.

On July 21, 2014, President Putin signed Federal Law No. 242-FZ, "On Amendments to Certain Legislative Acts of the Russian Federation with Regard to the Clarification of the Processing of Personal Data in Informational-Telecommunications Networks" requiring companies to store personal data of Russian citizens only on servers physically located within Russia by September 1, 2015. This law was originally expected to enter into force on September 1, 2016, but the law was amended to advance by one year the date of implementation. This law could affect a broad range of cross-border services (*e.g.*, online airline ticket and hotel booking services and social networks).

INVESTMENT BARRIERS

Russia has made improving its investment climate a priority, but U.S. and other foreign investors continue to cite issues, such as corruption, which act as barriers to investment. Russia's foreign investment regulations and notification requirements can be confusing and contradictory, which has an adverse effect on foreign investment. In addition, notwithstanding the creation of an Anti-Corruption Council and the enactment of significant anticorruption legislation, various internationally-recognized measures of corruption suggest there has been little progress to date in reducing corruption. Further obstacles to investment in Russia include inadequate dispute resolution mechanisms, weak protection of minority shareholder rights, the absence of requirements for all companies and banks to adhere to accounting standards consistent with international norms, and problems with enforcing the rule of law.

The 1999 Investment Law permits discrimination against foreign investors in a number of areas, including for "the protection of the constitution, public morals and health, and the rights and lawful interest of other persons, and the defense of the state." These broadly defined provisions give Russia considerable discretion in prohibiting or limiting foreign investment in a potentially discriminatory fashion. The Investment Law included a "grandfather clause" that stipulates that existing (as of 1999) "priority" investment projects with foreign participation of over 25 percent will be protected from certain changes in the tax regime or new limitations on foreign investment. The law defines "priority" projects as those with a foreign charter capital of more than $4.1 million and with a total investment of more than $41 million. However, the lack of corresponding tax and customs regulations means that any protection afforded by this clause is, at most, very limited.

On October 15, 2014, President Putin signed a law "On Mass Media," which restricts foreign ownership of any Russian media company to 20 percent. The previous law applied a 50 percent limit only to Russia's broadcast sector. The new rules took effect on January 1, 2015, and media owners have until February 1, 2017 to adjust their ownership structures. U.S. stakeholders have also raised concerns over limits on direct

investments in the mining and mineral extraction sectors that discriminate against foreign companies, as well as a non-transparent and unpredictable licensing regime that can lead to arbitrary state actions.

Russia's Strategic Sectors Law (SSL) establishes a list of 45 "strategic" sectors or activities in which purchases of "controlling interests" by foreign investors must be preapproved by Russia's Commission on Control of Foreign Investment. In February 2014, three activities were added to the law involving protection of transport infrastructure and vehicles as well as transport of security forces. On November 4, 2014, additional amendments were adopted to regulate foreign investment by broadening the universe of companies, investments and transactions covered by the SSL. For example, there is a new requirement that foreign investors obtain approval for the acquisition of a strategic business' main production assets if the value of the property exceeds 25 percent of the book asset value of the company. In addition, unrelated international organizations, foreign states, and companies they control will now be treated as a single entity for the purpose of the law, and their joint participation in a strategic business will be subject to the restrictions as if they were a single foreign entity.

Privatization

Russia is slowly pursuing steps to privatize state assets, both to increase market forces in the economy and to raise revenue for the federal budget. However, the government maintains a list of 176 companies that are either wholly or partially owned by the Russian state and that cannot be privatized due to their national significance. This list includes 128 federal unitary enterprises (100 percent government-owned) and 48 joint stock companies (varying percentages of state ownership). The government's privatization plans with respect to other companies are proceeding slowly, the last privatization plan having been published in January 2013. For example, on December 1, the government of Russia announced plans to sell a 19.5 percent stake in Rosneft (leaving it with a 50 percent stake), but the asking price was 60 percent above the share price at the time of the announcement, making the sale unlikely. In addition, state-owned enterprises (SOEs) are frequently sheltered by government funding. Furthermore, in December 2014, the government reversed the prohibition against senior government officials serving on SOE boards, further tilting the playing field in favor of SOEs by re-introducing a government/political voice in SOE's decision-making process.

In addition to SOEs, there are currently five state corporations in Russia (Rosatom, VEB, Rosnano, Fund for Communal Housing, and Rostec). While private enterprises are technically allowed to compete with these state corporations on the same terms and conditions, in practice, the market is skewed in favor of state corporations. For example, state corporation holding structures and management arrangements (*e.g.*, senior government officials as board members) make it difficult for private enterprises to compete because of the preferential treatment accorded to state corporations. Furthermore, specific legal constructions can result in preferential treatment of state corporations. State corporations have no unified legal framework, as they are established and operate under legislation unique to each SOE, unlike private corporations. Such a case-by-case approach leaves much scope for discretion and lobbying by company insiders at the expense of private enterprises.

Taxes

Russian and U.S. leasing companies have reported that the VAT assessed on inputs for exported final products is often not refunded, and that they often must resort to court action to obtain their reimbursements. Leasing companies have reported that VAT refunds on exports are the source of significant fraud, and actions to prevent fraud make it even more difficult for legitimate exporters to obtain refunds. In addition, the companies have reported that, in some cases, local tax inspectorates have initiated audits and attempted to seize their bank accounts, thus forcing exporters to seek very expensive and time-consuming court enforcement.

U.S. companies have also raised concerns about Russian tax authorities' scrutiny of payments that cross Russia's border, but remain, for tax purposes, in the legal structure of the same Russian company. This tax issue has arisen chiefly in two contexts: (1) when a multinational company transfers an employee temporarily to the company's Russian office from another office outside Russia; and (2) in intra-company payments for the use of intellectual property. Under internationally accepted accounting standards, these normal business practices are handled as an intra-firm payment from one office to the other, or to the headquarters in the case of royalty payments. However, Russian tax inspectors have in the past disputed such expenses as "economically unjustified" and, consequently, not permissible under the Russian Tax Code. In consultation with foreign firms, Russia developed and adopted a new law on transfer pricing. Domestic transactions are now subject to transfer pricing regulations if the aggregate annual income from the parties exceeds 1 billion rubles (approximately $17 million).

Automotive Sector

Russia maintains an investment incentive regime in the automotive sector with domestic content requirements and production targets. The first program, introduced in 2005, allowed for the duty-free entry of automotive parts used in the production of vehicles that contained at least 30 percent Russian content and required that auto manufacturers produce at least 25,000 units domestically. In December 2010, Russia initiated a second automotive industry investment incentive program that increased significantly the required domestic production volume to 300,000 units and the domestic content requirement to 60 percent. As part of its WTO accession protocol, Russia agreed to end the problematic elements of the programs by July 1, 2018 and to begin consultations in July 2016 with the United States and other WTO Members on WTO-consistent measures it may take in this sector. Nevertheless, the local content requirements remain a barrier to U.S. exports of automotive parts and the United States will work with Russia to eliminate the elements of these investment incentive programs that are inconsistent with TRIMS, even before the July 1, 2018 deadline.

ELECTRONIC COMMERCE

Since December 2013, when President Putin announced support for "streamlining e-commerce," government officials have proposed various reductions in the duty-free threshold for online purchases from non-EAEU online stores. On October 10, 2014, the Ministry of Economic Development proposed reducing the current €1,000 maximum to €500 per month. However, President Putin indicated on November 11, 2014 that the Russian Federation will not make a decision until after consultations with the other members of the EAEU.

SAUDI ARABIA

TRADE SUMMARY

U.S. goods exports in 2014 were $18.7 billion, down 1.5 percent from the previous year. Saudi Arabia is currently the 20th largest export market for U.S. goods. Corresponding U.S. imports from Saudi Arabia were $47.0 billion, down 9.2 percent. The U.S. goods trade deficit with Saudi Arabia was $28.4 billion in 2014, a decrease of $4.5 billion from 2013.

U.S. exports of services to Saudi Arabia were $9.2 billion in 2013 (latest data available), and U.S. imports were $1.4 billion. Sales of services in Saudi Arabia by majority U.S.-owned affiliates were $3.2 billion in 2012 (latest data available), while sales of services in the United States by majority Saudi Arabia-owned firms were $1.6 billion.

The stock of U.S. foreign direct investment (FDI) in Saudi Arabia was $10.6 billion in 2013 (latest data available), up from $9.5 billion in 2012.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Saudi Arabia is developing new energy and fuel efficiency standards for a variety of products that could affect imported products including vehicles, air conditioners and electronic appliances. For instance, Saudi Arabia issued new automotive fuel efficiency standards in December 2014 mandating that manufacturers' light-duty vehicle fleets return an average of approximately 28.2 miles per gallon by 2020. In the process of developing these regulations, Saudi officials worked extensively with private sector stakeholders.

U.S. and Saudi officials continue to work to develop mechanisms for stakeholder consultation in regulatory decision-making, including to ensure that interested parties have opportunities to provide comments on draft regulations and to provide a reasonable time for those comments to be taken into account.

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization, issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials are discussing concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

Saudi Arabia banned imports of all U.S. beef and beef products in 2012 following an atypical case of bovine spongiform encephalopathy in the United States. U.S. and Saudi officials continue to work to lift this ban to provide U.S. beef exporters with access to the Saudi market – valued at $30 million for U.S. products.

Approved poultry and poultry product imports from the United States have been suspended due to detections of Highly Pathogenic Avian Influenza (HPAI) in backyard/pet poultry flocks and commercial poultry flocks beginning in December 2014. USDA is working to resolve trade-related issues associated with HPAI.

GCC Member States have notified the WTO Committee on Sanitary and Phytosanitary (SPS) Measures of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. As currently drafted, stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also will impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States has raised specific concerns about the Guide and has requested that GCC Member States delay entry into force of the Guide until food safety experts have an opportunity to discuss these concerns.

IMPORT POLICIES

Tariffs

As a member of the GCC, Saudi Arabia applies the GCC common external tariff with a limited number of GCC-approved country-specific exceptions. Tariff rates on the majority of goods subject to duties are 5 percent, though higher rates, ranging from 6.5 percent to 40 percent, are imposed on goods that compete with domestic industries. Tobacco products face a tariff rate of 100 percent.

Saudi Arabia endorsed the second phase of the GCC common external tariff for agricultural products in 2012. In doing so, Saudi Arabia agreed to abolish duty rates of 12 percent, 20 percent, and 40 percent for various food products, as well as the 25 percent seasonal duty imposed on imports of some fruits and vegetables. Saudi Arabia now imposes a 5 percent import duty on most imported agricultural and food products, though duties for some products grown domestically (*e.g.*, dates) range as high as 40 percent. The current GCC tariff schedule allows duty-free importation of 344 food and agricultural products. There are no tariff quotas, no applied seasonal tariffs, and no other duties and charges on imports. Saudi Arabia does not impose VAT, excise duties or any other internal tax or charges on domestically produced or imported products.

Import Prohibitions and Licenses

Saudi Arabia prohibits the importation of alcohol, pork products, used clothing, automobiles and automotive parts older than five years and firearms. Special approval is required for the importation of live animals, horticultural products, seeds for use in agriculture, products containing alcohol, chemicals and harmful materials, pharmaceutical products, wireless equipment, radio-controlled model airplanes, natural asphalt, archaeological artifacts, books, periodicals, audio or visual media, and religious materials that do not adhere to the state-sanctioned version of Islam or that relate to a religion other than Islam. Some media products that are imported are subject to censorship.

GOVERNMENT PROCUREMENT

Contractors must subcontract 30 percent of the value of any government procurement, including support services, to firms that are majority-owned by Saudi nationals. An exemption is granted when no Saudi-owned company can provide the goods or services necessary to fulfill the requirements of a tender. Foreign suppliers are also required to establish a training program for Saudi nationals. Saudi Arabia provides a 10 percent price preference for GCC goods for procurements in which foreign suppliers participate. Foreign companies can provide services to the Saudi government directly without a local agent and can market their services to other public entities through an office that has been granted temporary registration from the Ministry of Commerce and Industry. Foreign companies solely providing services to the government, if

not already registered to do business in Saudi Arabia, are required to obtain a temporary registration from the Ministry within 30 days of signing a contract.

Most defense procurement is not subject to the general procurement decrees and regulations; instead, tenders are negotiated on a case-by-case basis. For defense sales, U.S. contractors are subject to an offset rate of 40 percent of the total value of the contract and must ensure that at least half of all offsets be direct.

U.S. private sector companies have reported long delays and difficulty in receiving payments for services rendered to the Saudi Arabian government and regional government entities. Some delays have lasted over two years.

Saudi Arabia is an observer to the WTO Committee on Government Procurement. Although Saudi Arabia committed to initiate negotiations for accession to the Agreement on Government Procurement when it became a WTO Member in 2005, it has not yet begun these negotiations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Saudi Arabia was removed from the Special 301 Watch List in 2010. The United States continues to carefully monitor the adequacy and effectiveness of intellectual property rights (IPR) protection and enforcement in Saudi Arabia, including the imposition of deterrent level penalties for violations of Saudi copyright law, action to increase the use of legal software within the Saudi government, and adequate protection for patented pharmaceutical products.

Currently, IPR enforcement responsibilities are scattered across several Saudi ministries and offices. The Ministry of Culture and Information supervises copyrights, the King Abdulaziz City for Science and Technology supervises patents, and the Ministry of Commerce and Industry supervises geographical indications and trademarks, which are also supported and enforced through Saudi Customs and the Ministry of Finance.

In 2014, Saudi Arabia, Bahrain, and Qatar approved the GCC Trademark Law. Kuwait, Oman and the United Arab Emirates are expected to approve the law in 2015, after which implementing regulations will be issued. As the six GCC Member States explore further harmonization of their intellectual property rights (IPR) regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

SERVICES BARRIERS

Audiovisual Services

Saudi Arabia has long banned foreign and Saudi citizens from investing in, constructing, or operating public cinemas. Beginning late-2014, the Saudi General Commission of Audiovisual Media has been consulting with various ministries to explore the possible issuance of licenses for the construction and operation of public cinemas.

Banking

Saudi Arabia limits foreign ownership in commercial banks to 40 percent of any individual bank operation. The 2004 Saudi Capital Markets Law provides for the creation of investment banks and brokerages in Saudi Arabia, with foreign equity limited to 60 percent.

Insurance

The 2003 Control Law for Co-Operative Insurance Companies requires that all insurance companies in Saudi Arabia be locally incorporated joint-stock companies, with foreign equity limited to 60 percent. The remaining 40 percent must be sold in the Saudi stock market. Insurance companies must operate on a cooperative or mutual basis, in effect requiring distribution of any profits between policyholders and the insurance company.

INVESTMENT BARRIERS

Foreign investment is currently prohibited in 16 manufacturing and service sectors and subsectors, including oil exploration, drilling, and production and manufacturing and services related to military activity. All foreign investment in Saudi Arabia requires a license from the Saudi Arabian General Investment Authority (SAGIA), which must be renewed periodically. While SAGIA is required to grant or refuse an investment license within 30 days of receiving a complete application, bureaucratic impediments arising from SAGIA and other agencies sometimes delay the process. Companies can also experience bureaucratic delays after receiving their license, such as when obtaining a commercial registry or purchasing property. SAGIA has been working to develop an automated system to streamline the process and reduce delays.

Direct foreign participation in the Saudi stock market is limited, except for GCC citizens. Since 2008, non-GCC foreign investors have been permitted to purchase shares in bank-operated investment funds, though foreign participation in these funds is limited to 10 percent of the total value of the fund. Non-GCC investors can also participate through swap agreements. Equity held by foreign partners in a joint-venture business is limited to 60 percent.

In July 2014, the Capital Market Authority (CMA) announced that it would allow foreign investors to buy shares listed on the Saudi Arabia *Tadawul* stock exchange directly in 2015. The proposed reforms stipulate that foreign investors must meet the "qualified foreign investor" (QFI) requirements proposed in CMA's draft rules, which were open for consultation through the end of 2014. Per the draft rules, investments can only be made by QFIs, who can hold no more than five percent of any individual company. Furthermore, cumulative foreign ownership cannot exceed 10 percent of the total *Tadawul* market capitalization or 49 percent of any one company. In order to qualify as a QFI, an applicant must be a bank, brokerage/securities firm, fund manager or insurance company that is duly licensed or otherwise subject to oversight by a regulatory body with standards equivalent to those of the CMA; have assets under management of at least $5 billion (subject to discretionary reduction to $3 billion by the CMA); and have been engaged in securities/investment-related activities for at least five years. The draft rules are expected to be finalized and implemented in 2015.

OTHER BARRIERS

Subsidies

Saudi Arabia heavily subsidizes electricity and water rates for domestic residential consumers, and while the government claims that it sells gasoline and natural gas at or above the production cost, the prices are far below world-market levels. The country consumed 2.9 million barrels per day of oil in 2013, almost double the consumption in 2000. Demand is driven by population growth, a rapidly expanding industrial sector led by the development of petrochemical cities, and high demand for air conditioning during the summer months. Due to the significant increase in domestic energy consumption, Saudi Arabia has discussed lowering subsidies on electricity and water, at least for government, industrial and commercial

customers. Saudi Arabia also maintains an unquantified amount of subsidies for basic food products, such as rice, barley and baby formula.

SINGAPORE

TRADE SUMMARY

U.S. goods exports in 2014 were $30.5 billion, down 0.5 percent from the previous year. Singapore is currently the 13th largest export market for U.S. goods. Corresponding U.S. imports from Singapore were $16.5 billion, down 7.7 percent. The U.S. goods trade surplus with Singapore was $14.1 billion in 2014, an increase of $1.2 billion from 2013.

U.S. exports of services to Singapore were $11.4 billion in 2013 (latest data available), and U.S. imports were $5.6 billion. Sales of services in Singapore by majority U.S.-owned affiliates were $53.2 billion in 2012 (latest data available), while sales of services in the United States by majority Singapore-owned firms were $8.6 billion.

The stock of U.S. foreign direct investment (FDI) in Singapore was $154.4 billion in 2013 (latest data available), up from $139.7 billion in 2012. U.S. FDI in Singapore is led by the nonbank holding companies, manufacturing, and finance/insurance sectors.

Singapore is a major trans-shipment hub for world trade, handling approximately one-fifth of world container trans-shipments and almost two million tons of airfreight.

Trade Agreements

The United States-Singapore Free Trade Agreement (FTA) entered into force on January 1, 2004. Exports from the United States increased 85 percent between 2003 and 2013, with steady growth in exports of such products as medical devices, machinery, and electronics components.

Singapore is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Singapore, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Beef and Beef Products

Only fresh/frozen boneless beef derived from animals less than 30 months of age are currently eligible for entry into Singapore. However, the United States and Singapore are now negotiating the terms and conditions to restore full market access. The United States will continue to engage Singapore to open its market fully to U.S. beef and beef products.

Beef, Pork and Poultry Pathogen Reduction Treatments (PRTs)

Prior to 2012, Singapore prohibited the use of all PRTs in the production of beef, pork, and poultry products, which added significantly to the cost of U.S. companies exporting such products to Singapore. Based on documentation provided by the United States regarding the safety of certain PRTs, Singapore now allows the use of eight PRTs that have risk-assessments completed by the Joint FAO/WHO Expert Committee on Food Additives. The United States will continue to work with Singapore to secure the approval of additional PRTs.

Pork/Trichinae and Shelf Life

Singapore requires U.S. fresh and chilled pork exports to be frozen or tested for trichinosis, even though U.S. producers maintain stringent biosecurity protocols that limit the presence of trichinae in the United States to extremely low levels in commercial swine. Singapore also imposes overly-restrictive shelf life requirements on frozen and processed meat and poultry products that limit the time after slaughter or manufacture that a product must arrive in Singapore. The United States will continue to work with regulatory authorities in Singapore to resolve these pork trade concerns.

IMPORT POLICIES

Import Licenses and Internal Taxes

Singapore maintains a tiered motorcycle-operator licensing system based on engine displacement which, along with a road tax based on engine size, discourage imports of large motorcycles from the United States. Singapore also restricts the import and sale of non-medicinal chewing gum. It levies high excise taxes on distilled spirits and wine, tobacco products, and motor vehicles.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Singapore has developed a strong IPR regime and was first in Asia and second in the world for Intellectual Property protection, according to the World Economic Forum's Global Competitiveness Report 2014-2015 -- the fourth consecutive year that Singapore has retained its position in IP protection.

Despite Singapore's strong record on IP protection, areas for improvement exist. U.S. rights holders have raised a range of concerns, including the absence of standalone legislation making the illicit camcording of a film in a theater a criminal offense, limitations of trade secrets protection, the trans-shipment of infringing goods through Singapore, insufficient deterrent penalties for end-user software piracy, and the lack of effective enforcement against online peer-to-peer infringement.

U.S. rights holders previously have noted concerns regarding pirated online content access from Singapore. In March 2012, the Minister for the Ministry of Communications and Information appointed a Media Convergence Review Panel to study the issues impacting consumers, stakeholders and society in the converged media environment, and to put forth recommendations on how to address such challenges. After consulting on this issue with stakeholders for over a year, the panel issued a final report in November 2012 which included three recommendations to reduce online piracy through: strengthening public education efforts; encouraging publishers to provide more legitimate, affordable and timely digital content sources; and increasing regulatory/enforcement measures. In July 2014, the Singapore Parliament passed an anti-piracy amendment to its Copyright Act, which came into force in December 2014.

SERVICES BARRIERS

Pay Television

In 2011, the Media Development Authority (MDA) implemented regulations requiring pay TV providers to "cross carry" exclusive broadcasting content acquired after March 12, 2010. These rules require a pay TV company with an exclusive contract for channels/content to offer that content to other pay TV companies for their subscribers at similar commercial rates. U.S. content providers remain concerned about the negative impact these regulations have on private contractual arrangements, innovation in the packaging and delivery of new content to consumers, and investment in the market.

In 2014, SingTel, the pay-TV subsidiary of telecommunications business SingNet, was permitted to sign licensing deals with FIFA, the international governing body of football, to broadcast World Cup matches. Under MDA's cross-carriage rule, SingTel had to share the World Cup content with local competitor StarHub in the same way that it was required to share its English Premier League content in 2013.

Audiovisual and Media Services

Singapore restricts the use of satellite dishes and has not authorized direct-to-home satellite TV services. MDA licenses the installation and operation of broadcast receiving equipment, including satellite dishes for TV reception. Parties who require TV services received via satellite need to apply for a TV Receive-Only System License. MDA issues this license only to organizations, such as financial institutions, that need to access time-sensitive information for business decisions.

Distribution, importation, or possession of any "offshore" or foreign newspaper must be approved by the government. Singapore has curtailed or banned the circulation of some foreign publications based on perceived defamation of the Singapore government by the publication.

Licensing of Online News Websites

Citing the need to align the regulatory frameworks of online and traditional news platforms, MDA released new guidelines in May 2013 requiring all online news websites that provide regular reports on Singapore and have significant reach to acquire an individual license. Any news website that reports an average of at least one article per week on Singapore news and current affairs over a period of two months and reaches at least 50,000 unique Internet Protocol addresses in Singapore over the same two month period requires a special license. The licensed sites must also put up a performance bond of SGD $50,000 ($42,000), similar to that required for niche TV broadcasters. The new license requires holders to take down content that breaches certain standards within 24 hours of being notified by the Singaporean government.

Legal Services

U.S. and other foreign law firms with offices in Singapore cannot practice Singapore law or employ Singapore lawyers to practice Singapore law unless they have a "Qualified Foreign Law Practice" license. Singapore has issued 10 such licenses to foreign law firms, allowing them to practice Singaporean law except in certain excluded areas such as litigation, family law, and probate.

Banking

Unless they have been awarded Qualifying Full Bank (QFB) privileges, foreign banks and other financial institutions that issue credit cards in Singapore can provide ATM services to locally issued credit card holders only through their own networks or through a foreign bank's shared ATM network. QFBs,

however, can negotiate with local banks on a commercial basis to let their credit card holders obtain cash advances through the local banks' ATM networks.

The Minister in charge of the Monetary Authority of Singapore (MAS) must approve the merger or takeover of a bank incorporated in Singapore or financial holding company, as well as the acquisition of voting shares in such institutions above specific thresholds. Singapore has also indicated that, although it has lifted the formal ceilings on foreign ownership of local banks and finance companies, the Minister in charge of the MAS must approve controllers of local banks.

Healthcare: Procedural Transparency and Fairness

U.S. stakeholders have expressed interest in greater transparency regarding Ministry of Health (MOH) policies. In particular, U.S. stakeholders are seeking a feedback mechanism and greater clarity regarding MOH's process for adding drugs to the Standard Drugs List, including timelines for evaluation and specific criteria for inclusion. U.S. medical device manufacturers have urged MOH to accelerate the review periods for approvals of new medical devices in Singapore and to enhance transparency and procedural fairness related to the determination of reimbursement levels.

SOUTH AFRICA

TRADE SUMMARY

U.S. goods exports in 2014 were $6.4 billion, down 12.4 percent from the previous year. South Africa is currently the 40th largest export market for U.S. goods. Corresponding U.S. imports from South Africa were $8.3 billion, down 1.9 percent. The U.S. goods trade deficit with South Africa was $1.9 billion in 2014, an increase of $748 million from 2013.

U.S. exports of services to South Africa were $3.0 billion in 2013 (latest data available), and U.S. imports were $1.7 billion. Sales of services in South Africa by majority U.S.-owned affiliates were $7.3 billion in 2012 (latest data available), while sales of services in the United States by majority South Africa-owned firms were $294 million.

The stock of U.S. foreign direct investment (FDI) in South Africa was $5.2 billion in 2013 (latest data available), down from $5.5 billion in 2012. U.S. FDI in South Africa is led by the manufacturing, wholesale trade, and professional, scientific, and technical services sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The United States and South Africa discuss technical barriers to trade (TBT) during meetings of the WTO TBT Committee, bilaterally on the margins of these meetings, and under the United States-South Africa Trade and Investment Framework Agreement (TIFA).

The Department of Health published in 2010, and implemented in 2012, a labeling regulation for foodstuffs (Regulations Relating to the Labeling and Advertising of Foodstuffs (R146)) that restricts the use of testimonials, endorsements, or statements claiming a food as healthy or nutritious. In May 2014, the Department of Health published the second phase of these regulations, which imposes new labeling requirements and restrictions (R429). The use of terms such as "healthy", "nutritious" or "diet" is prohibited unless the food has either no added, or "low" levels, of sodium, sugar or saturated fat. In addition, foods may not contain any addition of fructose, non-nutritive sweeteners, fluoride, aluminum or caffeine, in any quantity, in order to use the protected terms. Stakeholders are particularly concerned that, if finalized as drafted, the new regulations could require some brand owners to make changes to existing trademarks, and branding and labels in order to continue to sell their products in South Africa. Specifically, the Department of Health has indicated that, in the case where health claims or nutrient content claims form part of a brand name or trademark, the use of that brand name or trademark on the packaging of the foodstuff would be required to be phased out.

In September 2014, the Department of Health issued proposed amendments on its regulations relating to health measures on alcoholic beverages (Amendment to Regulations Relating to Health Messages on Container Labels of Alcoholic Beverages (R697)). The proposal would require that the health warnings printed on the labels of alcoholic beverages be increased in size to 1/8 of the total container size, as opposed to 1/8 of the label. Stakeholders have expressed some concerns about the proposal, including the lack of a definition of the word "container", which at present could be interpreted to include not just the consumer-facing packaging, but also any other packaging materials used to contain or transport the beverages. In addition, stakeholders are seeking clarity about enforcement of the proposed rotation requirement, which would require that the seven health warnings be exhibited on the labels with equal regularity to one another within a 12-month period. The United States submitted comments via the World Trade Organization

(WTO) Technical Barriers to Trade (TBT) Committee on March 3, 2015 seeking clarification on these issues.

Sanitary and Phytosanitary Barriers

Beef and Beef Products

In June 2010, South Africa opened its market to U.S. deboned beef from cattle of all ages, but continues to ban the importation of all other beef cuts and beef products, as well as other U.S. ruminant animals and products. The United States will continue to urge South Africa to open its market fully to U.S. beef and beef products based on science, World Organization for Animal Health (OIE) guidelines, and the U.S. negligible risk status for bovine spongiform encephalopathy.

Pork

South Africa imposes stringent time and temperature requirements on pork and pork products, including a 20-day freezing requirement to prevent the transmission of trichinae. The United States does not consider such requirements to be necessary for U.S. pork products since most U.S. producers maintain stringent biosecurity protocols that limit the appearance of trichinae in the United States to extremely low levels in commercial swine.

South Africa also requires certification that swine are free of pseudorabies, even though the United States achieved the successful eradication of pseudorabies in commercial herds in all 50 states in 2004.

Additionally, in May 2012, South African notified to the WTO a new class restriction regarding Porcine Reproductive and Respiratory Syndrome (PRRS), which further restricted U.S. pork exports to South Africa. The United States has engaged with South Africa to note that these PRRS restrictions are unscientific, not recognized by the OIE, and should not further restrict U.S. pork exports to South Africa.

The United States will continue to work with South Africa to eliminate these barriers and to establish procedures and standards that are fully consistent with all OIE and Codex Alimentarius guidelines regarding animal health and food safety.

Poultry

In December 2014, South Africa banned all poultry imports from the entire United States due to the detection of high pathogenic avian influenza (HPAI) in backyard flocks in Washington and Oregon. The United States is encouraging South Africa to limit poultry restrictions to only regions affected by the disease consistent with OIE guidelines, which recommend that countries take regional approaches to imposing trade restrictions on poultry and poultry products where HPAI is found in commercial or backyard flocks.

Horticultural Products

South Africa prohibits U.S. imports of Pacific Northwest apples, except apple fruit originating from orchards that are declared pest free from Rhagoletis pomonella (apple maggot). The United States is currently seeking to expand access for apples that originate from areas regulated for apple maggot and that undergo a cold treatment protocol. South Africa also prohibits imports of U.S. cherries and U.S. pears.

IMPORT POLICIES

Tariffs

South Africa is a member of the WTO, the Southern African Development Community (SADC), and the Southern African Customs Union (SACU). As a member of SACU, South Africa applies the SACU common external tariff (CET). In practice, South Africa sets the level of MFN tariffs applied by all SACU countries, and manages all matters related to trade remedies and disputes for the SACU countries. South Africa's average applied MFN duty rate in 2014 was 7.6 percent. South Africa has preferential trade agreements with the European Union (EU), the Southern Common Market (MERCOSUR), the European Free Trade Area (EFTA), and SADC. In 2014, South Africa concluded negotiations for a SADC Economic Partnership Agreement (EPA) with the EU.

U.S. exports face a disadvantage compared to EU goods in South Africa. The European Union-South African Trade and Development Cooperation Agreement (TDCA) of 1999 covers a significant amount of South Africa-EU trade. Tariffs for EU imports on TDCA-covered tariff lines average 4.5 percent based on an unweighted average, while the general tariff rates, which U.S. imports face, average 19.5 percent for TDCA-covered lines. Key categories in which U.S. firms face a tariff disadvantage include cosmetics, plastics, textiles, trucks, and agricultural products and machinery.

Final phase-in of the EU tariff preferences under the TDCA became effective in 2012, and U.S. companies are increasingly impacted by the tariff differential. Concerned importers of U.S. products report dealing with the issue in three ways: (1) substituting EU supply chains for U.S. supply chains (primarily large U.S. multinationals with complex global supply chains); (2) limiting marketing risk in South Africa, such as testing market response to new U.S. imports; or (3) pressing for tariff parity.

The EU-SADC EPA will further erode U.S. export competitiveness in South Africa and the region when it enters into force. The United States consistently highlights concern about the tariff disparity in bilateral discussions with South Africa, since this disadvantage contrasts the unilateral advantages the United States offers South African imports under the African Growth and Opportunity Act. South African authorities have emphasized that the only way to address this imbalance is through a free trade agreement, which they note was attempted unsuccessfully in the 2003–2006 United States-South African Customs Union FTA negotiations.

In September 2013, the South African International Trade Administration Commission (ITAC) increased import duties for whole chickens to the maximum bound rate of 82 percent, and announced import duty increases for other poultry products, including an increase in duties to 37 percent for imports of frozen bone-in chicken (U.S. imports of frozen bone-in chicken are also subject to antidumping duties, as noted below). South Africa raised the tariffs in response to requests from its domestic industry. In recent years, the South African government has encouraged domestic industry to appeal for increases up to the bound tariff rates where a lack of global competitiveness was a concern.

Nontariff Measures

The Department of Trade and Industry (DTI) prohibits specified classes of imports into South Africa by notice in the Government Gazette, unless the products are imported in accordance with a permit issued by ITAC. ITAC also requires import permits on used goods if such goods are also manufactured domestically, thus significantly limiting importation of used goods. Other categories of controlled imports include waste, scrap, ashes, residues, and goods subject to quality specifications.

In addition, U.S. stakeholders have a longtime objection to South Africa's imposition of antidumping duties on imports of frozen bone-in chicken from the United States. U.S. stakeholders' objections are many-fold, ranging from methodological, transparency, and due process concerns from the original investigation and final determination in 2000 to the improper initiation of subsequent sunset reviews. The United States continues to raise these antidumping issues with South Africa in the United States-South Africa Trade and Investment Framework Agreement meetings, as well as in other bilateral fora.

Other often-cited nontariff barriers to trade include customs valuation above invoice prices, and excessive regulation.

GOVERNMENT PROCUREMENT

South Africa uses competitive tenders for government procurement of goods, services, and construction. South Africa's Preferential Procurement Policy Framework Act of 2000 and its implementing regulations created the legal framework and formula for evaluating tenders for government contracts.

The South African government actively uses fiscal policy and its government tendering framework to fight unemployment. The 2011 Local Procurement Accord (the Accord) commits the government to significantly expand the value of goods and services it procures from South Africa suppliers. The Accord included an "aspirational target" of sourcing 75 percent of government procurement locally to boost industrialization and to create jobs. South Africa's national Industrial Participation Program, introduced in 1996, imposes an industrial participation obligation on all government and parastatal purchases or lease contracts for goods, equipment, or services with an imported content greater than or equal to $10 million. This obligation requires the seller or supplier to engage in local commercial or industrial activity valued at 30 percent or more of the value of the imported content of the goods and/or services purchased or leased pursuant to a government tender.

South Africa also uses government procurement to empower historically disadvantaged populations through its Broad-Based Black Economic Empowerment (B-BBEE) strategy (see section on Investment Barriers for more detail on B-BBEE).

South Africa is not a party to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

South Africa was not listed in the 2014 Special 301 Report. The South African government has formed an interagency counterfeit division including the DTI, the South African Revenue Service, and the South African Police Service to improve coordination of intellectual property rights (IPR) enforcement. The government has also appointed more inspectors, designated more warehouses for securing counterfeit goods, and improved the training of customs, border police, and police officials. Additionally, the DTI is working with universities and other local groups to incorporate IPR awareness into college curricula and training of local business groups. The private sector and law enforcement cooperate extensively to stop the flow of counterfeit goods into the marketplace.

In 2013, the Cabinet issued for public comment a draft national intellectual property strategy, which would have proposed significant changes to IPR laws that the Government of South Africa has stated seeks to address social welfare and development issues. There were concerns that the policy would significantly reduce protection for patent holders, could lead to an uptick in trade in counterfeit products, and would not meet internationally agreed standards under new copyright provisions. Based on significant stakeholder concerns regarding these and other provisions contained within the draft policy, South Africa retracted this draft policy and is in the process of drafting a new draft national intellectual property strategy, which has

not yet been released for public comment. Further, under the European Union-South African Development Community EPA concluded in 2014, South Africa has agreed to prohibit the use of certain terms as geographical indications (GIs) in its domestic market, a move that will have a significant impact on U.S. agricultural exporters.

SERVICES

Telecommunications

Telecommunications regulation is divided between the South African Department of Communications (DOC) and the Independent Communications Authority of South Africa (ICASA), the regulator for South Africa's communications, broadcasting, and postal services. ICASA was established under the ICASA Act (2000), which merged the South African Telecommunications Regulatory Authority and the Independent Broadcasting Authority. ICASA receives funding from DOC.

Telkom is South Africa's leading communications services provider, and it dominates fixed-line telecommunications services. Telekom operated as a monopoly until 2006, when Neotel was launched as a fixed-line operator following the passage of the Electronic Communications Act of 2005, which allowed the creation of a second national operator for telecommunications services. Even though it has a parallel regulatory role, the DOC is the largest shareholder in Telkom with a 39.8 percent stake. DOC expects Telkom to operate as a private company, but reportedly views Telkom as a strategic asset and often influences management decisions. An ICASA proceeding to determine whether ICASA should regulate FDI in electronic communications has been pending since 2009.

DOC has implemented measures to address some problems facing smaller operators. As a result, more mobile operators may now install their own fixed lines to link cell towers into their networks, Value Added Network Service (VANS) providers may use infrastructure not owned by Telkom, and VANS providers may offer voice services. In addition, private telecommunications network operators may sell spare capacity.

Broadcasting

ICASA imposes local content requirements for satellite, terrestrial, and cable subscription services. Foreign ownership in a broadcaster is capped at a maximum of 20 percent.

In 2006, an agreement with the International Telecommunications Union committed South Africa to achieve digital migration by June 1, 2015. After this date, the 11.5 million South African households with a TV will require a set-top box (STB) for terrestrial broadcasting transmission signals as the analog broadcasting frequencies' exclusivity will be lifted, resulting in signal interruptions. There are concerns that South Africa will miss the 2015 deadline. DOC is attempting dual-illumination, a period wherein digital TV signals would be broadcast concurrently with analog TV signals. During this transition, South Africa needs to convert all of its analog TV households to digital STBs. DOC admits it is "desperately behind schedule," but has no clear timeline to achieve digital migration.

Telecommunications operators continue to be frustrated by the migration delays. Telecommunications operators have requested access to the 2.6 GHz band and frequencies below 850 MHz, which will be freed by analog-to-digital migration, to build next generation mobile broadband networks. However, the spectrum cannot be allocated until the analog-to-digital migration is complete.

ELECTRONIC COMMERCE

The 2002 Electronic Communications and Transactions Law governs electronic commerce in South Africa. The law was designed to facilitate electronic commerce, but has been criticized as imposing significant regulatory burdens. The law requires government accreditation for certain electronic signatures, takes government control of South Africa's ".za" domain name, and requires a long list of disclosures for websites that sell goods and services via the Internet.

In 2003, the South African Law Reform Commission (the Commission) began considering the need for new data protection legislation. In 2009, the Commission introduced the Protection of Personal Information Act (POPIA) to the National Assembly. The bill cleared the national Assembly in August 2013, and President Zuma signed the bill in November 2013. The bill entered into effect in April 2014. The POPIA established a data protection authority (Information Regulator) and contains provisions affecting, inter alia, the processing of personal information by responsible parties and the transfer of cross-border data.

INVESTMENT BARRIERS

While South Africa is generally open to greenfield FDI, merger and acquisition-related FDI has been scrutinized more closely for its impact on jobs and local industry. Private sector and other stakeholders are concerned about politicization of South Africa's posture towards this type of investment. South Africa also imposes increasingly high local content requirements on investments in areas such as renewable energy projects.

The B-BBEE Codes of Good Practice, promulgated in 2007 and entered into force in 2011, created a certification system (a "B-BBEE scorecard") that rates a company's commitment to the empowerment of historically disadvantaged people in South Africa. A high rating is particularly important in competition for public tenders, as the B-BBEE scorecard will account for 10 percent of a bid's assessment, but is also important for branding purposes and for managing client relationships, as a company's score can influence a client's score.

In October 2013, South Africa introduced stricter B-BBEE requirements, which are expected to enter into force on April 1, 2015. The government hopes an increased focus on enterprise and skill development on the B-BBEE scorecard will produce more transformation of the South Africa economy. U.S. firms are wary that the changes will reduce their current B-BBEE ratings. U.S. firms have struggled to score well on the "ownership" element of the scorecard, particularly when corporate rules prevent the transfer of discounted equity stakes to South African subsidiaries. Previously, U.S. firms compensated by scoring higher on other elements, but the new rules introduce penalties for failing to comply in key elements of ownership, management control diversity, enterprise development, and preferential procurement. In addition to ownership, the preferential procurement category requires localization with "Empowering Suppliers," which could prove challenging to companies importing products or inputs for value chains.

Sectors such as financial services, mining, and petroleum have their own "transformation charters" intended to promote accelerated empowerment within those sectors. The charters for the integrated transport, forest products, construction, tourism, and chartered accountancy sectors have force of law in South Africa. Many other sectors, including financial services, information and communications technology (ICT), and property have transformation charters that do not have force of law, yet express the sector's commitment to "economic transformation."

Mineral and Petroleum Resources Development Act (MPRDA)

The pending MPRDA would grant the government 20 percent carried interest in any new petroleum or mineral activity. Further, the act allows the government to acquire additional ownership of the venture on terms determined by the minister of mineral resources. U.S. oil companies invested in South Africa have stated that if the bill becomes law, they will not invest further.

Other Legal Concerns for Investment

The pending Investment Promotion and Protection Act redefines the term "expropriation." The proposed bill states that if the government takes property or an investment, not for its own use but instead for transfer to a third-party, the taking would not qualify as expropriation and the government need not compensate the owner. Analysts suggest that this new definition is unconstitutional, and the Act is currently under review by an interagency working group before being resubmitted to South Africa's parliament.

Another concern for investors is the Private Security Industry Regulation Act Amendment Bill, which, if signed, would require 51 percent local ownership in private security firms. The bill gives foreign-owned firms only one month to comply with these provisions after they go into effect. Local analysts note that passage of the bill would probably result in "fire sales" of shares at rock bottom prices as firms seek to comply within the tight timeframe, and would amount to a virtual government seizure in violation of the constitutional protection of property clauses.

OTHER BARRIERS

Transparency and Corruption

Several laws have been enacted in the last 15 years to increase transparency and reduce corruption in South Africa's government, but some of those laws suffer from deficiencies. For example, the 2004 Prevention and Combating of Corrupt Activities Act bars the payment of bribes by South African citizens and firms to foreign public officials and obliges public officials to report corrupt activities. However, the Act fails to protect whistleblowers against recrimination or defamation claims. Additionally, the Protection of State Information bill (passed in 2013) has been criticized by academics, civil society groups, international organizations, and the media as limiting transparency and freedom of expression. President Zuma has yet to sign the bill into law.

Implementation of transparency and anticorruption laws also suffers from challenges. Although South Africa has no fewer than 10 agencies engaged in anticorruption activities, high rates of violent crime strain overall law enforcement capacity and make it difficult for South African criminal and judicial entities to dedicate adequate resources to anticorruption efforts. President Zuma reshuffled his cabinet in May 2014 to remove some ministers who were alleged to have engaged in corrupt activities.

Labor Constraints

Companies in many economic sectors experience difficulty recruiting qualified employees due to the emigration of skilled workers. Businesses also allege that labor laws are too stringent and limit job creation and expansion. For many years, U.S. companies and other foreign companies have complained of difficulties in obtaining temporary work permits for their skilled foreign employees. These issues are likely to be exacerbated by the new immigration regulations promulgated by the Department of Home Affairs which came into effect in May 2014. The regulations impact foreigners looking to visit, study, work, live and own businesses in South Africa. The implementation of the new visa requirements might affect sectors that rely on international visitors, such as tourism.

SRI LANKA

TRADE SUMMARY

U.S. goods exports in 2014 were $355 million, up 13.7 percent from the previous year. Sri Lanka is currently the 115th largest export market for U.S. goods. Corresponding U.S. imports from Sri Lanka were $2.7 billion, up 9.1 percent. The U.S. goods trade deficit with Sri Lanka was $2.3 billion in 2014, an increase of $181 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Sri Lanka was $102 million in 2013 (latest data available), unchanged from 2012.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Sri Lanka currently prohibits the sale of seeds derived from agricultural biotech or products containing biotech organisms intended for human consumption without the approval of Sri Lanka's Chief Food Authority. Sri Lanka does not appear to have a functioning approval mechanism and thus in effect imposes a *de facto* ban on sales of seeds and other agricultural products derived from biotech. Further, Sri Lanka requires all commodity imports to be accompanied by a certification that the commodity is "non-GE." The United States will continue to engage Sri Lanka on these issues.

In mid-November, the Health Ministry issued a directive requiring all consignments of imported milk powder be accompanied by a certificate from a "competent authority" of the exporting country certifying that the milk powder: does not contain any biotech material or material derived from biotech material; was not manufactured from the milk obtained by genetically engineered cows; nor made from the milk of cows fed with feed containing biotech material.

In 2014, Sri Lanka lifted a ban imposed on imports of U.S. bovine products, including beef, beef products, and beef genetics following U.S. government advocacy urging Sri Lanka to open its market to U.S. beef based on science, the World Organization for Animal Health (OIE) guidelines, and the United States' negligible risk status for bovine spongiform encephalopathy (BSE). Sri Lanka had previously banned imports of U.S. bovine products due to BSE concerns.

IMPORT POLICIES

The government continues to stress the need to promote import substitution policies, which distort the market. Sri Lanka's recent budgets emphasized the importance of agricultural self-sufficiency and import substitution.

Import Charges

Sri Lanka's main trade policy instrument has been the import tariff. According to the WTO, Sri Lanka's average applied agricultural tariff in 2012 was 25.7 percent, but its bound rates are significantly higher, averaging 50 percent. The compounded duty rates for imported agriculture products are routinely between 80 percent and 100 percent of the cost, insurance, and freight (CIF) value. In 2012, Sri Lanka's average

applied tariff for non-agricultural goods was 9.9 percent. However, less than 30 percent of Sri Lanka's non-agricultural tariffs are bound under WTO rules.

Sri Lanka's import tariff structure consists of "bands" in which all products covered by a particular band are subject to the same tariff rate. The import tariff structure was simplified in June 2010 by reducing the number of tariff bands from five to four. The current tariff bands are: 0 percent; 7.5 percent; 15 percent; and 25 percent. There continue to be a number of deviations from the four-band tariff policy. Some items are subject to an *ad valorem* or a specific tariff, whichever is higher. For example, footwear, ceramic products, and agricultural products carry specific tariffs. There is intermittent use of exemptions and waivers.

In response to large current account deficits in 2011 and 2012, the government took several policy measures to inhibit import growth. For example, it depreciated the rupee and moved to a flexible exchange rate policy in early 2012. Sri Lanka also imposed a 100-percent deposit requirement on motor vehicle imports, requiring importers to pay upfront the full value of motor vehicles at the time of opening letters of credit with commercial banks. The 100-percent deposit requirement still continues.

In addition to the import tariff, there are a number of supplementary taxes and levies on imports which make some imported food and consumer goods prohibitively expensive. Further, some supplementary taxes on selected products are increased regularly through annual government budgets, that appear most often aimed at protecting local industries. In general, the frequent changes—mostly upward—of these taxes and other levies have added unpredictability to foreign exporters' and local importers' cost calculations. Affected products from the United States include fruits, processed/packaged foods, and personal care products. Other charges on imports include:

- An Export Development Board (EDB) levy, often referred to as a "cess," ranges from 10 percent to 35 percent *ad valorem* on a range of imports identified as "nonessential" or competing with local industries. Locally manufactured products are not subject to the EDB levy. Most of the impacted imports are also subject to specific duties as well. Further, when calculating the EDB levy, an imputed profit margin of 10 percent is added onto the import price. In some cases, such as biscuits, chocolates, and soap, the levy is charged not on the import price, but on 65 percent of the maximum retail price. The government continues to increase the EDB levy. Most recently, the 2014 budget increased the EDB levy on a range of items, including dairy products, meat, fruits, vegetables, and confectionary. The EDB levy on biscuits increased from Rs 60 (approximately $0.51) per kg in 2012 to Rs 80 (approximately $0.62) per kg in 2013. The tax was increased further to Rs 100 (approximately $0.76) per kg in 2014. The EDB levy on cheese was increased from Rs 100 (approximately $0.86) per kg in 2012 to Rs 200 (approximately $1.56) per kg in 2013 and to Rs 300 (approximately $2.29) per kg in 2014. The EDB levy on butter and dairy spreads increased from Rs 100 (approximately $0.86) per kg in 2012 to Rs 200 (approximately $1.56) per kg in 2013 and to Rs 300 per kg (approximately $ 2.30) in 2014.

- A Ports and Airports Development Levy (PAL) of 5 percent is applied on most imports. Locally manufactured products are not subject to the PAL.

- When calculating the Value Added Tax (VAT), an imputed profit margin of 10 percent is added on to the import price. Locally manufactured products are also subject to VAT, but not the imputed profit margin. The current VAT rate is set at 12 percent. The government reduced the VAT rate from 12 percent to 11 percent on January 1, 2015.

- Excise fees are charged on some products such as aerated water, liquor, beer, motor vehicles, and cigarettes. When calculating the excise fee, an imputed profit margin of 15 percent is added to the import price. The excise fee is applied on the price inclusive of other duties. Locally manufactured products are also subject to excise fees.

- A Nation Building Tax (NBT) of two percent is applied on most imports.

- As of November 21, 2011, a Special Commodity Levy (SCL) is charged on some imported food items including oranges, grapes, and apples. The SCL is Rs 65 per kg on oranges, Rs 130 per kg on grapes, and Rs 45 per kg on apples. The items subject to the SCL are exempted from all other taxes.

- In November 2011, the government introduced an all-inclusive tax under the EDB levy on imported textiles not intended for use by the apparel export industry, replacing the import tariff, the EDB Levy, the Ports and Airports Tax, the VAT, and the NBT. Currently, this all-inclusive tax is Rs 100 per kg (approximately $0.77.)

- Apparel imports are subject to the 15 percent import duty, the Rs 75 (approximately $0.57) per unit EDB Levy, the 12 percent VAT, the 5 percent PAL, and the 2 percent NBT.

- In October 2014, the government introduced an all-inclusive tax under the Excise Special Provisions Law on cars replacing the VAT, the NBT, the EDB levy, the import tariff, and the PAL. The new excise tax on cars range from 150 percent for small cars to 220 percent for large vehicles. Hybrid vehicles are taxed at lower rates.

Import Licenses

Sri Lanka requires import licenses for over 400 items at the 6-digit level of the Harmonized Tariff System, mostly for health, environment, and national security reasons. Importers must pay a fee equal to 0.222 percent of the import price with a minimum fee of Rs 1,000 (approximately $7.69) to receive an import license.

GOVERNMENT PROCUREMENT

Government procurement of most goods and services is primarily undertaken through a public tender process. Some tenders are open only to registered suppliers. Procurement may also occur outside the normal competitive tender process. The government publicly subscribes to principles of international competitive bidding, however, charges of corruption and unfair awards are common. In 2006, Sri Lanka published guidelines and a procurement manual to improve the public procurement process. However, in early 2008, the government disbanded the National Procurement Agency, which it had established in 2004, and shifted its functions to a unit in the Ministry of Finance. A special cabinet-appointed committee now reviews unsolicited development proposals and has considered high-profile infrastructure projects and investment proposals outside the tender process. These moves have raised concerns about the government's commitment to improve the transparency of procurements.

Sri Lanka is not a signatory to the WTO Agreement on Government Procurement and has indicated it has no plans to join despite its status as an observer to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Sri Lanka was not listed on the 2014 Special 301 Report. Although intellectual property rights (IPR) enforcement has improved in Sri Lanka, counterfeit goods continue to be widely available and music and software piracy are reportedly widespread. U.S. and other international companies in the recording, software, movie, clothing, and consumer product industries complain that inadequate IPR protection and enforcement is damaging their businesses. Although the government of Sri Lanka published a policy in 2010 requiring all government ministries and departments to use only licensed software, it has yet to put systems in place to monitor compliance with this policy.

Redress through the courts for IPR infringement is often a frustrating and time-consuming process, and police do not actively utilize existing authorities for IP enforcement. Some industry sectors, including apparel, software, tobacco, and electronics, have reported some success in combating trademark counterfeiting through the courts.

SERVICES BARRIERS

Insurance

Sri Lanka does not allow the cross-border supply of insurance, with the exception of health and travel insurance. In order to provide all other insurance services to resident Sri Lankans, insurance companies must be incorporated in Sri Lanka. Branch offices are not permitted. The Sri Lankan government requires all insurance companies to reinsure 20 percent of their insurance business with a state-run insurance fund.

Broadcasting

The government imposes taxes on foreign films, programs, and commercials to be shown on TV. Government approval is required for all foreign films and programs shown on TV.

INVESTMENT BARRIERS

Sri Lanka maintains foreign investment restrictions in a wide range of sectors. For example, foreign investment is not permitted in certain types of money lending activities, in the coastal fishing sector, and in retail trade for investments of less than $2 million (or $150,000 in the case of international brands and franchises). In other sectors, foreign investment is subject to case-by-case screening and approval when foreign equity exceeds 40 percent. These sectors include shipping and travel agencies, freight forwarding, mass communications, deep-sea fishing, timber industries, mining and primary processing of natural resources, and the cultivation and primary processing of certain agriculture commodities. Foreign equity restrictions also apply in the air transportation, coastal shipping, lotteries, and gem mining sectors, as well as in sensitive industries such as military hardware.

Sri Lanka prohibits the sale of public and private land to foreign nationals and enterprises with foreign equity exceeding 50 percent. Foreign companies engaged in banking, financial, insurance, maritime, aviation, advanced technology or infrastructure development projects identified and approved as Strategic Development Projects may be exempted from this restriction on a case-by-case basis. Also, this restriction does not apply to the purchase of condominium properties on or above the fourth floor of a building. The government also imposes a 15 percent tax on land and property leased to foreign investors, and the tax for the entirety of the lease period is due at the time the lease is signed.

In 2011, the government approved the Revival of Underperforming Enterprises and Underutilized Assets Act, which allows for the nationalization of assets belonging to 37 companies deemed by the government to be underperforming and not meeting lease conditions. Although many of the companies were defunct, several were operating businesses, including one that was owned by a prominent member of the opposition.

The measure was passed under procedures that limited Parliamentary debate to one day. While the Central Bank noted that the enactment of the law was a "one-off" measure, the government subsequently announced plans to retake 25,000 hectares of tea plantation leased land that was not being fully utilized, and plans to acquire abandoned private paddy land. The law significantly increases investor uncertainty regarding property rights in Sri Lanka.

OTHER BARRIERS

Public sector corruption, including bribery of public officials, remains a significant challenge for U.S. firms operating in Sri Lanka and a constraint on foreign investment. While the country has generally adequate laws and regulations to combat corruption, enforcement is weak and inconsistent. U. S. stakeholders have expressed particular concern about corruption in large projects and in government procurement.

SWITZERLAND

TRADE SUMMARY

U.S. goods exports in 2014 were $22.6 billion, down 15.5 percent from the previous year. Switzerland is currently the 16th largest export market for U.S. goods. Corresponding U.S. imports from Switzerland were $31.2 billion, up 10.3 percent. The U.S. goods trade deficit with Switzerland was $8.6 billion in 2014, an increase of $7.1 billion from 2013.

U.S. exports of services to Switzerland were $27.4 billion in 2013 (latest data available), and U.S. imports were $22.0 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were $62.7 billion in 2012 (latest data available), while sales of services in the United States by majority Switzerland-owned firms were $61.1 billion.

The stock of U.S. foreign direct investment (FDI) in Switzerland was $129.8 billion in 2013 (latest data available), up from $123.1 billion in 2012. U.S. FDI in Switzerland is led by the nonbank holding companies, manufacturing, and wholesale trade sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Swiss Federal Roads Office (ASTRA) previously permitted Swiss importers of used automobiles to use reports generated by a private company to demonstrate vehicle history, in particular the "first use" of the vehicle – a data point required when registering a used vehicle in Switzerland. However, subsequent to a 2010 legal change, importers must present a vehicle's first title and registration to meet this requirement, making registration of vehicles with multiple previous owners difficult in Switzerland. The U.S. government has coordinated multiple meetings with ASTRA officials to discuss possible solutions to the issue, but ASTRA officials insist they cannot recognize any document produced by a private company.

The Swiss Federal Council has determined that low-volume vehicle manufacturers (*i.e.*, under 300,000 units) and niche vehicle manufacturers (*i.e.*, fewer than 10,000 units) are not exempt from carbon dioxide targets of 130g/km to protect the environment. However, recognizing that the proposed legislation would likely eliminate the market for luxury European automobiles, the Swiss government granted select non-U.S. car manufacturers an adjusted target of approximately 75 percent of 2007 carbon dioxide emission levels. Although the volume of similar U.S. vehicles imported into Switzerland would fall well below these volumes, importers of U.S. vehicles are not subject to the adjusted targets; the carbon dioxide tax for U.S. vehicles remains based on the original 130g/km target. Prior to the implementation of the carbon dioxide law, the imported U.S. vehicle business in Switzerland represented $40-50 million per year in revenue. The current level of business is approximately 20 percent of these values. In a November 2014 session, the Swiss Federal Council reaffirmed this law, acknowledging that it would eliminate U.S. imports into the Swiss market in the process, but did not address how the Swiss government planned to address this discrepancy, if at all.

Sanitary and Phytosanitary Barriers

Agricultural Biotech

Switzerland currently has a moratorium in place until the end of 2017 on planting biotech crops and marketing agricultural biotech animals. Switzerland's restrictive phytosanitary regulations, combined with a strong anti-biotech public sentiment, have dampened interest in the Swiss market for biotech products. U.S. officials will continue to urge their Swiss counterparts to conduct regulatory reviews in a timely manner, while pushing for a removal of the moratorium on cultivation of biotech products.

IMPORT POLICIES

Switzerland, along with Norway, Iceland, and Liechtenstein, is a member of the European Free Trade Association (EFTA). However, unlike other EFTA members, Switzerland does not participate in the European Union (EU) single market through the European Economic Area (EEA) accord. According to the WTO, Switzerland's simple average applied tariff is 35.7 percent for agricultural goods and 1.9 percent for non-agricultural goods.

Agricultural Products

Access for U.S. agricultural products is restricted by high tariffs on certain products, preferential tariff rates for other trading partners and government regulation. Switzerland's tariff schedule is composed only of specific (***i.e.***, non-*ad valorem*) duties. Imports of nearly all agricultural products, particularly those that compete with Swiss products, are subject to seasonal import duties, quotas, and import licensing. Agricultural products that are not produced in Switzerland, such as tropical fruit and nuts, tend to have lower tariffs.

GOVERNMENT PROCUREMENT

Switzerland is a signatory to the WTO Agreement on Government Procurement (GPA), which covers both cantonal and federal procurement. However, since cantons are allowed to implement the GPA independent of federal intervention, disparities in procedures may be found among the cantons, which may affect participation by foreign firms. In contrast to cantonal and communal practice, federal authorities are not required to inform unsuccessful bidders of the selected tender or to justify the award of a contract to successful bidders.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Switzerland was not listed in the 2014 Special 301 Report. Although Switzerland generally maintains high standards of intellectual property rights (IPR) protection, U.S. copyright holders have expressed concern that interpretations of a 2010 Swiss Supreme Court verdict has significantly diminished the ability of U.S. and other copyright holders to defend their intellectual property from piracy over the Internet. Switzerland convened two dialogues on copyright protection and enforcement – a round-table process on the 2010 verdict and a "Working Group on Copyright 2012." In December 2013, the Swiss Federal Council also published the "AUGR12" report, which included recommendations for effectively combatting Internet piracy in Switzerland. In June 2014, the Swiss Federal Council decided to implement the AUGUR 12 recommendations, and is currently preparing a set of legislative amendments to implement those recommendations. The United States continues to consult with Switzerland and interested stakeholders on this issue.

SERVICES BARRIERS

Insurance

Managers of foreign-owned insurance company branches must be residents of Switzerland. The majority of the Board of Directors of any Swiss subsidiary must also have EU or EFTA country citizenship.

Public monopolies exist for fire and natural damage insurance in 19 cantons and for insurance of workplace accidents in certain industries.

TAIWAN

TRADE SUMMARY

U.S. goods exports in 2014 were $26.8 billion, up 5.4 percent from the previous year. Taiwan is currently the 14th largest export market for U.S. goods. Corresponding U.S. imports from Taiwan were $40.6 billion, up 6.9 percent. The U.S. goods trade deficit with Taiwan was $13.7 billion in 2014, an increase of $1.3 billion from 2013.

U.S. exports of services to Taiwan were $11.8 billion in 2013 (latest data available), and U.S. imports were $7.2 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were $7.0 billion in 2012 (latest data available), while sales of services in the United States by majority Taiwan-owned firms were $3.2 billion.

The stock of U.S. foreign direct investment (FDI) in Taiwan was $16.9 billion in 2013 (latest data available), down from $17.7 billion in 2012. U.S. FDI in Taiwan is led by the manufacturing, wholesale trade, and finance and insurance sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Food – Mandatory Biotechnology Labeling

In 2014, Taiwan implemented regulations related to biotech products. The United States and U.S. stakeholders have expressed concern about the requirements' potential impact on trade, and noted that some requirements do not appear to be based on science. Taiwan's February 5, 2014 amendments to the *Act Governing Food Safety and Sanitation* mandated additional biotech registration and traceability requirements, as well as expanded the scope of Taiwan's biotech labeling regulation to include all biotech products, and not just corn and soybeans. On December 22, 2014, the Taiwan Food and Drug Administration (TFDA) announced draft regulations reducing the tolerance for the presence of biotech product, including in food additives, from the current 5 percent level to 3 percent. These draft regulations have not been implemented. TFDA subsequently published revised draft regulations on February 26, 2015, which, if implemented in their current form, would significantly increase the burden to exporters and stakeholders, including by expanding the regulatory scope to include highly processed food products, setting a large font for the required labels, and shortening the length of the implementation period.

In August 2014, Taiwan's Council of Agriculture began screening organic soybeans for biotech materials, with no allowance for minimal residues. Effective November 1, 2014, Taiwan customs authorities mandated the segregation of corn and soybean shipments that contained biotech through separate commodity description codes. Finally, in December 2014, Taiwan notified the WTO of additional measures requiring that imported biotech products be accompanied by a list of all approved biotech events in Taiwan, while products that do not contain biotech must be accompanied by an "identity preservation" certificate or laboratory results confirming no presence of biotech. Taiwan's current practices and contemplated stricter policies on biotech labeling do not appear to be based upon science, impose significant burdens on U.S. stakeholders, and may serve to increase costs and cause concern among consumers.

Cosmetics – Labeling and Other Requirements

Taiwan is considering amendments to the *Cosmetic Hygiene Control Act*. It is anticipated that after Taiwan's legislature approves the changes, TFDA will issue draft guidelines that will address requirements for product information files, product notification, good manufacturing practices, product claims, and advertisements. U.S. stakeholders have expressed concerns that trade in medicated cosmetic products, including toothpaste, breath fresheners, and sunscreen, might be adversely affected under the amendments. The United States will continue to engage with Taiwan on issues that arise in 2015 as implementing measures are issued for comment.

Chemical Substances – ECN and NCN Programs

Under Taiwan's *Labor Safety and Health Law* (LSHL), importers and producers of chemical substances must register all chemical substances they sell or utilize in production with the Ministry of Labor (MOL, known prior to February 2014 as the Council of Labor Affairs, or CLA). In December 2009, the CLA started a pre-registration process, the voluntary Existing Chemical Substance Nomination (ECN) program, which ended on December 31, 2010. In 2012, the CLA implemented the first supplementary ECN in order to update the chemical-substance list and give companies that failed to register under the initial ECN an additional opportunity to do so.

Amendments to Taiwan's *Toxic Chemical Substances Control Act* (TCSCA), drafted by the Environmental Protection Agency of Taiwan (EPAT), were passed on December 11, 2013. The amended TCSCA mandates registration with EPAT of existing chemical substances (under a parallel ECN program) or new chemical substances (under a New Chemical Notification, or NCN, program) manufactured in, exported from, or imported into Taiwan.

On July 3, 2013, Taiwan's legislature passed amendments to the LSHL and renamed it the *Occupational Safety and Health Act* (the OSH Act), which became effective on July 3, 2014. The Executive Yuan commenced drafting regulations to implement a NCN program, as mandated by the OSH Act. To pave the way for implementation of the obligatory NCN program, on May 26, 2014, OSHA announced the second supplementary ECN program, with the nomination window open from June 1, 2014 to July 31, 2014. As with the 2010 and 2012 programs, the 2014 ECN program was also voluntary.

On September 8, 2014, Taiwan notified the WTO of its draft "Regulation of New and Existing Chemical Substances Registration", enacted pursuant to the amended TCSCA. This regulation covers existing chemical substances that are listed on EPAT's ECN inventory, as well as new chemical substances which are not listed on the ECN inventory. This regulation became effective on December 11, 2014. On October 28, 2014, Taiwan notified the WTO of its draft "Regulation of New Chemical Substances Registration", enacted pursuant to the OSH Act and covering any new chemical substances not listed on the existing MOL chemical inventory. This regulation became effective on January 1, 2015. While previous ECN and NCN programs implemented on a voluntary basis, the separate ECN/NCN registrations under the TCSA and OSH Act implementing regulations both became mandatory from the dates of their respective entries into force. As of March 2015, EPAT and OSHA maintained separate listings. Stakeholders have urged both agencies to move towards a consolidated single registration window to reduce the burden of submitting duplicative registrations.

The United States has raised questions regarding the operation of the notification systems, the protection of confidential business information, and the scope of coverage of the regulations. The United States will continue to engage with Taiwan authorities on these issues in 2015 as implementation of the regulations proceeds. The United States will also engage with MOL and EPA to discuss ways to harmonize the two regulatory systems to the extent possible.

Toys – Mandatory Inspections for Formamide and Phthalates

On July 7, 2014, Taiwan notified the WTO of new inspection requirements for formamide in foam toys and phthalates in children's products, subsequent to measures implemented on March 1, 2014. The Bureau of Standards, Metrology and Inspection (BSMI) announced that, pursuant to the December 4, 2012 revision of Chinese National Standard (CNS) 4797, the limitation on formamide in foam toys would be set at less than 2 ppm. The total amount of DMP, DEP, DEHP, DBP, BBP, DINP, DIDP, and DNOP in phthalates in children's products would be limited to less than 0.1 percent.

The United States is concerned that standards restricting the amount of certain phthalates contained in non-mouthable children's products do not appear to correspond to international practice.

The United States has also raised a concern that Taiwan's 2 ppm total limit on formamide in certain foam toys does not appear to correspond to international practice. Accordingly, the requirement that manufacturers test for formamide in toys where it is likely not present is an onerous and costly task for manufacturers. Raising the limit to 200 ppm, by contrast, would harmonize Taiwan requirements with other major markets.

Sanitary and Phytosanitary Barriers

Beef and Beef Products

Taiwan banned imports of U.S. beef and beef products following the detection of an animal with bovine spongiform encephalopathy in the United States in 2003. In 2006, Taiwan began allowing imports of U.S. deboned beef derived from animals under 30 months of age. In October 2009, the United States and Taiwan reached agreement on a Protocol expanding market access for U.S. beef and beef products (for human consumption). The Protocol provided for a full re-opening of the market, but Taiwan's legislature adopted an amendment to the *Food Sanitation Act* in January 2010 that banned imports of U.S. ground beef, internal organs and eyes, brains, spinal cord, and skull meat, contrary to Taiwan's Protocol obligations. Taiwan also announced additional border measures, including a licensing scheme for permitted offals, and imposed stricter inspection requirements for certain "sensitive" beef offals (*e.g.*, tongue) that discourage trade. In July 2014, Taiwan confirmed market eligibility for U.S. beef lips, ears, backstrap and tunic tissue, though other barriers still prevent trade in these products. The United States will continue to urge Taiwan to open its market fully to U.S. beef and beef products based on science, the OIE guidelines, and the United States' negligible risk status.

Beta-agonists

In September 2012, Taiwan adopted and implemented an MRL for ractopamine in beef muscle cuts consistent with the Codex standard. However, Taiwan has not implemented an MRL for ractopamine in other beef products (*i.e.*, offal) or pork, despite notifying the WTO in 2007 of its intent to do so. Taiwan authorities state that pressure from the local pork industry and consumer groups currently prevent the establishment of an MRL for pork. Apart from ractopamine, Taiwan has also not established MRLs for other beta-agonist compounds, such as zilpaterol, or provided science to support its policy. The United States will continue to urge Taiwan to implement the remaining proposed MRLs for ractopamine without further delay, and accept and approve new applications for MRLs for beta-agonists based upon science in a timely manner.

Maximum Residue Limits for Pesticides

Taiwan's slow process for establishing MRLs for pesticides, limited number of approved MRLs, and zero tolerance policy for pesticides that do not have established MRLs has resulted in stopped shipments at the port of entry and restrictions on U.S. agricultural exports to Taiwan. In May 2014, the United States provided Taiwan authorities with an MRL priority list which included more than 250 chemicals. The United States will continue to work with Taiwan authorities to swiftly establish MRLs for pesticides that do not currently have an approved MRL in Taiwan and find ways to further reduce the risk of rejected or delayed shipments in the future.

IMPORT POLICIES

Tariffs

When Taiwan became a WTO Member in January 2002, the authorities implemented tariff-rate quotas (TRQs) on small passenger automobiles and 24 agricultural products. Taiwan subsequently eliminated TRQs for eight of those agricultural products. TRQs remain on 16 agricultural products, including rice, peanuts, bananas, and pineapples.

Taiwan maintains Special Safeguards (SSGs) for a number of agricultural products covered by TRQs. SSGs, which are permitted under Article 5 of the WTO Agreement on Agriculture, allow Taiwan to impose additional duties when import quantities exceed SSG trigger volumes or import prices fall below SSG trigger prices. Because Taiwan previously did not import many of these products, its SSG trigger volumes are relatively low. Currently, Taiwan applies SSG provisions to 15 agricultural product categories, including poultry meat, certain types of offal, and milk.

U.S. stakeholders continue to request that Taiwan lower or eliminate tariffs on many goods, including large motorcycles, agricultural products, and soda ash.

Agriculture and Fish Products

Prior to joining the WTO, Taiwan banned or restricted imports of 42 agriculture and fish products. At the end of 2007, Taiwan phased out TRQs for persimmons, mackerel, carangid, and sardines. As noted above, 16 agricultural products still are subject to TRQs.

Beef and Pork

Despite administrative measures to improve market access for U.S. beef muscle cuts previously restricted due to ractopamine, the United States remains concerned about Taiwan's import requirements. Specifically, Taiwan's import requirements include an excessively strict import licensing regime, unscientific bans on meat products, and box-by-box inspections, that affect U.S. meat exports, including beef offal and pork.

Rice

Upon accession to the WTO in 2002, Taiwan committed to lifting the ban on rice imports and opened an import quota of 144,720 metric tons (MT) on a brown rice basis under a "special treatment" regime. Taiwan's annual WTO TRQ is divided into two portions: 35 percent or 50,652 MT for private sector imports, and 65 percent or 94,068 MT for public sector imports. The amount allocated to public sector imports is divided by both country of origin and tender type (*i.e.*, the simultaneous buy-sell (SBS) scheme

and normal tenders). The SBS scheme is attractive to U.S. exporters because private importers bear all costs of importing, storing and distributing the rice.

In 2003, based on input from the United States and WTO members, Taiwan implemented a public sector import quota based on a country-specific quota (CSQ) regime, with the U.S. quota of 64,634 MT accounting for the largest share. However, in certain years Taiwan has rejected bids for U.S. rice under its WTO CSQ, arguing that high U.S. prices had exceeded Taiwan's ceiling price. U.S. exporters have raised concerns that Taiwan's ceiling price mechanism, which is not made public, arbitrarily sets prices lower than the levels bid by U.S. exporters, causing the tenders to fail.

In 2014, out of the total CSQ allotted to the United States, only 46,100 MT were successfully awarded for U.S.-origin rice. One reason for this shortfall is that multiple tenders failed due to low ceiling prices. The remaining 18,534 MT (28.6 percent of Taiwan's total U.S. CSQ commitment) were then retendered on a global basis. Taiwan reported that a 2013 tender of 2,000 MT of rice, allotted under the SBS tender, was not filled, will not be re-tendered. The United States continues to press Taiwan to fulfill its obligations based not on import licenses issued but on actual import figures and to address disruptions in rice trade stemming from Taiwan's ceiling price mechanism.

In 2012, Taiwan authorities decided to shift a larger percentage of the U.S. CSQ to SBS tenders. Although the SBS tenders have been working well, U.S. stakeholders are concerned that relatively low default penalties create a situation in which a successful bidder can decline a purchase for any reason, leaving the quota unfilled. In response to U.S. concerns about the adequacy of the performance bond under the SBS scheme, Taiwan replaced the 10 percent bond with a higher-value NT$2000 ($66) per ton bond for 2013 rice CSQ imports under the SBS scheme. Nevertheless, the United States is concerned that the performance bond price may be too low, especially in years with high rice prices. The U.S. Government continues to monitor the situation to ensure that the SBS scheme functions well and that no barriers impede fulfillment of all the rice quotas.

Distilled Spirits

Differential taxation for domestic and imported distilled spirits has been a contentious issue between Taiwan and a number of its important trading partners in the past, and it was the subject of negotiation during Taiwan's WTO accession process. Taiwan categorizes cooking wine into two subgroups, one group with a salt content requirement, and the other under "cooking alcoholic products" for products with alcohol content no greater than 20 percent and labeled "exclusively used for cooking." Based on these specifications, *mijiu* rice wine under these categories is taxed at NT$9 ($0.30) per liter, a much lower tax rate than that applied to non-cooking alcoholic products, NT$2.5 ($0.08) per liter per degree (percentage) of alcohol content.

The United States and other trading partners continue to express their strong concerns to the Taiwan authorities that steps should be taken to ensure that the domestic *mijiu* rice wine is not marketed to compete with, or substitute for, like imported alcoholic beverages, and that imported alcoholic beverages should not be taxed at a higher rate than like domestically produced alcoholic beverages.

The distilled spirits industry also continues to face challenges in the Taiwan market stemming from unclear regulations, excessive restrictions, and burdensome labeling requirements.

EXPORT SUBSIDIES

Taiwan provides incentives to industrial firms in export processing zones and to firms in designated emerging industries. Taiwan has notified the WTO of these programs. The Ministry of Finance (MOF) in October 2011 resumed tax rebates for customs duties on certain components and raw materials that are

imported into Taiwan and then used to produce goods for export. On January 1, 2013, the program was expanded to cover a total of 1,751 products in categories including electronics, textiles, machinery, chemicals, mineral products, basic metal products, and plastics. On January 29, 2013, MOF announced that tax rebates would be expanded to include all components and raw materials that are imported into Taiwan and then used to produce goods for export, with the exception of 51 items identified on a negative list. The rebates were effective retroactively from January 1, 2013.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Taiwan was not included in the Special 301 Watch List in the 2014 Special 301 Report. Nevertheless, intellectual property (IP) rights holders continue to express concerns, including with respect to trade secret misappropriation, illegal textbook copying, end-user software piracy, cable TV signal theft, and infringement of copyrighted material on the Internet. Such infringement of copyright material on the Internet takes various forms, including file sharing and the use of media box hardware that may contain or facilitate the user's access via the Internet to pirated content. The importation and trans-shipment of counterfeit products is also a problem, as is the involvement of some Taiwan companies in supplying components to factories in China that produce counterfeit goods.

Although *Taiwan's Copyright Act* was amended in 2009 to require Internet service providers (ISPs) to undertake specific and effective notice-and-takedown actions against online infringers as a condition of avoiding liability for infringing activities of users on their networks, Taiwan has yet to effectively implement the *Copyright Act* amendments. Furthermore, meetings convened by the Taiwan Intellectual Property Office (TIPO) between ISPs and rights-holders aimed at producing a consensus on specific measures to address repeat infringement have not yet reached successful conclusion. TIPO has also increased outreach to law enforcement bodies on media box piracy in an attempt to mount an effective response to this new form of infringement, but serious concerns remain, particularly with regards to media box devices that facilitate infringement via internet links to pirated content.

The Legislative Yuan amended Taiwan's Trade Secrets Law in January 2013 to provide more deterrent, enhanced penalties for trade secrets misappropriation. Under January 2014 amendments to Taiwan's *Communications Protection and Surveillance Act,* law enforcement bodies were also given additional enforcement tools to deal with trade secret theft. Additionally, May 2014 amendments to the *Intellectual Property Case Adjudication Act* oblige defendants in lawsuits concerning trade secrets to submit substantive defenses. Finally, as of December 2014, draft amendments to the *Witness Protection Act* that would extend coverage to witnesses in trade secrets cases were pending review by the Legislative Yuan. Despite these positive steps, it remains difficult to pursue civil trade secret actions in Taiwan courts, in part due to continuing challenges in developing and securing access to evidence that is critical to plaintiffs.

In 2014, Taiwan authorities also took positive steps in the direction of enhancing patent and test data protections for innovative pharmaceutical products in certain respects by committing to establish a patent linkage system and study expanding the scope of regulatory data protection to cover a broader scope of innovations in pharmaceuticals and biologics. However, additional concrete steps are needed to implement these reforms.

Taiwan's Intellectual Property Rights Police completed a restructuring on January 1, 2014, with the stated intent of improving operational capacity coordination and cooperation with other enforcement agencies. The IPR Police report increased seizure values since the restructuring. However, rights holders have raised concerns over reduced staffing and smaller numbers of enforcement actions

SERVICES BARRIERS

Banking Services

In 2013, Taiwan's banking regulatory body, the Financial Supervisory Commission (FSC) indicated that it would allow foreign banks in Taiwan to keep both their subsidiary and branch operations, but asked that foreign banks' branches limit their primary business scope to areas that do not overlap with those of the subsidiaries, including corporate finance and derivatives services for large companies.

Taiwan authorities implemented the "Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation," on May 6, 2014, that lifted previous requirements that both local and foreign banks establish standalone onshore data centers.

Securities Services

In December 2012, the FSC announced that it would adopt a differential management approach and provide preferential licensing procedures for foreign trust fund companies that meet FSC's localization standards. In November 2014, FSC announced new measures to promote long-term investment in the Taiwan market by lowering the ceiling for the Taiwan investors' share of an offshore fund from 70 percent to 50 percent. This lower ceiling would apply if the offshore fund does not meet certain qualifications for the preferential management scheme, which include establishing a local presence, investing an average of NT$4 billion (US$127.5 billion) in onshore funds and recruiting a certain number of Taiwan staff.

Pay Television Services

Taiwan's *Cable, Radio, and Television Law* restricts foreign investment in pay-TV services to a total equity share of 20 percent for direct investment, or 60 percent for direct plus indirect investment. Effective July 27, 2012, the National Communications Commission (NCC) relaxed geographic restrictions on cable franchises for new and incumbent operators that agreed to use digital signals. The cable digital TV (DTV) penetration rate rose from 30.9 percent in June 2013 to 70.9 percent in December 2014. Experts point to continuing caps of NT$600 ($20) on monthly cable TV fees as hampering public access to a broader range and higher quality of programming. The NCC has announced plans to remove the cap on monthly fees and allow for differential payment by consumers by 2017.

INVESTMENT BARRIERS

Taiwan prohibits or restricts foreign investment in certain sectors, including agricultural production, chemical manufacturing, bus transportation, and public social services (including public education, health, child care, sewage, and water services).

Direct foreign ownership of wireless and wire line telecommunications firms is limited to 49 percent, with additional indirect foreign investment permitted up to 60 percent. Separate rules exist for Chunghwa Telecom (CHT) – the legacy carrier still partially owned by the Ministry of Transportation and Communications. CHT controls 97 percent of the fixed line telecommunications market. For CHT, the cap on foreign direct investment is 49 percent, with additional foreign direct investment permitted up to 55 percent. The total foreign ownership limit on cable TV broadcasting services is 60 percent, of which up to 20 percent can be through direct investment.

Foreign ownership in satellite TV broadcasting services, power transmission and distribution, piped distribution of natural gas, and high speed railways is limited to 49 percent of the total shares issued. The foreign ownership ceiling on airline companies, airport ground handling companies, forwarders, air cargo

terminals, and catering companies is 49.99 percent, with each individual foreign investor subject to an ownership limit of 25 percent.

Taiwan authorities notably proposed amendments to the *Statute for Investment by Foreign Nationals* that aim to enhance Taiwan's inward investment, including by eliminating pre-investment approval requirements for investments under $1 million USD. Taiwan also proposed amendments to the *Business Mergers and Acquisitions Act* that seek to clarify criteria and review procedures affecting foreign investment in Taiwan companies. As of January 2015, these amendments were still pending approval by the Legislative Yuan. The United States will continue to engage with Taiwan authorities to increase the transparency and predictability of Taiwan's investment regime.

Portfolio Investment

Foreign portfolio investors are required to register and can do so via the Internet. Up to 30 percent of funds remitted for purposes of portfolio investment may be held in money market or other similar instruments. Funds for futures trading, however, must be remitted to Taiwan specifically for that purpose and are segregated from funds remitted for equity investment. The cap on the balance of a foreign investor's New Taiwan Dollar (NTD) omnibus account resulting from profits gained from futures trading in Taiwan is NT$300 million ($10 million). If the balance exceeds the limit, the foreign investor is required to convert the NT dollars into U.S. dollars within 5 working days, with the new NTD balance below NT$10 million ($333,000).

Foreign hedge funds are permitted to trade in Taiwan's stock market, subject to Taiwan authorities' surveillance. Foreign individual investors are subject to an investment limit. Onshore foreign individuals and institutional investors are also subject to annual inward and outward limits of NT$5 million and NT $50 million respectively.

OTHER BARRIERS

Pharmaceuticals

Stakeholders continue to underscore the need to create a more predictable market for pharmaceuticals, including innovative pharmaceuticals, in Taiwan's health care system. Concerns include whether Taiwan health authorities will take steps to provide greater consistency in the treatment of patented pharmaceutical products, how to calculate annual drug expenditure targets, and how to clarify what actions will be taken if targets are exceeded.

The United States encourages Taiwan to continue to consult with relevant stakeholders in implementing policies that will facilitate the private sector's development of innovative products and improve patients' access to such products.

Medical Devices

Concerns persist over Taiwan's product license approvals and pricing review mechanisms. Manufacturing facility (Quality Systems Documentation, QSD) registration is mandatory in Taiwan, regardless of whether a medical device is already on the market or new to Taiwan's market; and re-registration is required every three years. Some have called for the removal of QSD and replacing the registration standard by either accepting ISO standards and certificate or applicable U.S. GMP requirements and Establishment Inspection Reports (EIR).

Self-pay and balance-billing are two mechanisms that have been introduced by Taiwan authorities to allow Taiwan patients to have the option of choosing medical devices that are not paid in-full by the authorities. At present, however, NHIA does not provide reimbursement for implanted devices under either fee scheme. Implants, in addition to a range of other commonly used devices not approved for reimbursement, must instead be issued a self-pay code. Industry estimates some 2,000 devices regularly used by hospitals must apply for self-pay codes under the NHIA guidelines, and stakeholders report that hospitals that ask patients to self-pay for devices without a code are subject to administrative penalties by NHIA. To expedite code issuance, in April 2014, NHIA began assigning temporary self-payment codes for urgent or high-demand medical devices within two months of application. Reform of these procedures could speed patient access to medical devices.

The balance billing mechanism, introduced in January 2013, allows partial patient self-pay for high-end devices or new technologies. NHIA has the authority to introduce price caps that apply ceilings on what patients pay on new balance billing items. Transparency and due process mechanisms are critical in this process and the balance billing system may not effectively distinguish among devices of differing effectiveness. In a positive development, in 2014, NHIA established a website used to help consumers compare the cost of devices at different hospitals as a way to address a consumer concern without resorting to setting a balance billing cap.

U.S. stakeholders and trade officials have encouraged Taiwan to adopt a flexible mechanism that would: (1) reduce the stringency regarding which products may enter the market as self-pay or balance-billing devices, (2) provide Taiwan consumers a greater choice of advanced medical devices, and (3) provide clear self-payment guidelines to allow earlier access to new devices prior to the establishment of a reimbursement price.

Medical device stakeholders has proposed modifying Taiwan's Price Volume Survey system to address its lack of transparency in reimbursement procedures, including its single purchase price policy, and ineffectiveness in reaching its intended goal of reducing budgetary waste. The policy does not appear to take into account differences in therapeutic value, which may discourage the introduction of newer and more effective devices into the Taiwan market.

THAILAND

TRADE SUMMARY

U.S. goods exports in 2014 were $11.8 billion, down 0.1 percent from the previous year. Thailand is currently the 25th largest export market for U.S. goods. Corresponding U.S. imports from Thailand were $27.1 billion, up 3.6 percent. The U.S. goods trade deficit with Thailand was $15.3 billion in 2014, an increase of $954 million from 2013.

U.S. exports of services to Thailand were $2.7 billion in 2013 (latest data available), and U.S. imports were $2.7 billion. Sales of services in Thailand by majority U.S.-owned affiliates were $5.7 billion in 2012 (latest data available), while sales of services in the United States by majority Thailand-owned firms were $119 million.

The stock of U.S. foreign direct investment (FDI) in Thailand was $14.4 billion in 2013 (latest data available), up from $14.3 billion in 2012. U.S. FDI in Thailand is led by the manufacturing sector.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Alcoholic Beverage Labeling Requirements

In March 2014, Thailand notified the WTO Committees on Technical Barriers to Trade and Sanitary and Phytosanitary measures of a proposed regulation titled "the Rules, Procedure and Condition for Labels of Alcoholic Beverages." This proposed regulation would further limit the ability of businesses to advertise or promote alcoholic beverages. In addition, Thai officials publically expressed their intention to revive a graphic warning requirement, initially proposed in 2010, for all beer, wine, and spirits sold in Thailand. This additional proposal was published on the website of the Ministry of Public Health, but not notified to the WTO. During subsequent TBT Committee meetings, the United States and other WTO Members encouraged Thailand to notify the revised measure and seek input from affected stakeholders.

Motorcycle Highway Ban

Thailand bans all motorcycles from "special" and "concession" highways designed for cars and trucks, even though heavyweight motorcycles are designed for highway use, most countries accept their use on highways, reflecting the many traffic studies that demonstrate that there is no underlying safety rationale for such bans.

Sanitary and Phytosanitary Barriers

Animal-Derived Products

Although the World Animal Health Organization (OIE) recognized the United States as a negligible bovine spongiform encephalopathy (BSE) risk country in 2013, Thailand still has not lifted its long-standing ban on U.S. feed or feed ingredients that contain or are derived from ruminant animals. Thailand also requires inspection and approval of U.S. manufacturing facilities that produce certain animal-derived products as a condition of import.

Beef and Beef Products:

Thailand still restricts imports of U.S. beef and beef products due to the detection of a BSE positive animal in the United States in 2003, and only allows import of U.S. deboned beef from animals less than 30 months of age. However, in 2012, Thailand published new rules that largely align its BSE-related requirements with OIE guidelines. In August 2013, a team from the Thai Department of Livestock and Development conducted an audit of the U.S. beef production system as a step towards fully reopening the market to U.S. beef. The United States and Thailand are now working to reach agreement on export certificate language. Separately, the Thai Food and Drug Administration (FDA) has also claimed jurisdiction over the import of beef products based on its administration of food safety standards. USDA is working with the Thai FDA to ensure its regulations comply with the OIE guidelines on BSE, but revisions to the rule have been stalled following recent political events in Thailand.

Ractopamine

In 2012, after the Codex Alimentarius Commission established Maximum Residue Levels (MRLs) for ractopamine in cattle and pig tissues, Thailand indicated it would lift its ban on imports of pork from countries that allow ractopamine use. Thailand has begun work on a risk assessment of ractopamine, but it is not expected to be finalized until late 2015. As a result, Thailand has not yet established MRLs for ractopamine in pork, which effectively prevents the importation of U.S. pork products. In addition, several stakeholders have informally shared that there is use of ractopamine throughout the Thai pork industry, and that Thai butchers request pork carcasses from animals treated with ractopamine because they have a higher yield.

Poultry

In December 2014, Thailand reportedly banned all poultry imports from the United States due to the detection of highly pathogenic avian influenza (HPAI) in Washington and Oregon. Since that time, Thailand has reduced the scope of the import ban to only affect fresh and frozen poultry, day old chicks, and hatching eggs. This restriction is inconsistent with OIE guidelines, which recommend that countries take regional approaches to imposing trade restrictions on poultry and poultry products from countries that detect HPAI in commercial or backyard flocks. USDA is working to resolve trade-related issues associated with HPAI. Annual U.S. poultry exports to Thailand total approximately $15 million.

Import Fees

Thailand imposes food safety inspection fees in the form of import permit fees on all shipments of uncooked meat. Current fees are $160 per ton for red meat (beef, buffalo, goat, lamb, and pork) and offals, and $320 per ton for poultry meat. Equivalent fees for domestic meat inspections, however, are significantly lower at $5 per ton for beef, $21 per ton for poultry, $16 per ton for pork, and zero for offals. The domestic fees are levied in the form of slaughtering or slaughterhouse fees. In addition, Thailand has proposed a new Animal Epidemics Act, which is now under review by the National Legislative Assembly. If passed and implemented, the Act could result in a fivefold increase in inspection fees, from the current ceiling rates of 20 baht/kg ($667/MT) to 100 baht/kg ($3,330/MT).

IMPORT POLICIES

Tariffs

High tariffs in many sectors remain an impediment to access to the Thai market. While Thailand's average applied most favored nation (MFN) tariff rate was 11.4 percent *ad valorem* in 2013, *ad valorem* tariffs can be as high as 80 percent, and the *ad valorem* equivalent of some specific tariffs (charged mostly on agricultural products) is even higher. Thailand has bound all tariffs on agricultural products in the WTO but only approximately 70 percent of its tariff lines on industrial products. The highest *ad valorem* tariff rates apply to imports competing with locally produced goods, including automobiles and automotive parts, motorcycles, beef, pork, poultry, tea, tobacco, flowers, wine, beer and spirits, and textiles and apparel. About one-third of Thailand's MFN tariff schedule involves duties of less than 5 percent, and almost 30 percent of tariff lines are duty free, including for products such as chemicals, electronics, industrial machinery, and paper.

Thailand has bound its agricultural tariffs at an average of 39 percent *ad valorem*, compared with its average applied MFN tariff on agricultural products of 29.9 percent. Applied MFN duties on imported processed food products typically range from 30 percent to 50 percent. Tariffs on meats, fresh fruits and vegetables, fresh cheese, and pulses (*e.g.*, dry peas, lentils, and chickpeas) are similarly high. For corn, the in-quota tariff is 20 percent and out-of-quota tariff is 70 percent. High tariffs are sometimes applied to products even when there is little domestic production. The type of potato used to produce frozen french fries, for example, is not produced in Thailand, yet imports of these potatoes face a 30 percent tariff. Tariffs on apples are 10 percent, while duties on pears, cherries, citrus, and table grapes range from 30 percent to 40 percent. Application of preferential tariffs as a result of free trade agreements with countries such as China, Australia, and New Zealand has eroded the competitiveness of U.S. products, including these and other agricultural products in recent years.

Thailand's average bound tariff for non-agricultural products is approximately 25 percent. Thailand's applied tariffs on industrial goods tend to be much lower than its bindings, averaging eight percent in 2011. However, Thailand applies high tariffs in some sectors. For example, Thailand applies import tariffs of 80 percent on motor vehicles, 60 percent on motorcycles and certain clothing products, 54 percent to 60 percent on distilled spirits, and 30 percent on certain articles of plastic and restaurant equipment. Among the products on which Thailand charges tariffs of 10 percent to 30 percent are certain audiovisual products, reception apparatus, and other consumer electronics, despite the importance of the electronics sector to Thailand's economy. Thailand applies a 10-percent tariff on most pharmaceutical products, including almost all products on the World Health Organization's list of essential medicines, with the exception of some vaccines, antimalarials, and antiretrovirals, which are exempt.

Nontariff Barriers

Import licenses are required for 16 categories of products, including certain chemical and pharmaceutical products such as clenbuterol, albuterol, and salbutamol; unfinished garments, parts, or components except collars, cuffs, waistbands, and pockets; worked monument or building stone; used automobiles, including cars, motorcycles and six-wheeled buses having 30 seats or more; certain used diesel engines; machinery and parts that can be used to violate copyrights via digital video and compact discs; intaglio printing machines and color copier machines; waste and scraps of plastic; chainsaws and accessories; fish meal with protein content less than 60 percent; caffeine; gold; and potassium permanganate. Imports of used motorcycle parts, medical devices, and gaming machines are prohibited. Import licenses for used automobiles and used motorcycles are granted only for imports intended for re-export or for individual, non-commercial use. Imports of certain minerals, arms and ammunition, and art objects require special permits from the relevant ministries.

Although Thailand has been relatively open to imports of feed ingredients, including corn, soybeans, and soybean meal, U.S. stakeholders have raised concerns about what it considers to be excessively burdensome requirements for feed products containing certain dairy ingredients. Thailand imposes domestic purchase requirements on importers of several products subject to tariff-rate quotas, including soybeans and soybean meal.

Price Controls

The Thai government has the legal authority to control prices or set *de facto* price ceilings for selected goods and services, including staple agricultural products (such as sugar, pork, cooking oil, condensed milk, and wheat flour), liquefied petroleum gas, medicines, sound recordings, and student uniforms. These price control review mechanisms are nontransparent. In practice, Thailand's government influences prices in the local market through its control of state monopoly suppliers of products and services, such as in the petroleum, aviation, and telecommunications sectors.

Excise Taxes

Excise taxes are high on some items such as unleaded gasoline, beer, wine, and distilled spirits. Currently, the Thai Government is reviewing its excise tax structure and is considering changes which could further increase the excise tax burden on imported products.

Excise taxes on automobiles in Thailand are based on various vehicle characteristics, such as engine size, weight, and wheelbase. The tax calculation remains complex and heavily favors domestically-manufactured vehicles. Excise taxes on passenger vehicles range from 30 percent to 50 percent, while pickup trucks, mostly produced in Thailand, are taxed at a rate of 3 percent. However, small passenger cars using E-20 gasoline and "eco" cars face reduced excise taxes of 25 percent and 17 percent, respectively.

Customs Barriers

The United States continues to have serious concerns about the lack of transparency in Thailand's customs regime and the significant discretionary authority exercised by Customs Department officials. The Customs Department Director General has the authority and discretion to increase the customs value of imports for reasons that are not authorized by the WTO Agreement on Customs Valuation. The United States has raised concerns with Thailand's government regarding the Thai government's use of this authority and has urged Thailand to eliminate this practice. The U.S. Government and stakeholders also have expressed concern about the inconsistent application of Thailand's transaction valuation methodology and reports of repeated use of arbitrary values by the Customs Department.

The U.S. Government and exporters continue to urge the Customs Department to implement overdue reforms, including publishing proposals for changes in customs laws, regulations, and providing notifications and allowing sufficient time for comments on these proposals. U.S. companies also continue to report serious concerns about corruption and the cost, uncertainty, and lack of transparency associated with the penalty/reward system. This system creates conflicts of interest for customs officials and encourages customs investigations for personal financial gain. The Ministry of Finance is currently drafting legislation that could lower the rewards for customs officials and allow for reduced penalties for administrative errors and other unintentional violations.

GOVERNMENT PROCUREMENT

The Prime Minister's Procurement Regulations, which govern public sector procurement, came into effect in December 2014. These regulations established a preference program in which products certified by the Ministry of Industry as from domestic suppliers have an automatic 15 percent price advantage over foreign bidders in evaluations in the initial bid round. (Domestic suppliers in the preference program include subsidiaries of U.S. firms registered as Thai companies.)

If corruption is suspected during the bidding process, Thai government agencies and state enterprises reserve the right to accept or reject any or all bids at any time. The Thai government also reserves the right to modify the technical requirements at any time. This gives considerable leeway for Thai government agencies and State-owned enterprises to manage procurements, while denying bidders recourse to challenge procedures. Foreign businesses have frequently alleged that the Thai government makes changes to technical requirements for this purpose during the course of procurements. Despite Thailand's commitment to transparency in government procurement, U.S. companies and the Thai media report allegations of irregularities.

Thailand is not a signatory to the WTO Agreement on Government Procurement.

SUBSIDIES

In early 2014, the Thai Government discontinued its controversial rice pledging program. This program resulted in large financial outlays by the government and up to 18 million metric tons of government-owned rice stocks. In the six months following the May 2014 coup d'état, the interim government acted aggressively to export rice through government-to-government contracts and private auctions at prices far below acquisition costs, further adding to downward price pressure on international markets. In late 2014, the Thai Government announced a similar four-month pledging program, at lower guaranteed prices than in previous years, and limited to only fragrant and glutinous rice paddies. As of February 2015, only 350,000 MT of rice had been pledged by farmers under the program and it is unclear at what price these stocks will be released. The government is also in the process of reforming fuel subsidies by eliminating large cross-subsidies between energy sources and reinstating excise taxes and Oil Fund levies on diesel and LPG. LPG prices and electricity up to 50Wh/month have remained fixed for low-income households.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Thailand was again listed on the Priority Watch List in the 2014 Special 301 Report. The United States recognizes the Thai government's continuing efforts to strengthen IPR protection and enforcement including through the establishment of a National Intellectual Property Center of Enforcement. However, the United States remains concerned about Thailand's IPR regime, particularly with respect to widespread copyright piracy and trademark counterfeiting. U.S. concerns also relate to recent increases in online content piracy and illegal camcording and growing challenges in the areas of Internet, cable, and signal piracy. In November 2014, Thailand's National Legislative Assembly passed amendments to the Copyright Act and anti-camcording legislation. The United States continues to urge Thailand to amend its copyright laws and regulations to implement the WIPO Internet Treaties, address landlord liability for infringement, take sustained and effective action against illegal camcording, and enhance the authority of Thai Customs to take *ex officio* enforcement actions. The United States also continues to urge Thailand to create such laws and regulations through a transparent process that takes into account the views of rights holders and incorporates effective notice and comment processes, to take enforcement action against widespread piracy and counterfeiting in the country, and to impose sentences that would deter potential offenders. The National Legislative Assembly is in the process of reviewing and ratifying additional IPR-related legal

amendments, but how these new laws will be implemented and whether the new legal environment improves IPR protection and enforcement is still unclear.

Another area of U.S. concern is the Ministry of Public Health's lack of transparency and opportunities for public engagements in the development of new measures. The United States will continue to encourage Thailand to consult and engage in a meaningful and transparent manner with all relevant stakeholders, including IP rights holders, as it considers ways to promote access to medicines, use of generics, and a patent system that promotes the development of new, life-saving drugs.

SERVICES BARRIERS

Audiovisual Trade Barriers

The Motion Picture and Video Act gives Thailand's Film Board the authority to establish ratios and quotas limiting the importation of foreign films. Foreign ownership and investment in terrestrial broadcast networks is prohibited.

Telecommunications Services

Thailand has taken steps to reform its telecommunications regulatory regime, but significant obstacles to foreign investment remain. Despite committing to permit foreign equity of only 20 percent in its provisional WTO commitments agreed to by Thailand in 1997, Thai law allows foreign equity up to 49 percent in basic telecommunications service firms and higher levels for providers of value-added services that do not own their own telecommunications network, such as Internet service providers, audio text providers, and resale service providers (prepaid calling cards). Thailand is delinquent, however, in revising its WTO schedule, as it committed to do in 1997, to reflect both these higher foreign-equity limits and the pro-competitive regulatory measures it subsequently enacted.

Thailand maintains regulations to restrict "foreign dominance" in telecommunications. The regulations prohibit foreign ownership beyond 49 percent and look beyond traditional accounting methods for classifying shareholdings. The criteria by which foreign dominance is determined remains unclear, raising concerns that implementation of the regulations are inconsistent and nontransparent. In addition, U.S. and other foreign telecommunications companies also have expressed concern that the regulations may be extended to other industries.

The United States has concerns about other issues in the telecommunications sector relating to the two state-owned telecommunications enterprises: TOT and CAT Telecom. These include the phasing out of the concession contracts of TOT and CAT Telecom; preferences accorded to TOT and CAT with respect to spectrum; the privatization of TOT and CAT; and enforcing the interconnection obligations of these two operators.

Legal Services

U.S. investors may own law firms in Thailand only if they enter into commercial association with local attorneys or local law firms, and U.S. citizens and other foreign nationals (with the exception of "grandfathered" non-citizens) may not provide legal services. In certain circumstances, foreign attorneys can obtain a limited license entitling them to offer advisory services in foreign and international law.

Financial Services

Thailand limits the number of licenses for foreign bank branches and subsidiaries. In practice, foreign banks' only means of entering the market is by acquiring shares of existing domestic financial institutions, and such investments are limited to 25 percent, although the Bank of Thailand has the authority to raise the foreign ownership limit in a local bank from 25 percent to 49 percent on a case-by-case basis. In addition, the Minister of Finance, with a recommendation from the Bank of Thailand, may authorize foreign ownership above 49 percent if deemed necessary to support the stability of a financial institution or the overall financial system during an economic crisis. Changes in major shareholders must also be for prudential reasons with emphasis on good governance and risk management under the Basel Core Principle.

Foreign bank branches and subsidiaries are allowed to perform all types of financial activities similar to local banks, but Thailand maintains restrictions on the maximum numbers of branches allowed. A subsidiary may open only 20 branches and 20 off-premise ATMs across Thailand, and foreign bank branches are permitted to open only three branches or off-premise ATMs in Thailand without having to meet additional capital requirements. Meanwhile, Thailand prohibits the engagement by a representative office in commercial banking activities, allowing such offices to conduct only research services.

The Thai Securities and Exchange Commission grants licenses to new domestic and foreign securities companies that meet its requirements. It allows various ownership structures, including 100-percent Thai or foreign ownership, strategic foreign partnerships, joint ventures between Thai and foreign companies, or bank affiliate status.

The Thai government has relaxed restrictions on foreign investment and ownership in the insurance sector, but barriers remain. Foreign investors are limited to a 24.99 percent equity stake in existing insurance firms and may only hold up to 25 percent of board of director seats. The Insurance Commission may, as empowered by its board of directors, approve an increase of foreign shareholding up to 49 percent on a case-by-case basis if the company is financially sound with a good reputation, has a good track record of business performance, can demonstrate its business strength and contributions to the insurance industry, and has a solid business plan. The Insurance Commission also must approve the company directors.

Accounting Services

Foreigners are permitted to own up to 49 percent of most professional services companies, including accounting, through a limited liability company registered in Thailand. Foreigners cannot be licensed as Certified Public Accountants, however, unless they pass the required examination in the Thai language, are citizens of a country with a reciprocity agreement, and legally reside in Thailand. Foreign accountants may serve as business consultants.

Postal and Express Delivery Services

Private express delivery companies must pay postal "fines" and penalties for delivery of documents in Thailand. These fines amount to an average of 37 baht per item (slightly more than $1) for shipments that weigh up to two kilograms. Thailand also imposes a 49 percent limit on foreign ownership in land transport.

INVESTMENT BARRIERS

The Foreign Business Act (FBA) lays out the framework governing foreign investment in Thailand. Under the FBA, a foreigner (defined as a person who is not a Thai national, a company which is not registered in Thailand, or a company in which foreign ownership accounts for 50 percent or more of total shares) needs to obtain an alien business license from the relevant ministry before commencing business in a sector

restricted by the FBA. Although the FBA prohibits majority foreign ownership in most sectors, U.S. investors registered under the United States-Thailand Treaty of Amity and Economic Relations (AER) are exempt. Under the AER, Thailand may prohibit U.S. investment only in the following areas: "communications, transportation, fiduciary functions, banking involving depository functions, the exploitation of land or other natural resources, domestic trade in indigenous agricultural products, and the practice of professions, or calling reserved for Thai nationals." In all other sectors, Thailand must accord U.S. investors national treatment in respect of the establishment and acquisition of interests in enterprises.

OTHER BARRIERS

U.S. stakeholders have expressed concern that processes used by the Thai Government for revising laws and regulations affecting trade and investment lack consistency, transparency, and broad stakeholder engagement.

In the pharmaceutical sector, the Government Pharmaceutical Organization, a state-owned entity, is not subject to Thai FDA licensing requirements on the production, sale, and importation of pharmaceutical products. U.S. stakeholders have expressed concerns about the lack of transparency and due process in the administration of the Thai government's National List of Essential Drugs (NLED) for procurement of pharmaceutical products dispensed at government hospitals that uses median pricing and reimbursement schemes that exclude innovative medicines from listing under government health plans. U.S. stakeholders have raised similar concerns regarding other issues, such as pending changes to the Drug Act that would affect registration of patented medicines. U.S. stakeholders also have expressed serious concerns regarding the uncertain business climate following Thai Cabinet-level resolutions that cite compulsory licensing as an acceptable cost reduction method for health care and the issuance of policies that appear to favor local generic drug producers over foreign producers.

The 2007 Thai Constitution contains provisions to combat corruption, including enhancement of the status and powers of the National Anti-Corruption Commission, which is independent from other branches of government and is thus unique among Thai bodies aimed at countering corruption. Persons holding high political office and members of their immediate families are required to disclose their assets and liabilities before assuming office, every three years while in office, upon leaving office, and for one year after leaving office. Despite these steps, corruption continues to be a serious concern in Thailand.

While the National Anti-Corruption Commission is the primary constitutional body vested with powers and duties to counter corruption in the public sector, several different agencies have jurisdiction over corruption issues, and clear jurisdictional responsibilities and differing bureaucratic structures mean their actions are not always complementary. Investigative and prosecutorial capacity is limited and Thai laws focus predominantly on abuse of office as opposed to financial or asset-related malfeasance. Anticorruption mechanisms continue to be employed unevenly, and the lack of transparency in many government administrative procedures facilitates corruption. However, Thailand's 2013 anti-money laundering law provides improved supervisory powers to monitor and regulate the illegal flow of money through Thai financial institutions.

TURKEY

TRADE SUMMARY

U.S. goods exports in 2014 were $11.7 billion, down 3.4 percent from the previous year. Turkey is currently the 26th largest export market for U.S. goods. Corresponding U.S. imports from Turkey were $7.4 billion, up 10.3 percent. The U.S. goods trade surplus with Turkey was $4.3 billion in 2014, a decrease of $1.1 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Turkey was $5.3 billion in 2013 (latest data available), down from $5.4 billion in 2012. U.S. FDI in Turkey is led by the manufacturing and the wholesale trade sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Pharmaceuticals

In late 2009, Turkey's Ministry of Health (MOH) issued a "Regulation to Amend the Regulation on the Pricing of Medicinal Products for Human Use," which took effect on March 1, 2010. The regulation requires foreign pharmaceutical producers to secure a Good Manufacturing Practice (GMP) certificate based on a manufacturing plant inspection by MOH officials, before their products can be authorized for sale in Turkey.

This requirement (previously, MOH recognized GMP inspections performed by the U.S. Food and Drug Administration or the European Medicines Agency) has led to severe delays in many pharmaceutical products receiving GMP certifications because the MOH's inspection backlog has grown significantly. U.S. manufacturers report that these delays are effectively closing the Turkish market to the registration of some new innovative drugs, because delays in GMP inspections have prolonged MOH's already lengthy processes for granting final approvals to place these products on the Turkish market. In response to repeated U.S. Government requests to speed up overall market access approval time frames, the MOH recently authorized "parallel submission" (versus sequential submission) of GMP inspection and marketing approval applications for "Priority One" pharmaceuticals imported from U.S. and EU firms. While a positive step, the MOH has not yet formalized this approach and does not yet apply it to all pharmaceutical product applications.

Food and Feed Products – Mandatory Biotechnology Labeling

In 2010, Turkey enacted a comprehensive "Biosafety Law," which, *inter alia*, mandates the labeling of food and/or feed derived from agricultural biotech if the biotech content exceeds a certain threshold. In addition, the Law requires that "GMO" labels on certain food products contain health warnings. The Turkish government has provided no scientific basis for imposing these requirements.

In addition to the labeling requirements, the Biosafety Law mandates onerous traceability procedures for all movement of biotech-derived feed, including a requirement that each handler maintain traceability records for 20 years.

Alcoholic Beverages - Labeling

Turkey notified a draft regulation on alcoholic beverage warning statements to the WTO on August 6, 2013, providing a three day comment period. The regulation requires alcoholic beverages to carry the warning statement, "Alcohol is not your friend." In comments submitted by the U.S. Government, dated August 8, 2013, the United States requested that Turkey explain the rationale underlying this requirement. The regulation went into effect on January 1, 2014, but Turkey has yet to respond to the U.S. request.

Sanitary and Phytosanitary Barriers

Agricultural Biotech

In addition to requiring mandatory biotech labeling, the Biosafety Law immediately negated the approvals of agricultural biotech products granted under Turkey's previous biotech regulation and initially had the effect of stopping all trade in products derived from agricultural biotech (primarily soy and corn products). Though it originally notified the Biosafety Law to the WTO prior to enactment, the Turkish government has failed to notify subsequent revisions of the law and its implementing regulations, nor has it informed its trading partners before implementing various regulatory controls for biotech traits. Trading partners often learn of changes only when products are blocked at Turkish ports.

Turkey assessed and eventually approved three biotech soybean events (feed use) in 2011. By December 2012, Turkey had approved 16 biotech corn events (feed use) and rejected the applications for six. Turkey has not provided scientific justification for the approvals or rejections. In December 2012, Turkey's High Court issued a decision that the process of the Biosafety Board was flawed and rescinded two approvals, bringing the total number of approved corn events to 14; three soybean events remain approved.

Turkey has adopted two thresholds for unapproved events. The first threshold was adopted in September 2011, and allows for up to 0.1 percent presence in animal feed of agricultural biotech products that are under review or whose approval has expired. Such a low threshold has little practical value, and the United States continues to urge Turkey to increase the 0.1 percent threshold and to extend the provision to food products. The second threshold was adopted in May 2014 and defines "contamination" at 0.9 percent in food products, but does not allow such products on the market (there is no threshold for presence of unapproved events in food—zero tolerance).

The United States is not aware of any information showing that foods or feed derived from agricultural biotech differ from other foods or feed in any meaningful or uniform way, or that, as a class, foods or feed developed by biotech present any different or greater safety concern than foods or feed developed by traditional plant breeding. The United States has repeatedly raised concerns with Turkish officials, including at senior levels, about specific provisions of the Biosafety Law and its implementing regulations. Biotech developers continue to be reluctant to participate in the regulatory approval processes established under the Biosafety Law due to concerns that include the protection of confidential information, the application of onerous liability provisions, and unclear procedures in the assessment process. The Biosafety Board set up by the Biosafety Law to assess and approve or disapprove individual biotech traits thus far has rejected a number of corn and soybean biotech traits and has operated in a nontransparent manner.

Turkey has imposed onerous biotech-focused testing requirements for certain U.S. food and feed imports. Authorities began requiring 100 percent testing for any biotech content in U.S. wheat imports following a single detection in Oregon of an unapproved wheat biotech trait in May 2013. Biotech wheat is not commercialized anywhere in the world and wheat imports from any country are equally likely to test positive for trace amounts of unapproved biotech traits, including corn or soybean traits. However, testing has been limited to U.S. wheat imports only, discouraging importers from buying U.S. products. In October

2014, in response to pressure from Turkish animal feed suppliers fearful of potential prosecution for violating the Biosafety Law, the Turkish government implemented a 100 percent testing regime for imports of animal feed. As a result, U.S. corn co-products such as dried distiller grains and solubles and corn gluten feed pellets currently are unable to enter Turkey.

Also in October 2014, Turkey began requiring certifications from the country of origin that products exported to Turkey have not been produced using agricultural biotech enzymes or microorganisms. As no government in the world regulates the use of biotech enzymes or microorganisms, many imports that may have been produced using them, ranging from wine and cheese to breads, pet food, and livestock nutritional supplements, subsequently have been rejected at Turkish ports for lack of the required certifications.

Food Safety

Turkey's efforts to conform its national food safety laws to EU measures have been inconsistent, often resulting in non-transparent regulatory requirements and unpredictable enforcement actions. Changes frequently have been implemented without notification or consultation with trading partners, increasing the costs to exporters.

Turkey generally bans all meat, beef, poultry, and slaughter cattle imports, allowing imports of poultry products only for re-export. The import of live animals and animal products requires a Control Certificate, the issuance of which by the Ministry of Food, Agriculture and Livestock (MinFAL) is neither automatic nor guaranteed. On June 30, 2013, Turkey published a regulation restricting the use of monosodium glutamate and six other food additives in "traditional" meat products, which Turkish authorities have broadly-defined to include virtually all meat products.

Animal Health

In June 2013, Turkey began to require dioxin-free certification for imports of animal feed and pet food products. This requirement negated a 2006 agreement under which Turkey accepted that such imports from the United States did not require this certification. Turkey has not provided any evidence that products from the United States contain dioxins.

IMPORT POLICIES

Tariffs

In accordance with its customs union agreement with the European Union (EU), Turkey applies the EU common external customs tariff to third-country nonagricultural imports, including those from the United States. Turkey exempts from duties nonagricultural products imported from the EU and a number of other trading partners with whom it has concluded free trade agreements. Turkey has bound just over half (50.3 percent) of its tariff lines under the WTO Agreement, a relatively low percentage for an economy of its size.

Turkey continues to maintain high tariff rates on many imported food and agricultural products, regardless of source. Tariffs on fresh fruits range from 15.4 percent to 145.8 percent. Tariffs on processed fruit, fruit juice, and vegetables range between 19.5 percent and 130 percent. The Turkish government also levies high tariffs, excise taxes, and other domestic charges on imported alcoholic beverages and tobacco products that increase wholesale prices for these products considerably. Turkey raised import tariffs on steel rebar to 30 percent in October 2014, and maintains high tariffs on many other steel products.

Import Licenses and Other Restrictions

Turkey requires import licenses for some agricultural products and various products that need after-sales service such as photocopiers, advanced data processing equipment, and diesel generators. U.S. firms complain that lack of transparency in Turkey's import licensing system results in costly delays, demurrage charges, and other uncertainties that inhibit trade. Turkish documentation requirements for food imports are onerous, inconsistent, and nontransparent, often resulting in shipments held up at Turkish ports. U.S. exporters of rice, dried beans, pulses, sunflower seeds, and wheat have reported concerns with valuation of their products by Turkish customs authorities.

GOVERNMENT PROCUREMENT

While Turkish procurement law requires competitive bidding procedures, U.S. companies have complained that Turkey's procurement processes can be lengthy and complicated and discriminate against foreign bidders. Turkish government contracting officials are authorized to issue tender documents with provisions that restrict foreign companies' participation and that award price advantages of up to 15 percent (particularly for high technology products) to domestic bidders. Additionally, there are certain cases in which Turkish procurement law requires government contracting agencies to accept only the lowest-cost bids in response to tenders. Such a narrow focus, particularly in a scenario involving the procurement of highly technical goods or services, may prevent consideration of bids (*e.g.*, from U.S. firms) that typically include a greater number of services and higher quality products.

There are several other features of the Turkish procurement system that severely curtail the ability of U.S. companies to participate. First, Turkish contracting agencies are able to impose "unlimited liability" clauses on successful bidders. Such clauses render contractors liable for any loss or damage resulting from design or application errors or lack of supervision. Second, Turkish procurement law mandates the use of model contracts, which many government procuring agencies refuse to modify. These standard contracts make it difficult for U.S. companies to formulate proposals that are fully responsive to procuring agencies' requirements (*e.g.*, in terms of pricing adjustments that reflect the latest changes in tax and/or customs duty rates). Third, onerous documentation requirements have become very difficult for foreign companies to comply with (including those with Turkish subsidiaries).

Turkish military procurement policy generally mandates the inclusion in contracts of various "commercial offset" requirements. These specifications typically encourage localization commitments regarding foreign direct investment and technology transfers. Such requirements can dramatically increase costs for bidding firms and have discouraged participation by some U.S. companies in Turkish commercial defense tenders.

In February 2014, the Turkish parliament adopted an Omnibus Bill that gives civilian government ministries authority to impose commercial offset requirements in procurement contracts. Similar to the military offset requirements, this new law would essentially force a foreign company that wins a Turkish government procurement contract to produce locally in order to provide its products and services. Reportedly, such commercial offset requirements may soon be instituted in the medical devices and commercial aircraft sectors, among others. A 2015 draft law calls for all government procurement tenders exceeding $5 million to require 30 percent local content, with local content levels for tenders exceeding $100 million to be set by an interministerial body on an *ad hoc* basis.

Turkey is not a signatory to the WTO Government Procurement Agreement (GPA) but has participated as an observer in the WTO Committee on Government Procurement since 1996.

SUBSIDIES

Turkey employs a number of incentives related to exports. Subsidies ranging from 5 percent to 20 percent of a product's export value are granted in 16 agricultural or processed agricultural product categories. These subsidies take the form of tax credits and provisions for debt forgiveness, and are paid for by taxes on exports of primary products such as hazelnuts and leather. Additionally, the Turkish Grain Board generally purchases domestic wheat at intervention prices (above world prices) and then sells domestic wheat at world prices to Turkish flour, biscuit and pasta manufacturers. U.S. exporters have expressed serious concerns about the adverse impact subsidized Turkish wheat flour exports have had on their sales in certain third country markets. U.S. steel producers have raised concerns that Turkish steel production – and concurrently, Turkish steel exports, including to the United States – increased rapidly in recent years, citing a range of government subsidy programs as spurring this growth. For instance, fully 20 percent of the short-term credits issued by the Turkish Export-Import Bank go to the iron and steel sector.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Turkey remained on the Watch List in the 2014 Special 301 Report. Amendments to the patent and trademark law made by the Turkish Patent Institute in 2014 have stalled, as has copyright legislation that has been in progress for several years.

Additionally, there are significant problems with export and trans-shipment of counterfeit goods, as well as software piracy, piracy of printed works, and online piracy. Stakeholders report that the Turkish software piracy rate in particular remains 20 points higher than the global average and that there is significant trafficking in circumvention tools that enable illegal downloading of software. Efforts by Turkish law enforcement and other authorities to improve IPR enforcement appear to have lagged in the past year; the judicial system as whole (including judges, prosecutors and police) has increasingly failed to deter IPR crime adequately, perhaps due to a widespread perception that copyright and other infringements are not serious transgressions.

SERVICES BARRIERS

In the area of professional services, Turkish citizenship is required to practice as an accountant, certified public accountant, or to represent clients in Turkish courts.

INVESTMENT BARRIERS

Energy Sector

Despite legislation requiring a phased transfer of 80 percent of its gas purchase contracts to the private sector by the end of 2009, Turkey's state pipeline company, BOTAS, still controls over 75 percent of such contracts and remains dominant in gas importation. The Turkish government has introduced an amendment to the natural gas market law which may be considered by Parliament in 2015. According to the draft amendment, BOTAS would be broken up into three different companies charged with transportation, trading, and storage.

Real Estate

Foreign ownership of real estate in Turkey has long been a contentious issue. A 2012 amendment to Turkey's title deed law increased the amount of land that foreign individuals can own from 2.5 acres to 12 acres. No foreign individual may own more than 10 percent of the land in any district. There are no limits

on the amount of land that can be owned by foreign companies with a legal presence in Turkey, so long as the land is being used in accordance with those companies' business activities.

ELECTRONIC COMMERCE

The Information and Communication Technologies Authority (BTK), which is affiliated with the Ministry of Transportation, Maritime Affairs, and Communications, is responsible for enforcing bans on Internet content determined by Turkish courts to be offensive. This has on several occasions led to BTK blocking access for all consumers to various Internet-based service providers, including U.S.-based suppliers.

On February 6, 2014, the Turkish Parliament passed amendments to Turkey's Law No. 5651 (the "Internet Law") that expanded the government's authority to restrict Internet access. The amendments created the Internet Service Providers Association which, upon notification from the government, must shut down websites within four hours or face large fines. The amendments attracted opposition from a wide range of journalistic freedom advocates and business interests, both domestic and foreign. In October 2014, following government-ordered blocking of access by Turkish users to the YouTube and Twitter websites, the Turkish Constitutional Court annulled certain aspects of the amendments which had enhanced the government's ability to block such access. In early 2015, the Turkish Parliament is considering a new amendment to the Internet Law that would provide the Prime Minister the right to block websites without a court order on the basis of national security, public order, or prevention of crime, restoring some of the authority denied to the government by the Constitutional Court's ruling.

A draft Personal Data Protection law being reviewed by the Ministry of Justice would bar e-payment companies from the Turkish market if they do not localize personal data banks in Turkey. Such localization requirements would inhibit the further development and expansion of creative electronic services such as electronic invoicing, electronic general assembly and executive board meetings, electronic bookkeeping, and new e-payment and e-money services.

OTHER BARRIERS

Corruption

Despite Turkey having ratified the OECD anti-bribery convention and passed implementing legislation that makes bribery of foreign and domestic officials illegal, many foreign firms doing business in Turkey perceive corruption of some government officials and politicians to be a problem. The judicial system is also perceived by many observers to be susceptible to external influence and on occasion to be biased against foreigners.

Taxes

In January 2014, Turkey raised its special consumption tax to between 45 percent and 145 percent on all motor vehicles based on engine size. Previously, the rate range was 37 percent to 130 percent. This tax has a disproportionate effect on automobiles imported from the United States.

Pharmaceuticals

U.S. pharmaceutical companies have complained that their business operations in Turkey are being adversely impacted by the Turkish government's refusal to adjust the official exchange rate used for government purchases of imported pharmaceutical products. In 2009, companies negotiated with the MOH to sell their products using a Turkish Lira (TL) 1.95 = Euro (€) 1 exchange rate; the government codified this arrangement in statute. The government also agreed in the 2009 law to adjust the exchange rate if it

went up or down by over 15 percent compared to the 2009 baseline. The Lira has depreciated significantly against the Euro since 2009; the exchange rate shift exceeded 15 percent of the baseline in 2011, resulting in an effective price discount of over 50 percent, according to stakeholders. Despite rulings in Turkish courts that it is obliged to respect the rate adjustments provided for in the 2009 law, the government thus far has indicated no willingness to provide relief.

UKRAINE

TRADE SUMMARY

U.S. goods exports in 2014 were $1.3 billion, down 33.6 percent from the previous year. Ukraine is currently the 75th largest export market for U.S. goods. Corresponding U.S. imports from Ukraine were $934 million, down 9.9 percent. The U.S. goods trade surplus with Ukraine was $344 million in 2014, a decrease of $544 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Ukraine was $931 million in 2013 (latest data available), down from $935 million in 2012.

The United States-Ukraine Trade and Investment Cooperation Agreement

The United States and Ukraine signed a Trade and Investment Cooperation Agreement (TICA) on April 1, 2008, establishing a forum for discussion of bilateral trade and investment relations. The TICA established a joint United States-Ukraine Trade and Investment Council (TIC), which addresses a wide range of trade and investment issues, including market access, intellectual property rights protection, value-added tax issues, and specific business disputes. The TIC seeks to increase commercial and investment opportunities by identifying and working to remove impediments to trade and investment flows between the United States and Ukraine. The TIC last met in July 2012, and a meeting is planned for the first half of 2015. At the 2012 TIC meeting, the chairs established the Trade Experts Working Group, a working-level government-to-government mechanism to discuss impediments to increased trade and investment between TIC meetings.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

For some goods, a product certification is a prerequisite for an import license. To obtain this certification, an importer can request that a foreign facility be certified as in compliance with Ukraine's technical regulations that apply to imports. If approved, the supplier receives a certificate of conformity that is valid for two to three years and avoids the burdens of certifying each shipment and undergoing mandatory laboratory testing of its goods upon arrival in Ukraine. However, the U.S. distilled spirits industry reports that this option usually involves a burdensome and costly inspection visit by Ukrainian government officials.

Sanitary and Phytosanitary Barriers

The Ukrainian State Veterinary and Phytosanitary Service issues import permits for all commodities subject to veterinary control, including shipments where a bilateral veterinary certificate is issued by the country of origin. U.S. exporters have faced delays and difficulties in obtaining permits for imports of meat products.

IMPORT POLICIES

Tariffs and Customs Issues

U.S. exports are subject to Ukraine's most favored nation (MFN) applied tariff rate. The average applied rate for imported goods is 4.5 percent. For agricultural goods, it is 9.2 percent, while for industrial goods,

the average applied rate is 3.8 percent. Ukraine applies preferential tariff rates to imports from its 12 FTA partners and certain Commonwealth of Independent States countries. Most MFN customs tariffs are levied at *ad valorem* rates, and only 1.0 percent of tariff lines (down from 5.97 percent prior to Ukraine's WTO accession) are subject to specific rates of duty, which apply to some agricultural goods, such as wine and tobacco.

On September 12, 2012, Ukraine notified the WTO that it intended to renegotiate more than 350 tariff bindings on key agricultural and industrial products under Article XXVIII of the GATT 1994. More than 125 WTO Members, including the United States, raised serious concerns about Ukraine's proposed action, and the U.S. government repeatedly urged Ukraine not to pursue it. On October 21, 2014, Ukraine informed the WTO General Council that it was withdrawing its notification under Article XXVIII of the GATT 1994.

On December 28, 2014, President Poroshenko signed into law a one-year tariff surcharge of 10 percent on agriculture products and 5 percent on non-agriculture products (exempting specified "vital commodities"). The law provides that the surcharge is implemented pursuant to Article XII of the GATT 1994 to address Ukraine's balance of payments crisis. On February 16 Ukraine's Cabinet of Ministers adopted the tariff surcharge measure and implemented the surcharge effective as of February 25, 2015.

Although Ukraine's MFN applied tariff rates are relatively low, U.S. businesses have raised concerns that the State Fiscal Service (SFS) (formerly the Ministry of Revenues and Duties) rejects the declared customs value provided in the import documentation in favor of higher customs values, resulting not only in higher customs but higher value-added tax (VAT) payments as well. Changes made in 2012 to the Customs Code reduced the frequency with which SFS rejected importers' declared values, but importers continue to report that the customs valuation process remains uncertain.

Importers of U.S. goods have reported that inspection officials at port are taking excessive sample sizes of products from each "allotment" (a term broadly defined based on slaughter/production dates) for "laboratory testing" -- in some cases more than 7 kilograms of every "allotment", despite Ukrainian regulations recommending that only 150 grams of any product be taken as a sample. In addition, importers report that they are charged laboratory fees but receive no official report of the findings of laboratory tests. The enlarged sampling of imported products (especially of expensive products such as caviar, fish, or chilled meat) and testing fees in Ukraine pose a significant burden on the importer. According to stakeholders, importers often request U.S. exporters to put as few "uniform allotments" as possible into a container to reduce the number of samples taken.

Price Controls

The Cabinet of Ministers of Ukraine passed a resolution in June 2014 that introduced a minimum wholesale and retail price for hard liquors and wine. The price floor for whiskey was established at approximately $34 per liter of pure alcohol, whereas the floor price as set at $26.50 per liter of pure alcohol for cognac (brandy) and $15.30 per liter of pure alcohol for vodka. U.S. stakeholders claim that the higher minimum price for whiskey discriminates against imports because all whiskey is imported, whereas brandy and vodka are produced domestically. The establishment of minimum prices has resulted in 50 percent drop in the sales of U.S. whiskey in Ukraine.

GOVERNMENT PROCUREMENT

Ukraine is not yet a signatory to the WTO Agreement on Government Procurement (GPA), but has held observer status since 2009. Ukraine commenced negotiations to accede to the GPA in February 2011, in accordance with its commitment when it became a WTO Member. The United States will continue to encourage Ukraine to complete its GPA accession process.

The Ukrainian government adopted its basic law on Government Procurement in 2010. The law outlines major requirements for government procurement and tender procedures largely in line with international standards. However, a large percentage of government procurement is exempted from the procurement rules and can be conducted using sole-source contracts.

On April 20, 2014, the Ukrainian parliament introduced a number of controversial provisions to the 2010 procurement law, reducing transparency in government procurement and expanding the range of government procurements that can be excluded from public tender requirements. The amendments limited the requirement to use open tender procedures and publish information on procurement by state-owned companies only to procurement using state budgetary funds; however, there is no mechanism to allocate state funds to specific procurements within such companies, making the open tender requirement meaningless with respect to these entities.

Ukraine's procurement rules generally do not restrict foreign enterprises from participating in government procurement, but in practice, foreign companies claim that they are rarely able to compete on an equal footing with domestic companies. Foreign companies win only a tiny fraction of total procurements. Problems faced by foreign firms include: (1) the lack of public notice of tender rules and requirements; (2) nontransparent preferences in tender awards; (3) the imposition of conditions that are not part of the original tender requirements; and (4) ineffective grievance and dispute resolution mechanisms, which often allow a losing bidder to block the tender after the contract has been awarded.

EXPORT BARRIERS

Although Ukraine has eliminated export duties on numerous products, they remain on natural gas, livestock, raw hides, some oil seeds, and scrap metal. In addition, Ukraine requires an export license for a wide variety of products. According to the Ministry of Economic Development and Trade, the majority of export licenses are automatic.

In addition to being an export duty, exports of ferrous scrap metal are further burdened by the requirement that scrap export contracts be registered by the Ministry of Economic Development and Trade. In 2013 and 2014, the Ministry's failure to perform timely registration of contracts for ferrous scrap exports resulted in reduced exports, raising concerns among U.S. stakeholders of possible market distortions.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 2013 the U.S. Trade Representative downgraded Ukraine's status to "Priority Foreign Country" (PFC) in its annual Special 301 report, marking Ukraine as the only nation receiving the lowest ranking on its protection and enforcement of intellectual property rights (IPR). Ukraine also had PFC designation from 2001 to 2005. The PFC designation is reserved for countries with the most egregious IPR-related acts, policies, and practices with the greatest adverse impact on relevant U.S. products, and that are not entering into good faith negotiations with the United States or making significant progress in negotiations to provide adequate and effective IPR protection. The three grounds for Ukraine's PFC determination were: (1) the unfair, nontransparent administration of the system governing collecting societies; (2) widespread use of infringing software by the Ukrainian government agencies; and (3) failure to implement an effective and systemic means to combat the widespread online infringement of copyright and related rights in Ukraine.

Following the PFC designation and pursuant to statute, the Office of the U.S. Trade Representative concluded a Section 301 investigation of Ukraine's IPR acts, policies, and practices concluded in March 2014. . The U.S. Trade Representative determined that while IPR problems persisted no adverse actions would be taken against Ukraine because of the political situation in Ukraine at that time. The 2014 Special

301 Report, published only a few weeks later, reiterated the severe deficits in Ukraine's IPR protection and enforcement. Ukraine has persistently failed to meet its commitments to improve IPR protection, including commitments made as part of a 2010 United States–Ukraine IPR Action Plan. The Action Plan identified steps to be taken by Ukraine with respect to IPR public awareness, enforcement, passage of pending legislation, violations of data protection, pharmaceutical patents, and government use of unlicensed software. Online markets in Ukraine were identified on USTR's 2015 Notorious Market List. The need to improve Ukraine's protection and enforcement of IPR has been, and will continue to be, a major theme of the U.S. government's bilateral engagement with Ukraine.

SERVICES BARRIERS

Audiovisual Services

Ukrainian law requires film prints and digital encryption keys to be produced in Ukraine, a significant impediment for distributors of foreign films. Ukrainian law also imposes a language content requirement for radio and TV broadcasting.

INVESTMENT BARRIERS

Taxation

Companies report that Ukraine's taxation system is a major obstacle to doing business in Ukraine. In recent years, delays in the payment of refunds for the VAT to foreign invested exporters have been a problem. Although the SFS instituted an automated system for VAT refunds, nontransparent criteria have prevented many firms, and particularly smaller firms, from receiving their refunds. Delays in reimbursement have become an important cost factor for many foreign companies.

In addition to accumulating substantial new arrears in VAT refunds to U.S. and other companies, the government of Ukraine has engaged in other problematic treatment with regard to VAT refunds, such as demanding prepayment of the corporate profits tax in exchange for the same amount of refunds; writing-off claimed VAT payments for spurious reasons; offering to pay arrears with financial promissory notes; and distributing VAT refunds in an arbitrary fashion that appears to favor companies connected to, or otherwise favored by, the government. The U.S. government is working with the new Ukrainian government to reform and rationalize its VAT refund system.

Privatization

The State Property Fund oversees the privatization process in Ukraine. Privatization rules generally apply to both foreign and domestic investors, and, in theory, a relatively level playing field exists. Observers claim, however, that the terms of a privatization contest are often arbitrarily adjusted to fit the characteristics of a pre-selected bidder. For example, the privatization of a major electricity generation company, Donbasenergo, included the requirement that the winning bidder had mined a certain amount of domestic coal during previous years. This criterion effectively limited the pool of bidders to a short list of actors already present in Ukraine's coal mining and electricity production markets. The State Property Fund is under a great deal more scrutiny following recent protests and associated activity, and 2015 energy privatizations will serve as important indicators of the new government's willingness to reform.

In July 2014, the government issued a resolution calling for the privatization of 169 companies, including electric generation companies, the Azovmash machine-building plants and Odesa-Portside plants. However, the actual privatizations were postponed due to unstable conditions in the country. For example, one of the largest Odesa Portside plants that was originally planned for privatization is very close to the

military conflict in Donbas. The government announced plans in September to reduce the list of companies banned from privatization, and reiterated that intent in the government's national plan for 2015, released in December 2014.

Agricultural Land

In 2013, Ukraine extended its moratorium on the sale of agricultural farmland until January 1, 2016. This provision blocks private investors from purchasing any of the 33 million hectares of arable land in Ukraine and constitutes an obstacle to the development of the agricultural sector. Currently, investors rely on long-term lease agreements to accumulate land. Legislation on the tradability of such lease agreements, as well as land registration rules, is often unclear and frequently amended, requiring investors to dedicate additional resources to monitor the legal status of their land portfolios.

Corporate Raiding

Over the years Ukraine has had high-profile problems with corporate raiding activities. Some researchers claim that thousands of Ukrainian enterprises have suffered from such activities in recent years. These raiders frequently purchase a small stake in a company, and then take advantage of deficient legislation, corrupt courts, and a weak regulatory system to gain control of the company to the detriment of rightful shareholders. This practice harms investors, including U.S. companies and shareholders, and has damaged the image of Ukraine among foreign investors. The government has taken little action to stop this phenomenon, and some foreign investors complain that the government protects raiders who are politically connected.

Local Content

In 2012, Ukraine adopted amendments to its Law on Electricity, applicable to all new investments in energy power plants, which established a 50-percent "local component requirement" for the fixed assets of the plant, services acquired by the plant's owners, and all material inputs used in power production. Additionally, the amendments to the law introduce a Feed-In-Tariff (FIT) for the production of electricity from renewable sources. The granting of the FIT is conditional to the fulfilment of the local content requirement in the production of such electricity. In early 2014 the government stated that it was reconsidering this policy, and would not apply a local content requirement.

UNITED ARAB EMIRATES

TRADE SUMMARY

U.S. goods exports in 2014 were $22.1 billion, down 9.5 percent from the previous year. The United Arab Emirates is currently the 17th largest export market for U.S. goods. Corresponding U.S. imports from the United Arab Emirates were $2.8 billion, up 22.0 percent. The U.S. goods trade surplus with the United Arab Emirates was $19.3 billion in 2014, a decrease of $2.8 billion from 2013.

Sales of services in the United Arab Emirates by majority U.S.-owned affiliates were $6.5 billion in 2012 (latest data available), while sales of services in the United States by majority United Arab Emirates-owned firms were $2.7 billion.

The stock of U.S. foreign direct investment (FDI) in the United Arab Emirates was $10.8 billion in 2013 (latest data available), up from $8.3 billion in 2012. U.S. FDI in the United Arab Emirates is led by the mining, manufacturing, and wholesale trade sectors

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

In October 2014, the Emirates Standardization and Metrology Authority (ESMA) established the "Halal National Mark" for the United Arab Emirates (UAE). The certification mark was part of the "UAE Scheme for Halal Products" established by federal cabinet resolution No (10) of 2014. ESMA grants the mark, indicating that the product, service and production system is in conformity with the approved requirements. The scheme outlines the properties, descriptions, features, quality, dimensions, sizes or safety requirements of a commodity, material, service or measurable item, including terminology, symbols, testing methods, sampling, packaging and labeling. According to the regulation, the halal certificate is a document certifying that the product, service or scheme is compliant with Islamic law. This includes halal slaughtering certificates, ingredients with meat derivatives, extracts, as well as gelatin, fats, oils and their derivatives.

The UAE requires that all plastic bags produced in the country be biodegradable. As part of this requirement, all providers and suppliers of oxo-biodegradable additives need to be verified and approved by ESMA before they can work with plastic manufacturers and traders.

In December 2013, the six Member States of the Gulf Cooperation Council (GCC), working through the Gulf Standards Organization, issued regulations on the GCC Regional Conformity Assessment Scheme and GCC "G" Mark in an effort to "unify conformity marking and facilitate the control process of the common market for the GCC Members, and to clarify requirements of manufacturers." U.S. and GCC officials are discussing concerns about consistency of interpretation and implementation of these regulations across all six GCC Member States, as well as the relationship between national conformity assessment requirements and the GCC regulations, with a view to avoiding unnecessary duplication.

Sanitary and Phytosanitary Barriers

GCC Member States have notified the WTO Committee on Sanitary and Phytosanitary (SPS) Measures of their intention to implement a new "GCC Guide for Control on Imported Foods" by June 2015. As currently drafted, stakeholders have raised concerns that the requirements outlined in the Guide will impede trade beyond the extent necessary to protect human or animal health. The requirements also will impose burdensome and disproportionate demands regarding requirements for certification or forms of recognition

or acceptance of foreign food safety systems. The Guide as currently drafted does not provide scientific justification for requiring exporting government officials to certify and attest to statements that are inconsistent with guidelines established by the Codex Alimentarius and the World Organization for Animal Health. The United States has raised specific concerns about the Guide and has requested that GCC Member States delay entry into force of the Guide until food safety experts have an opportunity to discuss these concerns.

IMPORT POLICIES

Tariffs

As a member of the GCC, the UAE applies the GCC common external tariff of 5 percent, with a limited number of GCC-approved country-specific exceptions. The UAE's exceptions include alcohol (50 percent) and tobacco (100 percent). A total of 811 items are exempt from customs duties, including imports of the diplomatic corps, military goods, personal goods, used household items, gifts, returned goods and imports by philanthropic societies. In February 2014, the UAE Ministry of Finance announced that it was conducting studies on the possibility of imposing new duties and taxes on tobacco products.

Import Licenses

Only firms with an appropriate license are permitted to engage in importation, and only UAE-registered companies, which must have at least 51 percent UAE ownership, may obtain such a license. This licensing requirement does not apply to goods imported into free zones. Some goods for personal consumption also do not require import licenses.

Documentation Requirements

The UAE requires that documentation for all imported products be authenticated by the UAE Embassy in the exporting country. There is an established fee schedule for the authentication process. For U.S. exports, if validation is not obtained in the United States, customs authorities will apply the fee when the goods arrive in the UAE.

GOVERNMENT PROCUREMENT

In 2013, the UAE established a set-aside of 10 percent of federal government procurement to support small and medium size enterprises (SMEs). This is in addition to the UAE's already existing 10 percent price preference for local firms in government procurement. The UAE requires companies to register with the government before they can participate in government procurement, and in order to be eligible for registration, a company must have at least 51 percent UAE ownership. This requirement does not apply to major projects or defense contracts where there is no local company able to provide the goods or services required.

In June 2014, the Emirate of Dubai issued Law No. 08 of 2014, partially amending Law No. 06 of 1997 on Contracts of Government Departments, which amends the 10 percent performance bond exemption to include any contracts with total value not exceeding 500,000 Dirhams ($136,129), including commencement of any works or provision of consulting services. Additionally, if the contractor failed to present the performance bond and the total contract value ranges between 500,000-2,000,000 Dirhams ($136,129-544,514), the contractor may benefit from the performance bond exemption. However, an amount equivalent to 10 percent of the contract's payables is held against the final performance bond until the project's final handover; this amount is subject to release upon submission of an equivalent bank

guarantee. Dubai government officials have stated that the new law aims to encourage service providers and SMEs in the construction, commodities and service sectors.

The UAE's Tawazun Economic Council, previously known as the UAE Offset Program, requires defense contractors that are awarded contracts valued at more than $10 million to establish commercially viable joint ventures with local business partners that would be projected to yield profits equivalent to 60 percent of the contract value within a specified period (usually seven years). Stakeholders has raised concerns that the complexity of the offset program complicates implementation.

The UAE is not a signatory to the WTO Agreement on Government Procurement, and private sector stakeholders have raised concerns about a general lack of transparency in the UAE's procurement process.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

United Arab Emirates was not listed in the 2014 Special 301 Report. However, some challenges remain. The UAE government is finalizing a new law regarding commercial fraud that UAE officials assert will require the destruction of counterfeit goods, while allowing defective or substandard goods to be returned to their point of origin. Further, U.S. rights holders have raised concerns regarding the lack of transparency and information exchange when UAE customs officials conduct raids and seizures of pirated and counterfeit goods. Stakeholders have also raised concerns about internet piracy, and the UAE has yet to provide for the establishment of collecting societies for copyright royalties.

The UAE continues to work to improve protection of intellectual property rights by launching public awareness campaigns and seizing counterfeit goods, including CDs, DVDs, TV and stereo sets, perfume, car parts, watches, garments, medicine and printers. In October 2014, the UAE signed the Beijing Treaty on Audiovisual Performances and the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities.

In 2014, Saudi Arabia, Bahrain, and Qatar approved the GCC Trademark Law. Kuwait, Oman and the United Arab Emirates are expected to approve the law in 2015, after which implementing regulations will be issued. As the six GCC Member States explore further harmonization of their intellectual property rights (IPR) regimes, the United States will continue to engage with GCC institutions and the Member States and to provide technical cooperation on IPR policy and practice.

SERVICES BARRIERS

Agent and Distributor Rules

In order to distribute products in the UAE, foreign firms must employ a local agent. The Agency Law (Federal Law Number 18 of 1981 on the Organization of Commercial Agencies, amended by Federal Law Number 14 of 1988) allows only UAE nationals or companies wholly owned by UAE nationals to register with the Ministry of Economy as commercial agents.

The UAE government allows some food products to be sold by foreign companies without a local agent in order to stabilize the prices of these products. In January 2012, the UAE cabinet approved the addition of 12 commodities to the previous list of 15 goods that can be sold without a local agent, including livestock, dairy products, fats and oils, honey, eggs, fruit juices, salt, yeast, animal feed, detergents and hygiene products.

Federal Law Number 2 of 2010 prevents the termination or non-renewal of a commercial agency unless the foreign principal has a material reason to justify such an action. In addition, the foreign principal may not

re-register a commercial agency in the name of another agent even if the previous agency was for a fixed term, unless: (1) it is amicably terminated by the principal and the previous agent; (2) termination or non-renewal is for justifiable reasons that are satisfactory to the Commercial Agencies Committee; or (3) a final judicial judgment is issued ordering the cancellation of the agency.

Amendments to the Agency Law in 2010 reinstated the specialized Commercial Agencies Committee (after being eliminated in 2006), which has original jurisdiction over disputes involving registered commercial agents. The UAE cabinet further outlined the responsibilities of the Committee in Resolution Number 3 of 2011 (Concerning the Commercial Agency Committee). These responsibilities include receiving applications for settling agency disputes and managing the process of cancelling registered agencies. The Committee is permitted to abstain from settling a dispute referred to it and can advise the parties to refer the matter to litigation. A party may challenge the determination of the Committee by bringing a matter to the UAE courts within 30 days of receiving notice of the Committee's resolution. The Committee is permitted to seek the assistance of any expert or "appropriate person" for performing its duties. It also has the right to demand the submission of further information and documentation involved in the dispute.

Telecommunications

The UAE currently has two telecommunications companies, both of which are subject to significant government ownership: Emirates Telecommunications Corporation (Etisalat), the former telecommunications monopoly, and Emirates Integrated Technology Company (which operates under the trade name Du). The UAE has committed that after December 31, 2015, it will issue more licenses, thereby eliminating the duopoly.

The UAE restricts the provision of Voice over Internet Protocol (VoIP) services to licensed telecommunications companies. U.S. providers of VoIP services have raised concerns that the UAE limits their ability to provide these services by licensing only the two current telecommunications companies; other companies using this technology are subject to having their services blocked.

Transportation

Federal Law Number 9 of 2011 on Land Transport and Public Roads restricts licenses of all commercial transport vehicles, including those used by couriers, to UAE citizens only. The law has been implemented in three phases: (1) vehicle licensing mechanism, including issuance of custom pass cards and truck data; (2) operations and classification of trucks; and (3) supervision. As of the end of 2014, the third phase is still to be implemented.

Insurance

Foreign insurance companies may operate only as branches in the UAE. Domestic UAE insurance companies must be a public joint stock companies, and foreign equity is limited to 25 percent. Since 2008, new UAE insurance licenses have been issued only to UAE and GCC firms.

The Emirate of Abu Dhabi limits insurance coverage for construction projects and companies under the Abu Dhabi National Oil Company to Abu Dhabi-based national insurance companies.

In late 2013, the UAE government issued a new law on insurance brokerage, bringing significant changes to paid-up capital from $272,257 to $816,771, in addition to raising professional indemnity requirements. The new law caused closure of many brokerage companies.

INVESTMENT BARRIERS

The UAE generally does not provide national treatment for foreign investors, and foreign ownership of land and stocks is restricted. The UAE limits foreign investment through restrictive agency, sponsorship, and distribution requirements. Companies must have at least 51 percent UAE ownership, except for those located in one of the UAE's free zones. More specifically, a company engaged in importation and distribution must be either a 100 percent UAE-owned agency or a 51 percent UAE-owned limited liability company. The UAE considered a revision to the Company Law that would liberalize specific sectors where there is a need for foreign expertise or where local investments are insufficient to sustain 100 percent local ownership. However, in February 2013, the UAE Federal National Council rejected a clause in the revised legislation that would have allowed foreigners to fully own certain companies.

U.S. companies have raised concerns about lengthy delays and burdensome procedures in receiving payment for projects undertaken in the UAE, particularly for work done on behalf of certain government entities, as well as concerns about the difficulty of collecting on arbitration awards.

Foreign investors have also raised concerns about the resolution of investment disputes. Among other issues, they are concerned that pursuing arbitration in disputes with a local company may jeopardize business activities in the UAE. They have also raised concerns about a lack of impartiality and the length of dispute resolution proceedings within the domestic court system. Both the federal government and the Dubai government have taken steps to address these concerns. The federal government is drafting a new commercial arbitration law, and the Dubai International Financial Center (DIFC) courts are expanding their jurisdiction to include commercial parties not located within the center. Additionally, a new arbitration center is planned for the planned Abu Dhabi Global Market financial free zone. The chambers of commerce in different emirates have also established centers for commercial reconciliation and arbitration to help address dispute resolution issues.

In February 2013, the UAE passed the Competition Law, which introduced regulations on mergers and acquisitions, restrictive agreements and abuse of market power. The law prohibits all agreements or alliances among establishments that aim to reduce or prevent competition, including schemes to fix prices through restricted production or distribution of goods or services. The law also bans collusion in bidding or refusal to deal with certain establishments during the bidding process, as well as market-sharing schemes that block market access for other establishments. Any dominant establishment is proscribed from abusing its position by engaging in price-fixing, predatory pricing, discrimination between customers with similar contracts without justification or forcing customers to refrain from dealing with competing entities. The law includes financial penalties ranging from approximately $140,000 to $1,400,000. However, since the law allows for exemptions for individual companies, and does not cover telecommunications, transportation, oil and gas, finance and government enterprises, Emirati-owned firms do not face penalties if they engage in anti-competitive practices in these sectors. In November 2014, the cabinet issued implementing regulations for the Competition Law, which outlines the exemptions process.

UZBEKISTAN

TRADE SUMMARY

U.S. goods exports in 2014 were $213 million, down 40 percent from the previous year. Corresponding U.S. imports from Uzbekistan were $14 million, down 47 percent. The U.S. goods trade surplus with Uzbekistan was $199 million in 2014, down $131 million from 2013. Uzbekistan is currently the 132nd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Uzbekistan was $74 million in 2013 (latest data available), up from $71 million in 2012.

Membership in the World Trade Organization

Uzbekistan is not yet a member of the WTO. Uzbekistan applied for membership in 1994 and participated in three Working Party meetings, but its accession process has been inactive since October 2005. However, Uzbekistan has continued to update its legislative framework since 2005 in an effort to reflect WTO requirements. These updates would require revised and updated documentation to be submitted in the accession process.

SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Currently, Uzbekistan has no laws or regulations governing the approval, production, or importation of plant products derived from agricultural biotech, including processed foods, animal feed or seed. According to the Ministry of Foreign Economic Relations, Investment, and Trade (MFERIT) and the State Committee for Protection of Nature (the main governmental organizations responsible for biotech issues), a draft decree dealing with the production and trade of biotech agricultural products has been under development over the past few years. However, the draft decree is still under consideration by a number of different ministries and by the special parliament committee. Based on observations of official and independent experts, the government is not expected to approve the decree in the near future.

As for import requirements for animal products like meat and dairy, Uzbekistan requires veterinary/sanitary certificates. Uzbekistan has adopted unified CIS veterinary/sanitary certificates, which prohibit importation of biotech products. This includes meat products produced from animals that consumer biotech feed.

IMPORT POLICIES

Import Substitution Industrialization (ISI) has been a cornerstone of economic policy for the government of Uzbekistan since the country gained independence. This policy involves funneling of investments and resources to sectors pre-selected by the government with the goal of developing domestic industries. In implementing ISI, the government of Uzbekistan has adopted a number of measures such as restrictions on currency conversion, restrictive import controls, and excessively high import duties and taxes. These barriers will likely not change in the near term.

Tariffs

Uzbekistan maintains relatively high import tariffs. Customs duties for imported goods are as high as 200 percent, and the average rate is approximately 30 percent. In addition to high import duties, Uzbekistan

applies high excise taxes on various imports to protect local producers. For example, the average excise tax rate for imported food products is 70 percent, ranging from 10 percent for potatoes to 200 percent for ice cream. The excise tax rate for new cars is about $3 per cubic centimeter of engine displacement, while it averages 50 percent for furniture, 40 percent to 60 percent for electronics, and 140 percent for jewelry.

Customs and Border Requirements

Border and customs restrictions are among the most serious challenges to doing business in Uzbekistan. Bureaucratic requirements still remain far more onerous than the global norm. According to the World Bank, 13 documents are required for the importation of goods by the various government ministries, customs authorities, container terminal authorities, health and technical control agencies, and banks involved in importation. After documentation handling, customs clearance, port charges, and inland transportation, the average cost to import one container is $6,452.

In 2013, Uzbekistan implemented new import measures requiring for customs valuation that all imports be accompanied by an official export customs declaration. Such a declaration is not issued for exports from the United States, nor do many other countries issue it to their exporters. Although the Uzbek Council of Ministers' subsequently passed a resolution allowing for use of different types of documentation to verify value (No. 139 of May 22, 2013), companies are still periodically asked to provide an official export customs declaration. Companies report that if they do not present this document, they are assessed an automatic surcharge that assumes a higher value of the good than the value declared, resulting in higher duties.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Uzbekistan has been listed on the USTR annual Special 301 Watch List since 2000. The Uzbek Agency for Intellectual Property maintains centralized authority over IPR issues. Uzbekistan has not joined the Convention for the Protection of Producers Against Unauthorized Duplication of Their Phonograms (Geneva Phonograms Convention) or WIPO Copyright Treaty. Stakeholders have raised concerns that many government agencies are not using licensed software. The U.S. Government has pressed Uzbekistan to increase enforcement in areas such as providing enforcement officials, including customs officials, with *ex officio* authority to initiate enforcement actions and investigations. The U.S. Government is pleased that Uzbekistan has withdrawn its reservation to Article 18 of the Berne Convention for the Protection of Literary and Artistic Works and that it entered into force on October 10, 2014.

SERVICES BARRIERS

Banking: The private sector has access to only a limited variety of credit instruments, due to a combination of burdensome regulations and underdevelopment of the credit market. Access to foreign banks is limited. Absent a special government decree, local businesses generally may not use foreign financial institutions without first going through a local bank. Commercial banks are permitted to use credit lines from international financial institutions to finance small and medium businesses, subject to requirements that the credit lines be covered by government or other guarantees, and these guarantees may be subject to quotas.

Telecommunications: State-owned firm Uztelecom dominates the market for the provision of wireline services. The government of Uzbekistan has previously announced efforts to privatize Uztelecom but has not followed through. The procedures for obtaining permission to operate in Uzbekistan (*e.g.*, licensing, frequency) are extremely complicated.

INVESTMENT BARRIERS

Foreign ownership and control are prohibited in the airline, railway, power generation, and other sectors deemed to be related to national security. Restrictions also apply to media, banking, insurance and tourism. Foreign investment in media enterprises is limited to 30 percent. In banking, foreign investors may operate only as joint venture partners with Uzbek firms, and banks with foreign participation face fixed charter funding requirements (approximately $13.5 million for commercial banks and $6.8 million for private banks), while the required size of the charter funds for Uzbek owned banks is set on a case-by-case basis. In the tourism sector, foreign ownership of a firm cannot exceed 49 percent.

Currency Conversion Policies

Since 1991, the government of Uzbekistan has restricted conversion of its currency, which has served as a major impediment for foreign investors and local private businesses. Uzbekistan is the only former Soviet Union state still impeding currency conversion. This policy has led to the creation of a large illegal currency market, where the exchange rate for U.S. dollars is currently about 30 percent higher than the official rate (U.S. dollars are also available for purchase on a semi-official 'commodity exchange' at twice the official conversion rate). Presently, businesses must obtain permission from the CBU to access foreign currency; while the CBU is obliged by law to convert the currency within five business days, actual waiting times are rarely less than three months and often stretch out well over a year. In several notable cases, the GOU has told import-dependent companies that, rather than depend on currency conversion from the Central Bank for their hard currency needs, they need to further localize their operations to reduce dependence on imported inputs and increase exports to generate hard currency revenues.

Under Uzbek law, 50 percent of foreign currency earned from exports must be exchanged for local currency through authorized banks at the official exchange rate, with proceeds from these exchanges earmarked to satisfy currency conversion requests. As the official rate of exchange is approximately 38 percent less than the black market rate and 45 percent less than the commodities exchange rate, most local companies endeavor to keep their hard currency revenues in foreign banks and therefore out of the pool available for conversion requests. Legal entities wishing to access foreign currency must spend significant time navigating the bureaucracy, with their money held in a non-interest-bearing custodial account while permission from the Central Bank is pending. The government reportedly issues banks confidential instructions regarding which orders are to be filled.

Expropriation

The government has authority to seize foreign investor assets for violation of legislation, breach of contract, failure to complete investment commitments, and for reasons such as revaluation of assets and site development programs. In the cases of legal seizures, compensation to foreign partners is required to be made in a transferrable currency, but in most cases is made in local currency.

VENEZUELA

TRADE SUMMARY

U.S. goods exports in 2014 were $11.3 billion, down 14.1 percent from the previous year. Venezuela is currently the 27th largest export market for U.S. goods. Corresponding U.S. imports from Venezuela were $30.2 billion, down 5.6 percent. The U.S. goods trade deficit with Venezuela was $18.9 billion in 2014, an increase of $86 million from 2013.

U.S. exports of services to Venezuela were $7.0 billion in 2013 (latest data available), and U.S. imports were $700 million. Sales of services in Venezuela by majority U.S.-owned affiliates were $4.2 billion in 2012 (latest data available), while sales of services in the United States by majority Venezuela-owned firms were $613 million.

The stock of U.S. foreign direct investment (FDI) in Venezuela was $14.5 billion in 2013 (latest data available), up from $13.5 billion in 2012. U.S. FDI in Venezuela is led by the manufacturing, nonbank holding companies, and finance and insurance sectors.

TECHNICAL BARRIERS TO TRADE/SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Venezuela continues to ban select U.S. beef, cattle and poultry product imports in a manner that appears to be inconsistent with World Organization for Animal Health (OIE) guidelines and recommendations. All U.S. beef, beef products and live cattle imports are banned due to a 2003 b*ovine spongiform encephalopathy* (BSE) directive despite the fact that the OIE now classifies the United States as negligible risk for BSE. The total beef and live cattle import market is estimated at $2.1 million.

Venezuela's import regulations related to poultry meat do not specifically ban imports from the United States, but its implementation of the regulations effectively bans U.S. poultry meat from the country. According to Venezuelan import regulations, poultry meat from any country that has had an occurrence of avian influenza is prohibited from importation into Venezuela. Venezuelan authorities have failed to comply with OIE guidelines, and they have refused to meet with USDA sanitary regulatory officials to discuss the issue.

IMPORT POLICIES

Venezuela has increased direct government purchases and implemented new import requirements and procedures for obtaining pre-import approvals, import permits, and foreign currency. These measures have disrupted trade by increasing the burden on exporters and importers. Many of these requirements are waived when increased imports are deemed necessary to maintain minimum levels of supply.

Venezuelan importers continue to complain about the government's unwillingness to approve import permits, requests for foreign exchange, and other documents when importing from the United States. In cases related to import of basic grains, such as wheat, the government has reportedly told importers to increase imports from South America. In addition, requests for imports from Mercado Común del Sur (MERCOSUR) and Caribbean countries are reportedly handled and approved faster than requests for imports from the United States. It appears that the overall impact of these policies has been limited, however, due to the overriding lack of foreign currency, the need for inputs, and the lack of supply from competing countries.

Public sector entities and state-owned enterprises are not required to present or maintain import licenses, to pay tariffs, or to present any documents or certificates related to the regulation of customs and duties, according to an executive resolution signed in March 2012. The Venezuelan government has stated that this measure was passed in order to simplify administrative procedures for import and export. However, it imposes significant competitive disadvantages on private sector entities, which are typically denied similar treatment. Venezuela has on occasion extended this treatment to private sector actors for short periods of time in order to facilitate imports of products it deems to be in shortage. The total shares of private sector imports decreased by 8.7 percent to 58.8 percent in the first six months of 2014 when compared to the same period in 2013.

Tariffs

Venezuela's average applied tariff rates were 16.8 percent on agricultural goods and 12.8 percent on non-agricultural goods in 2013. Venezuela's average bound tariff rates were 55.8 percent on agricultural goods and 33.6 percent on non-agricultural goods.

MERCOSUR admitted Venezuela as its fifth full member on July 31, 2012. Venezuela has four years from its date of accession to adopt the MERCOSUR common external tariff (CET) and to provide duty-free treatment to its four MERCOSUR partners on all goods, with a two-year extension allowed for sensitive products. By April 1, 2014, Venezuela had adopted the CET for 50 percent of the goods in its tariff schedule. It will phase in the adoption of the remainder of the CET schedule on an annual basis with full implementation of the CET completed in 2016.

Venezuela's customs authorities are empowered to establish reference prices for calculating import duties. The Customs Tariff Schedule establishes 11 levels of *ad valorem* import duty rates, ranging from zero to 20 percent, with some rates in some sectors up to 35 percent. In addition to import duties, importers must pay 1 percent of the value of goods as a customs service fee, as well as a value-added tax, which is currently 12 percent of the cost, insurance, and freight (CIF) value of the product.

Price Controls

In an attempt to regulate local production and control market prices of basic consumable products, Venezuela has instituted a number of laws and decrees that impose price controls, dictate product movements throughout the distribution chain, and limit profit margins of manufacturers and retailers. These measures have led to significant decreases in local production, forcing the government to increase imports to meet total demand. Total imports equaled roughly 50 percent of total consumption in 2013, according to the central bank's most recently published data.

On January 24, 2014, President Maduro used decree authority to promulgate the Fair Costs and Prices Law with the intent to further regulate the private sector with profit limits, audits, and penalties. The law applies to any resident in Venezuela conducting any type of economic activity. The law created a new Venezuelan government institution, the National Superintendent for the Defense of Socio-Economic Rights (SUNDDE), by merging the Superintendent for Fair Costs and Prices and the Institute for the People's Defense for Access to Goods and Services. SUNDDE is the new authority empowered to decide whether prices are "fair" and to identify profit limits for businesses. Businesses that are found in compliance will be given a "Certificate of Fair Prices" that will be required in order to apply for hard currency through the newly established National Center for International Trade (CENCOEX).

Currency Controls

Venezuela continues to maintain strict currency controls that were implemented in 2003. The measures continue to pose a significant obstacle to most trade with Venezuela. Many companies report that they cannot obtain sufficient foreign currency to satisfy their business needs.

Venezuelan law has established three foreign exchange (FX) mechanisms to sell dollars to the private sector. From February 2003 to March 2014, the primary mechanism of Venezuela's FX regime was the Commission for the Administration of Foreign Exchange (CADIVI). The Venezuelan government eliminated CADIVI in 2014 and folded its responsibilities into the newly established CENCOEX.

CENCOEX oversees two of the Venezuelan government's three FX mechanisms. The first mechanism, called simply CENCOEX, operates much as CADIVI did, selling dollars at the official exchange rate of 6.3 bolivars/dollar for imports of specific goods and services deemed national priorities, including food, medicine, and medical supplies. As with CADIVI, firms and individuals soliciting dollars from CENCOEX must register with the body and obtain supporting documentation from various Venezuelan government ministries, *e.g.*, certificates of non-national production of the proposed imports and statements of good standing with the tax authorities. The second CENCOEX-operated mechanism, the Complementary System of Foreign Exchange (SICAD), periodically sells dollars to specific priority sectors at roughly 12 bolivars/dollar. SICAD has not operated since November 2014.

The Venezuelan central bank (BCV) oversees the third currency exchange mechanism, the Marginal Currency System (SIMADI), which replaced the Alternative System of Foreign Exchange (SICAD II) in February 2015. SIMADI allows for three distinct currency exchange activities undertaken by different authorized agents: wholesale currency trading for firms by commercial banks; retail foreign currency trading for individuals by commercial banks and exchange houses; and trading in dollar-denominated securities by commercial banks and stock brokers through the public-sector stock exchange. The BCV publishes daily SIMADI's exchange rate, which is a weighted average of the exchange rates realized through the wholesale of currency and securities-based transactions. The BCV has controlled the SIMADI exchange rate, allowing it to depreciate gradually from roughly 170 to 180 bolivars/dollar in its first month of operations. Venezuelan firms and financial analysts have reported that SIMADI has not been able to satisfy the market demand for hard currency, much like its predecessors SICAD I and SICAD II were unable to do.

Private sector firms and independent analysts report that sales through Venezuela's FX mechanisms are arbitrary and lack transparency. The time to receive authorization for foreign currency through the CENCOEX-operated mechanisms varies in length, but can take more than nine months from the beginning to the end of the process and requires the submission of various supporting documents by the Venezuelan importer, with the support or collaboration of the exporter. Businesses and individuals report rejections of applications after initial approval and approval of applications after rejection.

Local Content Requirements

Venezuela implemented a 35 percent local content requirement in domestically assembled vehicles, effective December 4, 2013. Assemblers have stated that this requirement is problematic but an improvement on the previous local content requirement of 50 percent, which was in effect through 2013. The limited capacity of local industry to produce components makes satisfying the 35 percent local content difficult, and the general lack of hard currency to import inputs has reduced production levels severely. Furthermore, local motor assembly, which could contribute to meeting the local content requirement, is considered prohibitively expensive given the variety of motors and the size of production runs required.

Since September 2012, Venezuela has required domestically-produced and imported vehicles to use a Venezuela-specific vehicle identification number, contrary to international standards and practice.

Tariff-Rate Quotas

Venezuela maintains the authority to impose tariff-rate quotas (TRQs) for up to 62 tariff lines. Venezuela administers TRQs for oilseeds, corn, wheat, milk and dairy, and sugar. The procedure for issuance of import licenses under these TRQs is not transparent, and the relevant rules are inconsistently applied by Venezuela authorities. For example, Venezuela has not published regulations establishing the TRQ mechanism for some eligible products, while for products that have established TRQ mechanisms, such as pork, the TRQ mechanism is not applied. This leads to great uncertainty for U.S. exporters, who face duties ranging from 8 percent to 20 percent depending on whether the TRQ is applied.

GOVERNMENT PROCUREMENT

Venezuela's government procurement law covers purchases by government entities, national universities, and autonomous state and municipal institutions. It is not clear to what degree the procurement law applies to joint ventures in which a state entity has a controlling interest. The law requires a procuring entity to prepare a budget estimate for a procurement based on reference prices maintained by the Ministry of Light Industry and Trade.

Although the law forbids discrimination between domestic and foreign suppliers, it provides that the President can mandate temporary changes in the bidding process "under exceptional circumstances," in accordance with "economic development plans" that promote national development or provide preferences to domestic goods and suppliers. These measures can include price preferences for domestic goods and suppliers, reservation of procurements for nationals, requirements for domestic content, technology transfer, or the use of local labor and other incentives to purchase from companies domiciled in Venezuela. For example, Government Decree 1892 establishes a 5 percent preference for bids from companies whose products have over 20 percent local content. In addition, half of that 20 percent of content must be from small to medium domestic enterprises.

The Venezuelan government is increasingly awarding contracts directly, thus avoiding competition required by the government procurement law. A presidential decree in 2008 established a National Service of Contractors, with which firms must register in order to sell to government entities. Tenders are not accepted without prior registration.

Venezuela is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Venezuela remained on the Priority Watch List in the 2014 Special 301 Report. Key concerns cited in the report relate to the deteriorating environment for the protection and enforcement of intellectual property rights (IPR) in Venezuela. The reinstatement of the 1955 Industrial Property Law in 2008 has created uncertainty about the consistency of domestic laws and international obligations with respect to patent and trademark protections. Copyright piracy and trademark counterfeiting remain widespread, including piracy over the Internet. Other concerns include the lack of effective protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products. Venezuela has taken steps to enforce the 2010 Law on Crimes and Contraband, which established enhanced penalties for smuggling violations and provides for the seizure of infringing goods. However, Venezuela must still make significant improvements to its regime for IPR protection and increase enforcement against counterfeiting and piracy, both physical and online.

SERVICES BARRIERS

Venezuela maintains restrictions on a number of services sectors, including professional services, audiovisual, and telecommunications services. In any enterprise with more than 10 workers, foreign employees are restricted to 10 percent of the work force, and Venezuelan law limits foreign employee salaries to 20 percent of the payroll.

Professional Services

Foreign equity participation in professional firms is restricted to a maximum of 19.9 percent. Only Venezuelan citizens may provide accounting and auditing services to government institutions and other government entities such as banks and hospitals. In addition, only Venezuelan citizens may act as accountants for companies in which the government has at least a 25 percent ownership interest. Foreigners are required to establish a commercial presence for the provision of engineering services.

Financial Services

Under a 2010 Venezuelan insurance law, at least half of the members of the board of insurance companies must be of Venezuelan nationality. In addition, all members of the board must be living in and have resident status in the country

Under the 2011 Venezuelan banking law, foreign banks without subsidiaries in Venezuela may act within Venezuela only through their representatives in Venezuela. With respect to services of the foreign bank they represent, such representatives may only promote the services among companies of the same nature that operate in Venezuela; among individuals and companies interested in the purchase or sale of goods and services in foreign markets (for financing services); and among potential applicants for credits or external capital. In addition, the banking law expressly prevents representatives from carrying out operations and rendering services that constitute activities of the foreign bank that they represent; receiving funds and investing such funds directly or indirectly in Venezuela; offering or investing in securities or other foreign securities within Venezuela; or advertising their activities in Venezuela.

Audiovisual Services

Venezuela limits foreign equity participation to less than 20 percent for enterprises engaged in Spanish language TV and radio broadcasting. At least half of the TV programming must be dedicated to national programming. Additionally, half of both FM and AM radio broadcasting must be dedicated to Venezuelan-produced material. In the case of music, 50 percent of the Venezuelan-produced material must be traditional Venezuelan songs. There is also an annual quota on the distribution and exhibition of Venezuelan films. The Venezuelan government film agency determines how many copies of foreign films shown in one year may be produced and sold for distribution in the following year. At least 20 percent of those authorized copies for distribution must be made in Venezuelan reproduction facilities.

INVESTMENT BARRIERS

The Venezuelan government continues to control key sectors of the economy, including oil, petrochemicals, and much of the mining and aluminum industries. Venezuela began an ambitious program of privatization under the Caldera administration (1994-1999), but under the late President Chavez administration, privatization was halted and the Venezuelan government re-nationalized key sectors of the economy. There have been 1,280 state interventions (expropriations, private property seizures, and nationalizations) in the private sector since 2002, according to the industry association CONINDUSTRIA (Confederación Venezolana de Industriales). Of these, 40 percent are companies involved in the construction sector, 32

percent in the industrial sector (manufacturing, agro-industrial, agriculture or related industries), 17 percent in the oil sector, and 9 percent in the service and trade-related sectors. Other sectors affected have included food, mining, chemical, and transport services.

Foreign investment continues to be restricted in Venezuela's petroleum sector. The exploration (except for natural gas offshore), production, refinement, transportation, storage, and foreign and domestic sale of hydrocarbons are reserved to the government, though private companies may engage in oil and gas production through joint ventures with the state-owned petroleum company, Petróleo de Venezuela, S.A. (PDVSA). Although Venezuelan law requires a competitive process for awarding stakes in exploration and production acreage to private partners for projects to be developed by PDVSA, the government may directly award contracts when the project is to be developed under special circumstances or is of national interest. Oil companies from politically strategic partner countries seem to be the preferred partners for the development of many new projects.

Government decisions to force international oil companies to accept the conversion of their projects to minority stakes in joint ventures without the right to operate, to impose windfall profits taxes, and other moves have substantially increased uncertainty in the hydrocarbons sector. Companies that have refused to transfer their investment stakes in oilfield projects have had control of these investments taken over by the government, leading to international arbitration claims against Venezuela.

In January 2012, former President Chavez announced that Venezuela would not recognize any arbitral decision relating to one of these claims, and in July 2012, he officially withdrew Venezuela from the World Bank's International Center for Settlement of Investment Disputes (ICSID). Twenty-five ICSID cases against Venezuela are currently pending, making Venezuela the country with the largest number of pending ICSID claims.

Venezuela also controls the state assets and services involved in gas compression and in the injection of water, steam, or gas into petroleum reservoirs. The government is required to have at least a 50 percent ownership stake in petrochemical companies. In August 2010, the National Assembly passed a law merging all electricity utilities under one central holding entity with 75 percent direct government ownership and 25 percent PDVSA ownership. The state-owned electric company, CORPOELEC, controls electric power generation, transmission, and distribution.

The state-owned Corporación Venezolana de Guayana controls steel and aluminum production, electricity generation, and mining. In 2012, the government failed to renew the concession for the Paso del Diablo coal mine, partly owned by U.S. firm Peabody Company, and Minera Loma de Nickel, a nickel mining concession owned by London-based Anglo-American Company. In 2010, then-President Chavez declared that he would order the Ministry of Basic Industry and Mines to cancel all mine concession agreements and expropriate gold and diamond mining activity taking place in the state of Bolivar. In practice, Venezuela has waited in some cases for concessions to expire and then has announced it would not renew them.

VIETNAM

TRADE SUMMARY

U.S. goods exports in 2014 were $5.7 billion, up 13.7 percent from the previous year. Vietnam is currently the 44th largest export market for U.S. goods. Corresponding U.S. imports from Vietnam were $30.6 billion, up 24.0 percent. The U.S. goods trade deficit with Vietnam was $24.9 billion in 2014, an increase of $5.2 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Vietnam was $1.4 billion in 2013 (latest data available), up from $1.1 billion in 2012.

Trade Agreements

Vietnam is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Vietnam, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, and Singapore.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

On October 27, 2014, Vietnam issued a revised Circular 34, which establishes labeling and other requirements for prepackaged food and beverages, food additives and food processing aids. Vietnam notified the original circular to the WTO Committees on Technical Barriers to Trade and Sanitary and Phytosanitary Measures in 2012 and 2013, respectively, but did not notify the revised regulation to the relevant WTO Committees, limiting the time exporters had to bring products into compliance with the requirements, which became effective on December 19, 2014.

Vietnam made several significant revisions to Circular 34, but did not address some concerns raised or clarifications requested. For example, Vietnam maintained certain requirements concerning the production date and shelf-life of products, despite Codex recommendations for quality-based dates of duration. In addition, it did not clarify the extent to which it requires percentage labeling of ingredients.

Sanitary and Phytosanitary Barriers

Vietnam continues to work to ensure that its SPS regulatory regime is consistent with international standards. However, beginning in April 2010, Vietnam proposed a series of SPS measures purportedly to address broad food safety concerns, but which appear to unnecessarily restrict trade in food and agricultural products.

In 2012, Vietnam issued Decree 38, an implementing regulation for its comprehensive Food Safety Law. Decree 38 is broad in scope, covering regulations for a wide variety of horticultural, seafood, and meat products, and it applies to both foreign suppliers and domestic producers. Since 2012, three Vietnam Ministries (Health, Agriculture and Rural Development, and Industry and Trade) have sought to clarify their jurisdictions on food safety and continue to promulgate circulars implementing aspects of Decree 38. Enforcement of these implementing circulars is variable and creates considerable uncertainty for traders. The United States will continue to raise these issues with Vietnam.

Food Safety

Beef and Beef Products

During Vietnam's negotiations for accession to the WTO, Vietnam agreed to allow imports of U.S. beef and beef products from cattle under 30 months old. In 2011, the two sides further agreed on requirements for the export of live cattle to Vietnam, but beef and beef products were still restricted to products derived from animals less than 30 months of age. In February 2015, following discussions between the two governments, Vietnam agreed to remove the remaining restriction on age and restored full market access for U.S. beef and beef products. The United States will monitor implementation closely.

Offal Products

In recent years, the Ministry of Agriculture and Rural Development (MARD) partially removed a prior ban on the importation of offal products from all countries. In September 2013, it eliminated the remaining ban on so-called "white offals," and in February 2014 Vietnam reached agreement with the United States on the terms and conditions necessary to resume trade in those products, pending the individual registration of U.S. beef, pork, or poultry processing facilities. Following MARD's meat and poultry audit of the U.S. food safety inspection system conducted in November 2014, MARD continued to maintain that "white offal" was higher risk, and it increased the inspection rate on shipments, temporarily stopping approval of U.S. facilities exporting offals. The United States continues to urge Vietnam to remove any remaining obstacles to trade in offal products.

Products of Animal Origin

Vietnam's Circular 25 requires producers of food of animal origin to provide extensive information on their individual facilities, including proprietary information, in order for foods produced in those facilities to remain eligible for export to Vietnam. The United States continues to work with Vietnam on resolving long-term issues related to this regulation, including exporting company registration requirements and the need for a transparent, timely, and consistent review and approval process for new applicants.

Products of Plant Origin

In December 2013, Vietnam's National Assembly passed a new Plant Health Law updating the overall guidance on the issues of plant health quarantine, pesticide regulation, and import and export of plant origin products. The law and its subsequent guiding decrees and circulars entered into force January 1, 2015. The United States commented on several of the implementing regulations that were notified to the WTO in 2014 and will monitor the application of these regulations. In particular, the U.S. government and U.S. companies have raised concerns about the apparent lack of science-based justification and transparency by Vietnam's regulatory authority with respect to requirements of government-issued phytosanitary certification or equivalent for products of plant origin. Vietnam's enforcement in this area has created uncertainty for U.S. exporters of pre-packaged, consumer-oriented or highly- processed foods of plant origin for which such certificates are not normally issued nor required.

IMPORT POLICIES

Tariffs

The majority of U.S. exports to Vietnam face tariffs of 15 percent or less, although consumer-oriented food and agricultural products continue to face generally higher rates. In recent years, Vietnam has increased applied tariff rates on a number of products, although the rates remain below its WTO bound levels. Products affected by such tariff adjustments include sweeteners (such as fructose and glucose), shelled walnuts, ketchup and other tomato sauces, inkjet printers, soda ash, and stainless steel bars and rods. Most of the products for which tariffs have increased are produced by local companies.

Nontariff Barriers

Import Prohibitions

Vietnam currently prohibits the commercial importation of some products, including cultural products deemed "depraved and reactionary," certain children's toys, second-hand consumer goods, used spare parts for vehicles, used internal combustion engines of less than 30 horsepower, and encryption devices and encryption software. Vietnam applies its prohibitions on used and second-hand goods to remanufactured goods as well.

Quantitative Restrictions and Import Licenses

Vietnam maintains tariff-rate quota regimes for salt, tobacco, eggs, and sugar.

Imports of iron and steel were previously subject to a licensing requirement pursuant to Circular 23, issued on August 7, 2012. However, on June 16, 2014, the Ministry of Industry and Trade's (MOIT's) Circular 17 removed this requirement.

On November 26, 2014, the Ministry of Information and Communications issued Circular 18/2014/TT-BTTTT, which guides implementation of Decree 187/2013/ND-CP as it relates to the importation of mobile phones, radio transmitters and radio transmitter-receivers. The Circular stipulates that importers of these items must submit import permit applications to the Communications Ministry that include commercial invoices, contracts, and supporting documents, and that an import permit will be issued within seven working days after submission. The Circular went into effect on January 16, 2015.

On September 7, 2012, the Prime Minister issued Directive 23 on "Certain Imports for Re-Export and Trans-shipment Trade." The directive barred imports of a list of products, mainly which are potentially harmful to the environment. On January 27, 2014, MOIT issued Circular 05/2014, which lists items subject to permanent and temporary bans for re-export under Directive 23. Items include a range of chemicals, plastics and plastic waste, and certain types of machinery and equipment.

Vietnam's Decree 94 on "Wine Production and Wine Trading" entered into force on January 1, 2013. Decree 94 establishes three types of licenses for alcohol: distribution, wholesale, and retail. The decree dictates that only enterprises with liquor distribution licenses are permitted to import liquor and establishes tight quotas for each category of trading license.

On September 17, 2012, the Prime Minister issued Directive No. 24 on "The Vietnamese People Using Vietnam Made Products," and a Government Resolution on "Ensuring Macro-economic Stability, Curbing High Inflation, and Trade Deficits." Through these regulations, the Prime Minister ordered government

agencies to implement appropriate measures to encourage the consumption of domestically-produced products.

Price Registration and Stabilization

The National Assembly promulgated the Price Law in 2012, which went into effect on January 1, 2013. The Price Law gives the Ministry of Finance the authority to apply price controls on a set list of products, including petroleum products, electricity, liquidized petroleum gas, nitrogen fertilizers, pesticides, animal vaccines, salt, milk products for children under the age of six, sugar, rice, and basic human medications.

On May 20, 2014, the Ministry of Finance published Decision 1079/2014/QD-BTC regarding the implementation of price stabilization measures for dairy products for children under six years old. The Decision set maximum prices and required price reductions on a number of branded infant and children formula products and also set the maximum wholesale to retail markup for these goods at 15 percent. These measures will stay in effect until at least May 20, 2015, at which time the Ministry will decide whether to lift the measures. The United States is monitoring this issue closely.

Customs

Vietnam has implemented the WTO Customs Valuation Agreement, but importers of poultry have reported concerns with the use of reference prices affecting U.S. exports to Vietnam. The United States will continue to work with Vietnam on implementation of the WTO Customs Valuation Agreement. U.S. exporters also continue to have concerns about aspects of the customs clearance process, citing inefficiency, incorrect HS classification, red tape, and corruption as issues.

On June 23, 2014, Vietnam promulgated a new Law on Customs, to replace the existing Law on Customs starting January 1, 2015. The new law provides a legal framework for the National Single Window and institutes a number of positive changes, including increased electronic filing of customs forms. It also allows for more self-certification by traders, and for an expanded advance rulings system, including classification, origin and customs valuation.

Trading rights

Companies are allowed to import all goods except for a limited number of products, which must be imported by state trading enterprises, including cigars and cigarettes, crude oil, newspapers, journals and periodicals, and recorded media for sound or pictures (with certain exclusions).

Export taxes

Vietnam applies export taxes on a wide range of goods, including minerals, ores, metals, rubber, wood, and hides. Export tax rates range from 5 to 40 percent.

Other Nontariff Barriers

U.S. stakeholders continue to express concern about the impact on foreign firms of product registration requirements for imported pharmaceuticals. Ministry of Health Decision 2962, issued in 2012, limits market access for international pharmaceutical companies, including some from the United States.

GOVERNMENT PROCUREMENT

Vietnam's 2006 Law on Procurement provides for enhanced transparency in domestic procurement procedures; decentralization of procurement decision making to the ministries, agencies, and local authorities; appeals processes; and enforcement provisions. In some sectors, Vietnam has sought to promote the purchase of domestic goods or services in government procurement.

Vietnam has undertaken no international obligations on procurement at this point. Obligations on government procurement negotiated through the TPP would be Vietnam's first binding international commitments to provide market access for foreign suppliers to Vietnam's government procurement market.

Vietnam is not a party to the WTO Agreement on Government Procurement. However, Vietnam became an observer to the WTO Committee on Government Procurement on December 5, 2012.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Vietnam remained on the Special 301 Watch List in 2014 due to widespread counterfeiting and piracy, unauthorized reception and distribution of satellite channels via illegal decoders and domestic pay TV platforms, and primary reliance on administrative actions and penalties rather than more deterrent mechanisms of IPR enforcement.

SERVICES BARRIERS

Advertising Services

Decree No. 181/2013/ND-CP, issued in 2013, introduced new restrictions with respect to online advertising. The decree requires Vietnamese advertisers to contract with a Vietnam-based advertising services provider in order to place advertisements on foreign websites, and requires any foreign websites to notify the Ministry of Culture, Sports and Tourism in writing of the name and main business lines of the provider that it has retained in Vietnam at least 15 days before publishing an advertisement.

Audiovisual Services

Foreigners may invest in cinema construction and operation only through joint ventures with local Vietnamese partners, subject to government approval. Films are subject to censorship before public viewing, a process for which the right to appeal a censor's decision is not well established.

Broadcasting

Vietnam requires that foreign pay TV providers use a local agent to translate into Vietnamese all movies and programming on science, education, sports, entertainment, and music before they are screened. Decision 18a/2013/QD-TTG, issued in 2013, removed the requirements for news channels to translate their broadcasts and provide a summary of the content in Vietnamese in advance of airing. The measure still requires foreign-content providers to secure the services of a local editing company for post-production work (including translation, content review, and payment of a placement fee) in order for advertisements to be approved for placement in a Vietnamese broadcast. The U.S. government continues to raise concerns with the Ministry of Information and Communication and will continue to monitor the implementation of both pay TV regulations.

Telecommunications

Vietnam permits foreign participation in the telecommunications sector, with varying equity limitations depending on the sub-sector. For instance, foreign ownership in services supplying closed-user networks is permitted up to 70 percent, while foreign ownership in facility-based basic services is generally capped at 49 percent. Vietnam also allows foreign equity of up to 65 percent for non-facilities-based public telecommunications services.

Opportunities for foreign firms to form joint-ventures in the facilities-based sector are further restricted by a policy requiring facilities-based operators to be majority State-owned firms, limiting the pool of such partners. The share of the market accounted for by the top three telecommunications companies has grown to nearly 95 percent. In addition, the three largest telecommunications firms, which Vietnam had pledged to equitize, remain non-incorporated governmental assets.

The Vietnamese government continues to exercise various forms of control over Internet access. It allows access to the Internet, but only through a limited number of Internet service providers, all of which were State-controlled companies or companies with substantial State control. The Vietnamese government restricts or blocks access to certain websites that it deems politically or culturally inappropriate. In July 2013 Vietnam promulgated Decree 72/2013/ND-CP, which forbids the use of Internet services to oppose the government; harm national security, social order, and safety; or propagandize war, terrorism, hatred, violence, or superstition. The United States has raised concerns about these Internet restrictions with the Vietnamese government and will continue to monitor this issue closely.

Circular 09/2014/TT-BTTTT "Detailing Management, Provision and Use of Information on Websites and Social Networks," which guides implementation of Decree 72, requires Vietnamese companies who operate general websites and social networks, including blogging platforms, to locate a server system in Vietnam and to store posted information for 90 days and certain metadata for up to two years. To date, enforcement of the decree appears to be very limited, but the Ministry of Communications is expected to release guidance on how the decree will apply to foreign cross-border service providers in 2015.

In 2014, the Communications Ministry issued a circular that set a floor for wholesale rates for international voice and data roaming services in Vietnam. As a result of the circular, roaming rates have increased dramatically, with the further result that several U.S. operators have reduced or eliminated roaming services for their U.S. customers in Vietnam. The United States will continue to engage with the Ministry of Communications and monitor this issue closely.

Distribution Services

Foreign investors who seek to open a second retail establishment in Vietnam's retail sector are subject to an economic needs test, which is evaluated by the local authorities and approved by the MOIT. The MOIT issued Circular 8 in April 2013, which provides additional details on the application of the economic needs test, which was first introduced in 2007. The only companies exempted from the economic needs test requirement are small- and mid-sized retail outlets (less than 500 square meters) located in commercial zones. Circular 8 also stipulates that foreign-invested enterprises with export trading licenses can only buy agricultural products from local traders.

Foreign Contractor Tax

Effective October 1, 2014, Ministry of Finance Circular 103 requires local entities to withhold taxes of up to 2 percent when they provide most services for foreign contractors. Previously, withholdings were only

required for revenue generating services, but the withholding requirement now applies to services that are generally deductible for local businesses, such as advertising and after-sale warrantee services.

Banking and Securities Services

Vietnamese banking regulations make a distinction between domestic "joint stock" banks (commercial banks with any amount of private ownership) and "joint venture" banks (banks set up by joint venture agreement, typically between domestic and foreign partners). Total cumulative foreign ownership in domestic "joint stock" banks is limited to 30 percent. The Vietnamese government can approve increases in foreign ownership above 30 percent, but no such approvals have been granted to date. Foreign equity in "joint venture" banks is permitted up to 49 percent, but no new joint venture banking licenses have been issued in the past few years.

Foreign bank branches continue to face geographic network restrictions that are not imposed on joint stock banks or joint venture banks, such as being limited to one office per province.

Foreign securities companies are permitted to establish 100 percent foreign-owned subsidiaries in Vietnam, but are limited to 49 percent ownership of local securities companies. The same ownership rule applies to fund management firms.

INVESTMENT BARRIERS

Vietnam's National Assembly passed a new Investment Law on November 26, 2014, that will go into effect July 1, 2015. The most significant change in the new law is that the list of prohibited sectors for foreign investment has changed from a positive list to a negative list, which means that foreign investors can now invest in all sectors except six prohibited by law. An additional 267 sectors are subject to pre-approval by the National Assembly or the Prime Minister before a foreign investment can be made.

The new Real Estate Law allows foreigners with a valid visa, foreign companies, and international organizations to obtain a certificate of land use rights for 50 years, but does not allow foreigners to own real estate. Foreign entities can also mortgage both the structures on the land and the value of the land use rights.

ELECTRONIC COMMERCE

Electronic commerce is growing rapidly in Vietnam. In the area of cloud computing services, stakeholders have raised concerns over the Ministry of Communications' draft IT Services decree, which would impose licensing and registration requirements on IT service providers, including restrictions on the cross-border supply of cloud computing and data center services. As of early 2015, the Communications Ministry has reportedly shelved the draft decree. The U.S. Government will continue to monitor this issue closely.

OTHER BARRIERS

The lack of transparency and accountability, along with reported widespread official corruption and an inefficient bureaucracy, continue to be problems in Vietnam. With the assistance of the United States and other donors, Vietnam is in the process of implementing a public administration reform program and continuing to enhance overall transparency. The United States will continue to work with Vietnam to support these reform efforts and to promote greater transparency.

Vietnamese courts continue to have a weak track record of enforcing international arbitral awards. In 2012, dozens of Vietnamese companies signed purchase contracts with U.S. cotton suppliers but failed to execute the contracts when world cotton prices fell.

APPENDIX I

APPENDIX I

Report on Progress in Reducing Trade-Related Barriers to the Export of Greenhouse Gas Intensity Reducing Technologies

This Appendix provides an update on progress the Administration has made in reducing trade-related barriers to the export of greenhouse gas intensity reducing technologies (GHGIRTs), as called for by the Energy Policy Act of 2005. In October 2006, pursuant to section 1611 of the Act,[1] USTR prepared a report that identified trade barriers that face U.S. exporters of GHGIRTs in the top 25 greenhouse gas (GHG) emitting developing countries and described the steps the United States is taking to reduce these and other barriers to trade.[2] The Act also calls for USTR to report annually on progress made with respect to removing the barriers identified in the initial report. USTR submitted the first annual progress report in October 2007; this report, as well as the initial report, are available at http://www.ustr.gov. USTR will continue to submit further annual progress reports as part of the NTE Report.

As described in the initial 2006 GHGIRT report, barriers to the exports of GHGIRTs are generally those identified in the NTE with respect to other exports to the 25 developing countries: *e.g.*, lack of adequate and effective intellectual property rights protections; lack of regulatory transparency and sound legal infrastructure; state-controlled oil and energy sectors, which are often slower to invest in new technologies; cumbersome and unpredictable customs procedures; corruption; import licensing schemes; local content requirements; investment restrictions, including requirements to partner with domestic firms; and high applied tariff rates for some countries. Progress in removing such barriers is noted below in the appropriate country chapter of the report. The reader is also referred to USTR's "Special 301" report pursuant to section 182 of the Trade Act of 1974. The "Special 301" report describes the adequacy and effectiveness of intellectual property rights protection and enforcement of U.S. trading partners; the 2013 report will be released later this year.

Increased trade in environmental technologies, such as GHGIRTs, is an important part of President Obama's Climate Action Plan, announced in June 2013, a key objective of U.S. leadership in global trade policy, and a potential driver of job growth here at home.

China, with the largest energy consumption in the world, is a significant player in the area of smart grid technologies, and is currently pursuing a multi-year plan to invest over $500 billion in its electric infrastructure. In 2014, the United States closely monitored China's implementation of its commitments at the U.S.-China Joint Commission on Commerce and Trade to assure an open and transparent standards development process in this sector. USTR consulted closely with U.S. stakeholders and worked with the U.S. Trade and Development Agency which is funding programs for collaboration between Chinese and

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[1] Section 1611 of the Act amends the Global Environmental Protection Assistance Act of 1989 (Public Law 101-240) to add new Sections 731-39. Section 732(a)(2)(A) directs the Department of State to identify the top 25 GHG emitting developing countries for the purpose of promoting climate change technology. The Secretary of State has submitted its report to Congress identifying these 25 countries. Section 734 calls on the United States Trade Representative "(as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements) [to] (1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and (2) negotiate with foreign countries for the removal of those barriers."

[2] These 25 countries were identified in the Department of State's 2006 **"**Report to Congress on Developing Country Emissions of Greenhouse Gases and Climate Change Technology Deployment." They are: China; India; South Africa; Mexico; Brazil; Indonesia; Thailand; Kazakhstan; Malaysia; Egypt; Argentina; Venezuela; Uzbekistan; Pakistan; Nigeria; Algeria; Philippines; Iraq; Vietnam; Colombia; Chile; Libya; Turkmenistan; Bangladesh; and Azerbaijan. In 2008, Morocco replaced Azerbaijan on the list.

U.S. smart grid experts, as well as a roadmap for continued U.S.-China smart grid technical standards cooperation on international standards development. Since 2011, we have encouraged Chinese entities to join the Smart Grid Interoperability Panel to ensure that China can engage stakeholders from the entire smart grid community in a participatory public process to identify applicable standards, gaps, and priorities for new standardization activities for the evolving smart grid.

On July 8, 2014, the United States and 13 other WTO Members launched negotiations on the Environmental Goods Agreement (EGA) in Geneva, Switzerland. In addition to the United States, Australia, Canada, China, Costa Rica, the European Union, Hong Kong, Israel, Japan, Korea, New Zealand, Norway, Singapore, Switzerland, Chinese Taipei and Turkey are now participating in the negotiations, and together account for close to 88 percent of global trade in environmental goods. The EGA aims to eliminate tariffs on a broad set of environmental technologies, building on the APEC List of Environmental Goods. Tariffs on environmental goods can be as high as 35 percent and pose a significant barrier to trade for U.S. companies. By eliminating tariffs on the environmental technologies we need to protect our environment, we can make them cheaper and more accessible for everyone.

In addition to continued U.S. leadership on environmental goods in the WTO in 2014, the United States will also continue to play an active leadership role in APEC by ensuring that economies are on track to implement their commitment to reduce tariffs on environmental goods to 5 percent or less by the end of 2015. The United States will also build on the successful 2014 launch of the APEC Public-Private Partnership on Environmental Goods and Services (PPEGS) by focusing on non-tariff barriers to trade in environmental goods and services, including GHGIRTs.

In addition, we will continue to press for model TPP commitments on EGS, including immediate duty-free treatment for GHGIRTs, and substantial new market access for environmental and related clean energy services, as well as elimination of problematic local content requirements (LCRs).

APPENDIX II

APPENDIX
US Data for Given Trade Partners in Rank Order of US Goods Exports
(Values in Millions of Dollars)

Country	Trade Balance 2013	Trade Balance 2014	Change 2013-14	Exports* 2013	Exports* 2014	Change 2013-14 Value	Change 2013-14 Percent	Imports** 2013	Imports** 2014	Change 2012/13 Value	Change 2012/13 Percent	FDI*** 2012	FDI*** 2013	% Change 2012-13	FDI Area
World	-688,728	-721,744	-33,016	1,579,593	1,623,443	43,850	2.8	2,268,321	2,345,187	76,866	3.4	4,384,671	4,660,906	276235.0	Nonbank Holding Co,Finance/Ins, Manuf
Canada	-30,943	-33,937	-2,994	301,610	312,125	10,516	3.5	332,553	346,063	13,510	4.1	346,080	368,297	22217.0	Nonbank Holding Co,Manuf, Finance/Ins,
Mexico	-54,450	-53,831	618	226,079	240,326	14,247	6.3	280,529	294,157	13,629	4.9	98,377	101,454	3077.0	Manuf, Nonbank Holding Co, Finance/Ins,
China	-318,711	-342,633	-23,921	121,736	124,024	2,288	1.9	440,448	466,656	26,209	6.0	53,740	61,534	7794.0	Manufacturing, Wholesale, Banking,
Japan	-73,368	-66,975	6,393	65,206	66,964	1,758	2.7	138,573	133,939	-4,635	-3.3	125,286	123,174	-2112.0	Finance/Ins, Manufacturing, Wholesale,
United Kingdom	-5,464	-183	5,280	47,353	53,865	6,512	13.8	52,817	54,049	1,231	2.3	535,671	570,987	35316.0	Nonbank Holding Co, Finance/Ins , Manuf
Germany	-66,983	-73,738	-6,756	47,362	49,443	2,081	4.4	114,345	123,181	8,836	7.7	118,168	118,361	193.0	Manuf, Nonbank Holding Co, Finance/Ins
Korea, Republic of	-20,672	-25,062	-4,390	41,715	44,544	2,829	6.8	62,386	69,606	7,219	11.6	30,929	32,807	1878.0	Manufacturing, Finance/Ins,
Netherlands	23,341	22,862	-479	42,572	43,669	1,098	2.6	19,231	20,807	1,577	8.2	669,331	722,786	53455.0	Nonbank Holding Co, Manuf, Finance/Ins,
Brazil	16,485	12,081	-4,403	44,119	42,418	-1,701	-3.9	27,634	30,337	2,703	9.8	79,054	78,094	-960.0	Manuf, Nonbank Holding Co, Finance/Ins,
Hong Kong	36,658	35,083	-1,575	42,342	40,877	-1,465	-3.5	5,684	5,794	110	1.9	54,899	58,828	3929.0	Nonbank Holding Co,Wholesale
Belgium	12,929	13,919	991	31,941	34,824	2,884	9.0	19,012	20,905	1,893	10.0	46,137	47,951	1814.0	Manufacturing, Finance/Ins
France	-13,963	-15,818	-1,855	31,745	31,197	-547	-1.7	45,708	47,015	1,307	2.9	76,874	77,964	1090.0	Manuf, Finance/Ins
Singapore	12,829	14,068	1,239	30,672	30,532	-140	-0.5	17,843	16,463	-1,379	-7.7	139,708	154,438	14730.0	Nonbank Holding Co, Manuf, Finance/Ins
Taiwan	-12,468	-13,736	-1,268	25,472	26,836	1,363	5.4	37,940	40,572	2,632	6.9	17,683	16,905	-778.0	Manufacturing, Wholesale, Finance/Ins
Australia	16,858	15,998	-860	26,130	26,668	538	2.1	9,272	10,670	1,398	15.1	143,253	158,996	15743.0	Nonbank Holding Co, Mining, Finance/Ins
Switzerland	-1,503	-8,559	-7,055	26,773	22,629	-4,144	-15.5	28,276	31,187	2,911	10.3	123,131	129,769	6638.0	Nonbank Holding Co,Manufacturing, Wholesale,
United Arab Emirates	22,152	19,314	-2,838	24,446	22,113	-2,333	-9.5	2,294	2,799	505	22.0	8,335	10,765	2430.0	Mining, Manufacturing, Wholesale,
India	-20,003	-23,601	-3,598	21,842	21,628	-215	-1.0	41,845	45,228	3,383	8.1	22,822	24,318	1496.0	Prof, scientific, & tech services, Manuf, Finance/Ins,
Colombia	-3,234	2,082	5,316	18,392	20,317	1,925	10.5	21,626	18,234	-3,391	-15.7	7,371	7,819	448.0	Mining, Manufacturing, Finance/Ins,
Saudi Arabia	-32,850	-28,359	4,491	18,956	18,679	-278	-1.5	51,807	47,038	-4,769	-9.2	9,488	10,550	1062.0	
Italy	-21,937	-25,093	-3,156	16,755	16,988	233	1.4	38,692	42,081	3,389	8.8	27,530	27,560	30.0	Manufacturing, Finance/Ins, Information, Wholesale
Chile	7,130	7,139	9	17,515	16,630	-884	-5.0	10,384	9,491	-893	-8.6	37,827	41,110	3283.0	Mining, Finance/Ins, Manufacturing,
Israel	-9,062	-7,977	1,085	13,747	15,074	1,327	9.6	22,809	23,051	242	1.1	8,676	9,539	863.0	Manufacturing
Malaysia	-14,282	-17,311	-3,029	13,007	13,136	129	1.0	27,289	30,448	3,159	11.6	14,080	16,409	2329.0	Manufacturing, mini ng
Thailand	-14,376	-15,330	-954	11,797	11,791	-6	-0.1	26,173	27,121	948	3.6	14,320	14,428	108.0	Manuf
Turkey	5,402	4,300	-1,101	12,072	11,660	-412	-3.4	6,670	7,359	689	10.3	5,430	5,302	-128.0	Manuf, Wholesale,
Venezuela	-18,794	-18,880	-86	13,204	11,339	-1,864	-14.1	31,997	30,219	-1,778	-5.6	13,458	14,487	1029.0	Manuf, Nonbank Holding Co, Finance/Ins
Argentina	5,710	6,584	874	10,354	10,828	474	4.6	4,644	4,243	-400	-8.6	14,596	15,171	575.0	Manufacturing, Finance/Ins, Information,
Russia	-15,950	-12,924	3,026	11,136	10,768	-369	-3.3	27,086	23,692	-3,394	-12.5	14,834	14,631	-203.0	Manufacturing, Banking, Wholesale,
Panama	10,115	9,997	-118	10,564	10,398	-166	-1.6	449	400	-48	-10.8	5,194	5,796	602.0	Nonbank Holding Co, Manuf
Spain	-1,438	-4,292	-2,854	10,241	10,108	-132	-1.3	11,679	14,400	2,722	23.3	29,890	31,380	1490.0	Manuf, Nonbank Holding Co, Finance/Ins,
Peru	1,980	3,991	2,011	10,102	10,070	-32	-0.3	8,122	6,079	-2,042	-25.1	8,667	10,061	1394.0	Mining, Manufacturing,
Philippines	-865	-1,699	-834	8,404	8,461	58	0.7	9,269	10,160	891	9.6	4,097	4,376	279.0	Manufacturing, Nonbank Holding Co, Wholesale,
Ecuador	-3,825	-2,476	1,349	7,665	8,381	716	9.3	11,490	10,857	-633	-5.5	449	427	-22.0	Manufacturing, Mining
Indonesia	-9,777	-11,031	-1,254	9,100	8,331	-768	-8.4	18,877	19,362	485	2.6	13,556	12,777	-779.0	Mining,
Dominican Republic	2,899	3,436	537	7,159	7,955	796	11.1	4,260	4,519	259	6.1	1,244	1,342	98.0	Manufacturing
Ireland	-24,857	-26,209	-1,352	6,640	7,773	1,134	17.1	31,496	33,982	2,486	7.9	207,263	239,631	32368.0	Nonbank Holding Co, Information, Manufacturing
Costa Rica	-4,690	-2,481	2,209	7,224	7,026	-197	-2.7	11,914	9,508	-2,406	-20.2	1,024	969	-55.0	Manufacturing
Egypt	3,562	5,079	1,517	5,176	6,490	1,313	25.4	1,615	1,410	-204	-12.6	17,341	19,321	1980.0	Mining,
South Africa	-1,173	-1,921	-748	7,293	6,387	-906	-12.4	8,465	8,308	-158	-1.9	5,510	5,207	-303.0	Manuf, Wholesale, Prof, scientific, & tech services
Guatemala	1,384	1,839	455	5,555	6,057	502	9.0	4,170	4,217	47	1.1				
Honduras	830	1,289	458	5,373	5,932	559	10.4	4,543	4,643	100	2.2	849	901	52.0	Manufacturing
Nigeria	-5,332	2,082	7,414	6,392	5,924	-468	-7.3	11,724	3,842	-7,882	-67.2	8,402	8,067	-335.0	Mining
Vietnam	-19,620	-24,859	-5,238	5,036	5,725	689	13.7	24,657	30,584	5,927	24.0	1,143	1,398	255.0	
Qatar	3,657	3,517	-140	4,958	5,174	216	4.3	1,301	1,657	356	27.4	7,556			
Norway	-919	-913	7	4,591	4,447	-145	-3.2	5,510	5,359	-151	-2.7	44,938	44,289	-649.0	Nonbank Holding Co,Mining, Manufacturing
Sweden	-4,854	-5,880	-1,026	4,318	4,340	22	0.5	9,172	10,220	1,048	11.4	34,485	36,472	1987.0	Nonbank Holding Co, Finance/Ins, Manuf,
New Zealand	-261	281	543	3,225	4,261	1,036	32.1	3,487	3,980	493	14.1	9,457	7,919	-1538.0	Manufacturing, Nonbank Holding Co, Finacne/Ins
Austria	-6,264	-7,017	-753	3,520	3,733	213	6.1	9,784	10,750	966	9.9	14,367	16,719	2352.0	Manufacturing,
Poland	-1,096	-1,519	-423	3,790	3,659	-131	-3.4	4,885	5,178	293	6.0	13,342	13,464	122.0	Manufacturing, Wholesale, Finance/Ins,
Kuwait	-10,042	-7,787	2,255	2,595	3,649	1,055	40.7	12,637	11,437	-1,200	-9.5	262	301	39.0	
El Salvador	837	951	115	3,274	3,347	73	2.2	2,437	2,395	-42	-1.7	2,697	2,869	172.0	

*US Total Goods Exports (f.a.s.); **US General Goods Imports (customs value); ***Stock of US Foreign Direct Investment Abroad

APPENDIX
US Data for Given Trade Partners in Rank Order of US Goods Exports
(Values in Millions of Dollars)

	Trade Balance		Change	Exports*	Exports*	Change 2013-14		Imports**	Imports**	Change 2012/13		FDI***	FDI***	% Change	
Country	2013	2014	2013-14	2013	2014	Value	Percent	2013	2014	Value	Percent	2012	2013	2012-13	FDI Area
Denmark	-4,255	-5,171	-916	2,231	2,345	114	5.1	6,486	7,517	1,030	15.9	13,627	13,533	-94.0	Nonbank Holding Co, Manufacturing, Information
Czech Republic	-1,980	-2,035	-55	1,943	2,304	361	18.6	3,923	4,339	416	10.6	5,956	6,196	240.0	Manufacturing, Finance/Ins, Wholesale,
Finland	-2,315	-2,837	-521	2,354	2,160	-194	-8.3	4,669	4,997	327	7.0	2,008	1,966	-42.0	Manuf, Wholesale, Prof, scientific, & tech services
Iraq	-11,285	-11,605	-320	2,021	2,105	84	4.1	13,306	13,710	404	3.0		1,823		
Paraguay	1,656	1,901	245	1,933	2,097	164	8.5	277	196	-81	-29.2				
Morocco	1,505	1,077	-427	2,482	2,068	-414	-16.7	977	991	13	1.4	606	599	-7.0	
Jordan	886	695	-192	2,084	2,052	-32	-1.5	1,197	1,357	160	13.4	189	217	28.0	
Angola	-7,300	-3,679	3,620	1,443	2,040	597	41.4	8,743	5,720	-3,023	-34.6	846	1,286	440.0	
Oman	549	1,039	490	1,571	2,014	443	28.2	1,023	975	-47	-4.6				
Hungary	-2,041	-3,418	-1,377	1,727	1,843	116	6.7	3,768	5,262	1,494	39.6	7,493	6,007	-1486.0	Finance/Ins,Wholesale, Manufacturing
Ethiopia	495	1,522	1,028	689	1,729	1,041	151.2	194	207	13	6.8	11	10	-1.0	
Kenya	183	1,034	851	636	1,600	964	151.7	452	566	114	25.1	285	255	-30.0	
Pakistan	-2,043	-2,157	-114	1,646	1,515	-130	-7.9	3,688	3,672	-16	-0.4	231			
Luxembourg	1,208	760	-448	1,849	1,515	-334	-18.1	641	756	114	17.8	391,359	416,278	24919.0	Nonbank Holding Co, Finance/Ins, Manuf,
Ukraine	889	344	-544	1,925	1,278	-647	-33.6	1,036	934	-102	-9.9	935	931	-4.0	
Portugal	-1,987	-2,074	-87	844	1,137	293	34.7	2,831	3,211	380	13.4	2,058	1,985	-73.0	Manufacturing, Wholesale, Finance/Ins,
Ghana	617	856	240	982	1,128	145	14.8	366	271	-95	-25.8	3,617	3,598	-19.0	
Bahrain	382	95	-287	1,018	1,060	43	4.2	636	965	330	51.9	715	635	-80.0	
Nicaragua	-1,746	-2,090	-344	1,060	1,014	-45	-4.3	2,806	3,104	299	10.6	218	211	-7.0	
Kazakhstan	-271	-436	-164	1,150	1,009	-141	-12.3	1,421	1,444	23	1.6	12,512	14,036	1524.0	
Bolivia	-201	-935	-734	1,051	999	-51	-4.9	1,252	1,934	683	54.5	515	617	102.0	
Romania	-970	-1,128	-158	747	978	231	31.0	1,716	2,106	390	22.7	1,911	1,841	-70.0	
Greece	-215	-275	-60	739	773	34	4.6	954	1,048	94	9.8	1,024	1,049	25.0	Manufacturing
Brunei	541	518	-23	558	550	-8	-1.4	17	32	15	86.2	116	132	16.0	
Sri Lanka	-2,139	-2,320	-181	312	355	43	13.7	2,451	2,675	223	9.1	102	102	0.0	
Cambodia	-2,530	-2,516	15	241	328	87	36.1	2,772	2,844	72	2.6	54	63	9.0	
Laos	-6	-4	2	24	29	4	16.8	31	33	2	7.9				
European Union	-125,441	-141,138	-15,698	262,151	276,698	14,548	5.5	387,591	417,837	30,245	7.8	2,203,069	2,356,726	153657.0	Nonbank Holding Co, Finance/Insurance, Manufacturing

*US Total Goods Exports (f.a.s.); **US General Goods Imports (customs value); ***Stock of US Foreign Direct Investment Abroad