

2018 Trade Policy Agenda
and
2017 Annual Report
of the President of the United States on
the Trade Agreements Program



Office of the United States Trade Representative

FOREWORD

The 2018 Trade Policy Agenda and 2017 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). Chapter V and Annex II of this document meet the requirements of Sections 122 and 124 of the Uruguay Round Agreements Act with respect to the World Trade Organization. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984. Goods trade data are for full year 2017. Services data by country are only available through 2016.

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report and gratefully acknowledges the contributions of all USTR staff to the writing and production of this report and notes, in particular, the contributions of Benjamin B. Christensen, Molly L. Foley, Garrett Kays, and Susanna S. Lee. Thanks are extended to partner Executive Branch agencies, including the Departments of Agriculture, Commerce, Health and Human Services, Justice, Labor, State, and Treasury.

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LIST OF FREQUENTLY USED ACRONYMS

AD.....	Antidumping
AGOA.....	African Growth and Opportunity Act
APEC.....	Asia Pacific Economic Cooperation
ASEAN.....	Association of Southeast Asian Nations
BOP.....	Balance of Payments
CAFTA-DR.....	Dominican Republic-Central America-United States Free Trade Agreement
CBERA.....	Caribbean Basin Economic Recovery Act
CBI.....	Caribbean Basin Initiative
CTE.....	Committee on Trade and the Environment
CTG.....	Council for Trade in Goods
CVD.....	Countervailing Duty
DDA.....	Doha Development Agenda
DOL.....	Department of Labor
DSB.....	Dispute Settlement Body
DSU.....	Dispute Settlement Understanding
EU.....	European Union
FOIA.....	Freedom of Information Act
GATT.....	General Agreement on Tariffs and Trade
GATS.....	General Agreements on Trade in Services
GDP.....	Gross Domestic Product
GSP.....	Generalized System of Preferences
GPA.....	Government Procurement Agreement
HS.....	Harmonized System
IPR.....	Intellectual Property Rights
ICTIME.....	Interagency Center on Trade Implementation, Monitoring, and Enforcement
ITA.....	Information Technology Agreement
LDBDC.....	Least-Developed Beneficiary Developing Country
MFN.....	Most Favored Nation
MOU.....	Memorandum of Understanding
NAFTA.....	North American Free Trade Agreement
OECD.....	Organization for Economic Cooperation and Development
SME.....	Small and Medium Size Enterprise
SPS.....	Sanitary and Phytosanitary Measures
TAA.....	Trade Adjustment Assistance
TBT.....	Technical Barriers to Trade
TIFA.....	Trade & Investment Framework Agreement
TPRG.....	Trade Policy Review Group
TPSC.....	Trade Policy Staff Committee
TRIMS.....	Trade Related Investment Measures
TRIPS.....	Trade Related Intellectual Property Rights
UNCTAD.....	United Nations Conference on Trade and Development
URAA.....	Uruguay Round Agreements Act
USDA.....	U.S. Department of Agriculture

USITC..... U.S. International Trade Commission
USTR..... United States Trade Representative
WTO World Trade Organization

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**THE PRESIDENT'S
2018 TRADE POLICY AGENDA**

I. THE PRESIDENT'S TRADE POLICY AGENDA

EXECUTIVE SUMMARY

In 2016, President Trump told Americans, “Ladies and Gentlemen, it’s time to declare our economic independence once again.” Less than two years later, the Trump Administration has begun fulfilling that promise.

President Trump’s trade agenda rests on principles as old as the Republic itself. President Washington, in his Farewell Address, warned his fellow citizens that when it comes to trade negotiations, “There can be no greater error than to expect, or calculate upon, real favors from nation to nation.” He also advised that trade agreements should be “temporary,” and “abandoned or varied, as experience and circumstances shall dictate.” These statements laid the groundwork for an American trade policy that is pragmatic, flexible, and steadfastly focused on our national interest.

For most of our history, Americans generally followed President Washington’s advice. Even after joining the General Agreement on Tariffs and Trade, not only did the United States retain its sovereign power to act in defense of its national interest – it repeatedly undertook such actions. The result was a trade policy capable of maintaining popular support at home, while promoting more efficient markets around the world.

More recently, however, the United States has backed away from these successful principles. Instead of asserting its sovereign authority to act in response to changing circumstances, the United States continued to passively adhere to outdated and under performing trade deals and allowed international bureaucracies to undermine U.S. interests. This has left U.S. workers and businesses at a disadvantage in global markets, as unfair trading practices flourish in the absence of a strong U.S. response. Countries benefiting from market-distorting practices had no incentive to seriously engage with the United States. Wages for many Americans came under pressure from threats of outsourcing.

For a long time, American politicians promised to do something about these problems – and for a long time, very little changed. Now, under the leadership of President Trump, the United States Government is finally beginning to act. Consider the following examples:

- During the 2016 Presidential campaign, President Trump told Americans that he would end U.S. participation in the Trans-Pacific Partnership. He said that “{t}here is no way to ‘fix’ the TPP,” and that “We do not need to enter into another massive international agreement that ties us up and binds us down.” After the campaign, President Trump fulfilled his promise, withdrawing the United States from the Trans-Pacific Partnership soon after taking office.
- For years, American politicians have promised to renegotiate the North American Free Trade Agreement (NAFTA) – even if they had to threaten withdrawal to do so. President Trump fulfilled this promise, launching new negotiations to revise NAFTA last August. He has also begun efforts to update a flawed free trade agreement between the United States and South Korea.

- Politicians of both parties have long promised strong enforcement of U.S. trade laws. Last year the Trump Administration self-initiated a Section 301 investigation into another country’s unfair trading practices. This year – for the first time in 16 years – the Trump Administration granted safeguard relief under Section 201 of the Trade Act of 1974 to domestic industries suffering serious injury by reason of imports.

In short, President Trump has launched a new era in American trade policy. His agenda is driven by a pragmatic determination to use the leverage available to the world’s largest economy to open foreign markets, obtain more efficient global markets and fairer treatment for American workers. This policy rests on five major pillars:

Supporting Our National Security. Last December, President Trump issued a new National Security Strategy for the United States. This document plainly states that, “A strong economy protects the American people, supports, our way of life, and sustains American power.” It also makes clear that “the United States will no longer turn a blind eye to violations, cheating, or economic aggression.” Our trade policy will fulfill these goals by using all possible tools to preserve our national sovereignty and strengthen the U.S. economy.

Strengthening the U.S. Economy. Last year, President Trump signed a new tax bill designed to make U.S. companies and workers more competitive with the rest of the world. The Trump Administration has also begun an aggressive effort to eliminate wasteful and unnecessary regulations that hamper business. These and other efforts to strengthen the U.S. economy will make it easier for American companies to succeed in global markets.

Negotiating Better Trade Deals. For too long, the rules of global trade have been tilted against American workers and businesses. This will change. Already our trading partners know that the United States will alter – or terminate – old trade deals that are not in our national interest. We have launched aggressive efforts to revise our trade agreements with our NAFTA partners and with South Korea. Furthermore, we intend to actively pursue new and better trade deals with potential partners around the world.

Aggressive Enforcement of U.S. Trade Laws. The Trump Administration strongly believes that all countries would benefit from adopting policies that promote true market competition. Unfortunately, history shows that not all countries will do so voluntarily. Accordingly, we also have an aggressive trade enforcement agenda designed to prevent countries from benefiting from unfair trading practices. We will use all tools available – including unilateral action where necessary – to support this effort.

Reforming the Multilateral Trading System. The Trump Administration wants to help build a better multilateral trading system and will remain active in the World Trade Organization (WTO). At the same time, we recognize that the WTO has not always worked as expected. Instead of serving as a negotiating forum where countries can develop new and better rules, it has sometimes been dominated by a dispute settlement system where activist “judges” try to impose their own policy preferences on Member States. Instead of constraining market distorting countries like China, the WTO has in some cases given them an unfair advantage over the United States and other market based economies. Instead of promoting more efficient markets, the WTO has been used by some Members as a bulwark in defense of market access barriers, dumping, subsidies, and other market distorting practices. The United States will not allow the WTO – or any other multilateral organization – to prevent us from taking actions that are essential to the economic well-being of the American people. At the same time, as we showed in last year’s WTO Ministerial, we remain eager to work with like-minded countries to build a global economic system that will lead to higher living standards here and around the world.

These are exciting times for U.S. trade policy. Much work remains to be done – but we have already begun implementing a new trading agenda that will reward hard work and innovation instead of government planning and unfair subsidies. As our policies continue to take effect, we are confident that American workers, ranchers, businesses and farmers will all benefit from the chance to compete in a fairer world.

PUTTING AMERICA FIRST:

THE PRESIDENT’S 2018 TRADE POLICY AGENDA

To establish a trade policy that promotes America’s security and prosperity, the Trump administration will focus on five major priorities: (1) adopting trade policies that support our national security policy; (2) strengthening the U.S. economy; (3) negotiating better trade deals that work for all Americans; (4) enforcing U.S. trade laws and U.S. rights under existing trade agreements; and (5) reforming the multilateral trading system.

A. Trade Policy that Supports National Security Policy

For the Trump Administration, trade policy is intended to advance our national interest. Thus, our trade policy should be consistent with, and supportive of, our national security strategy. It makes no sense to promote trade deals that strengthen our adversaries, or otherwise leave the United States weaker on the national stage. Accordingly, the President’s trade agenda is intended to support the President’s broader efforts to build a stronger and more secure country.

Last December, the Trump Administration issued a new National Security Strategy of the United States of America. As described below, several aspects of that strategy are particularly relevant to trade policy:

Building a Strong America. According to the National Security Strategy, “A strong America is in the vital interests of not only the American people, but also those around the world who want to partner with the United States in pursuit of shared interests, values, and aspirations.” This principle applies to trade policy as well. For decades, the United States has played a unique role in promoting and encouraging true market competition all around the world. Many other countries have benefited from this policy, which has contributed to peace and prosperity on every continent. But the United States cannot fulfill this role without a strong domestic economy at home and without strong domestic support for open markets. Thus, we reject the notion that the United States can strengthen the global trading system – or promote efficient markets worldwide – by agreeing to trade policies that weaken our economy and undermine Americans’ faith in global trading rules. Indeed, recent history shows that when the United States grows weaker, cheaters flourish and global markets grow less efficient.

Preserving National Sovereignty. The National Security Strategy reminds us that, “All political power is ultimately delegated from, and accountable to, the people.” That includes the power to make rules of trade. The American people have the right to hold their elected officials responsible for any decisions they make with respect to trade policy. When international bureaucrats improperly set the terms of trade for Americans, they deny the American people this fundamental right. Obviously, there may be benefits to an agreed upon multinational system to resolve trade disputes, but any such system must not force Americans to live under new obligations to which the United States and its elected officials never agreed. Consistent with these principles, our trade policy will aggressively defend U.S. national sovereignty.

Responding to Economic Competitors. The National Security Strategy states that “China and Russia challenge American power, influence, and interests, attempting to erode American security and prosperity.” These challenges are not limited to the national security realm but also impact trade policy. Both China and Russia have been unwilling to comply with many of their obligations as members of the WTO.

China has a statist economic model with a large and growing government role. The scope of China’s economy means its economic practices increasingly affect the United States and the overall global economic and trade system. China has now been a member of the WTO for more than sixteen years and has yet to adopt the market economy system expected of all WTO Members. Indeed, if anything, China has appeared to be moving further away from market principles in recent years. Furthermore, as the world’s second largest economy, China has an enormous capacity to distort markets worldwide. China’s policies are contributing to a dramatic misallocation of global resources that leaves everyone – including the Chinese people – poorer than they would be in a world of more efficient markets.

Of course, as a sovereign nation, China is free to pursue whatever trade policy it prefers. But the United States, as a sovereign nation, is free to respond. Under President Trump’s leadership, we will use all available tools to discourage China – or any country that emulates its policies – from undermining true market competition. We will resist efforts by China – or any other country – to hide behind international bureaucracies in an effort to hinder the ability of the United States to take robust actions, when necessary, in response to unfair practices abroad. In short, our trade policy – like our national security policy – will seek to protect U.S. national interests.

Recognizing the Importance of Technology. The National Security Strategy states that, “The United States must preserve our lead in research and technology and protect our economy from competitors who unfairly acquire our intellectual property.” Our trade policy will support these efforts. In fact, as discussed in more detail below, we have already launched an investigation pursuant to Section 301 of the Trade Act of 1974 into allegations that China is engaged in unreasonable and discriminatory efforts to obtain U.S. technologies and intellectual property. If necessary, we will take action under Section 301 to prevent China from obtaining the benefit of this type of unfair practice. Our trade policy will also promote innovation in the digital economy. For example, we will take steps to promote a thriving global marketplace for online platforms.

Working with Others. The National Security Strategy states that, “Together with our allies, partners, and aspiring partners, the United States will pursue cooperation with reciprocity. Cooperation means sharing responsibilities and burdens.” These same principles apply to our trade policy. Under President Trump, the United States remains committed to working with like-minded countries to promote fair market competition around the world – but we will not pay for cooperation with trade deals that put U.S. workers and businesses at an unfair disadvantage. Countries that are committed to market-based outcomes and that are willing to provide the United States with reciprocal opportunities in their home markets will find a true friend and ally in the Trump Administration. Countries that refuse to give us reciprocal treatment or who engage in other unfair trading practices will find that we know how to defend our interests.

B. Strengthening the U.S. Economy

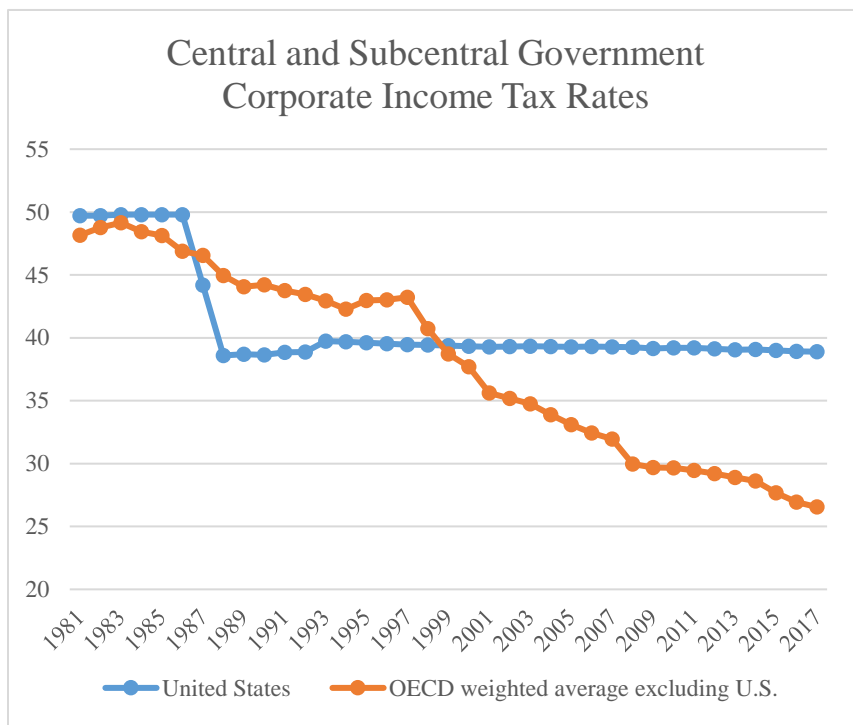
Improving competitiveness through tax cuts and reforms. In December 2017, President Donald J. Trump signed the legislation commonly known as the *Tax Cuts and Jobs Act (TCJA)* – the most significant tax cut and reform law in more than 30 years. The law was designed to achieve four goals: tax relief for middle-income families, simplification for individuals, repatriation of offshore income, and

economic growth by improving competitiveness. The Council of Economic Advisers (CEA) estimates that the business tax provisions in the new law will increase economic output by 2 to 4 percent in the long term and raise wage and salary income for households by an average of approximately \$4,000.

Reducing business tax rates to make American companies and workers more competitive.

The centerpiece of the business tax reforms in the TCJA is a reduction in the top statutory corporate tax rate from 35 percent to 21 percent, making the United States competitive with our major trading partners.

The last major business tax reform was achieved in 1986 when Ronald Reagan cut the top statutory corporate tax rate from 46 percent to 34 percent, making American businesses among the most competitive in the developed world. Since then, other countries aggressively cut their tax rates in an effort to compete with the United States and attract business investment. The average corporate tax rate in the OECD countries fell from 47 percent in 1986 to approximately 24 percent in 2017 – well below the U.S. rate. The United States went from having a competitive corporate tax rate to having the highest statutory corporate tax rate in the developed world. American businesses responded by offshoring jobs, moving factories, shifting profits to low tax jurisdictions, and moving their headquarters through corporate inversions. Cutting the statutory corporate tax rate to 21 percent will align the United States with our major trading partners, allowing our businesses and workers to compete on a more level playing field. The TCJA also cut taxes for pass through businesses by reducing individual tax rates and creating a 20 percent deduction for qualified business income.



Source: Organisation for Economic Cooperation and Development
 *The combined statutory tax rate includes the average subnational rate

Repatriation of offshore income. Another critical business tax reform in the TCJA was switching from a worldwide system of taxation to a territorial tax system that does not penalize companies for incorporating in the United States. Under a worldwide system, a country taxes businesses on profits earned anywhere in the world. In contrast, under a territorial system, countries impose tax only on profits earned inside that country’s borders. Prior to enactment of the TCJA, the United States was one of only six OECD countries to tax companies on their worldwide profits.¹ The combination of a high corporate tax rate and worldwide system resulted in one of the least competitive tax systems in the developed world. American

¹ PWC, “Evolution of Territorial Tax Systems in the OECD,” April 2, 2013. http://www.techceocouncil.org/clientuploads/reports/Report%20on%20Territorial%20Tax%20Systems_20130402b.pdf

companies responded by reinvesting their foreign earnings offshore to avoid paying the higher taxes that would be due if those profits were repatriated to the United States. By the end of 2015, U.S. multinationals invested an estimated \$2.5 trillion of income in other countries.² The TCJA reformed the tax treatment of U.S. companies by switching from a worldwide tax system to a territorial tax system, thereby ending the penalty on companies that headquarter in the United States. A territorial system will help to level the playing field for American businesses and allow them to repatriate earnings back to the United States without incurring high tax penalties.

As a transition to the territorial system, earnings that have already accumulated offshore will be subject to a one-time tax of 15.5 percent (for cash) or 8 percent (for non-cash assets). This transition tax will eliminate the U.S. tax incentive for keeping these accumulated earnings offshore, resulting in more money being available to invest in the United States.

Reforms to protect the U.S. tax base. The TCJA also implemented important reforms to discourage profit shifting and protect the U.S. tax base. Under the new law, excess returns earned overseas are subject to an effective minimum tax of 10.5 percent (increasing to 13.125 percent after 2025).

In addition, the TCJA seeks to minimize profit shifting through a new base erosion anti abuse tax or “BEAT.” The BEAT is an alternative minimum tax applicable to certain corporations that make deductible related-party payments (other than cost of goods) to a foreign entity. The BEAT prevents companies from eliminating their U.S. taxable income through payments to related parties in a low tax jurisdiction.

Impact of tax reform on the trade deficit. The combination of a competitive corporate tax rate and new anti-base erosion provisions has the potential to reduce the U.S. trade deficit by reducing artificial profit shifting. By reducing incentives to engage in artificial profit shifting, the new tax law should lead to more efficient markets here and abroad.

Reducing Regulatory Burdens. The Trump Administration has taken seriously the need to reduce regulatory burdens imposed on American businesses and citizens through trade policy. President Trump issued two executive orders last spring, which direct agencies to meet these goals. Agencies are in the process of systematically evaluating existing regulatory actions to determine whether they are unnecessary, ineffective, duplicative, or inconsistent with legal requirements and Administration policy. The Administration’s regulatory policy has resulted in the repeal of twenty-two regulations for every new regulation issued and over \$8.1 billion in net present value regulatory cost savings in FY 2017. The Administration’s commitment to deregulation has contributed to a strong investment environment which should excite the United States’ allies and trading partners.

C. Negotiating Trade Deals That Work for All Americans

The Trump Administration will aggressively negotiate trade deals designed to benefit all Americans. We have already begun efforts to improve NAFTA and KORUS. We intend to ask the Congress to extend the President’s Trade Promotion Authority – also known as “fast track” authority – to obtain an up or down vote on new trade agreements submitted to Congress. Based on our discussions with Congressional leaders, we believe that there is strong support for such an extension, which would mean that fast-track authority will remain in place until 2021.

² Audit Analytics, *Indefinitely Reinvested Foreign Earnings Still On the Rise*. July 25, 2016. <http://www.auditanalytics.com/blog/indefinitely-reinvested-foreign-earnings-still-on-the-rise/>

As shown in more detail below, President Trump will use this authority to obtain better trading terms for American workers, farmers, businesses, and ranchers. But we must address an obstacle that could significantly undermine our efforts. The Administration has nominated four outstanding people to serve in the Office of the U.S. Trade Representative. Three of these nominees would serve as Deputy U.S. Trade Representatives and a fourth would be Chief Agricultural Negotiator. They would have the rank of Ambassador and are essential to successfully concluding the negotiations described below. These four nominees – each of whom is willing and eager to work for this country – have been before the Senate for at least seven months. Every President since Ronald Reagan has had at least one Deputy USTR in place within 45 days of the nomination. This President has been waiting since June 15, 2017 – 260 days – and none of his nominees has even been given the courtesy of a floor vote. We urge the Senate to quickly confirm all four nominees.

1. NAFTA

NAFTA went into force on January 1, 1994, nearly a quarter of a century ago. At the time, pundits and policymakers in the United States assured concerned workers across the country that the new agreement would create hundreds of thousands of jobs, and that the United States would enjoy expanding trade surpluses with Mexico upon implementation. The Institute for International Economics epitomized this thinking when it forecast in 1993 that NAFTA would lead directly to the creation of 170,000 U.S. jobs and that the trade surplus with Mexico would expand well into the 2000s. President Bill Clinton, who signed the bill that approved NAFTA, declared further that the NAFTA’s side agreements on the environment and labor would make it a “force for social progress as well as economic growth.”

Unfortunately, these promises were not fulfilled. While NAFTA has had positive effects for some, notably American farmers and ranchers and those living in border communities dependent on trade flows, for many others, NAFTA has failed. For these Americans, NAFTA has meant job losses, especially in the manufacturing sector, and the closing down and relocation of factories from American towns and cities across both borders. Our goods trade balance with Mexico, until 1994 characterized by reciprocal trade flows, almost immediately soured after NAFTA implementation, with a deficit of over \$15 billion in 1995, and over \$71 billion by 2017.

Looking back, it is not hard to understand how this all happened.

First, NAFTA provided thousands of American companies with the opportunity to pay far lower wages to workers in Mexico. Indeed, while NAFTA adopted aspirational language on the importance of labor rights and environmental protections, both issues are addressed only in “side agreements” to the current NAFTA that are subject to an essentially toothless dispute settlement mechanism. Importantly, the labor side agreement provides limited protections for rights recognized internationally, including freedom of association and collective bargaining.

Back in 1993, NAFTA proponents reassured skeptics that the agreement would lead to leaps in productivity and wages in Mexico. That year President Clinton even asserted that NAFTA “means that there will be an even more rapid closing of the gap between” U.S. and Mexican wages. Instead, since NAFTA went into effect, the gap in Mexican wages and labor productivity with the United States has widened. The OECD even reports that the average annual wage in Mexico *fell* from \$16,008 in 1994 to \$15,311 in 2016.

While it is true that workers in the manufacturing sector in Mexico earn higher wages than those in other sectors, the gap between Mexican workers and U.S. workers is still striking. Mexican manufacturing workers receive an average of \$20 per day, and workers in automotive manufacturing reportedly make approximately \$25 per day. By comparison, manufacturing workers in the United States make an average

of \$160 per day. Further, NAFTA contained terms that fell short for the American people by incentivizing – intentionally or not – companies across America to outsource production, especially to Mexico. In the case of Canada, the NAFTA failed to address longstanding and unfair Canadian trade practices across several industries, from the agricultural sector to high tech industries.

The flaws in NAFTA became apparent soon after implementation. Since that time, politicians have called for it to be renegotiated. Nevertheless, when President Trump was elected, there had been no major changes to NAFTA since it entered into force more than two decades ago.

In 2016, during his campaign, President Trump made clear that, in its current form, NAFTA was not acceptable. In June 2016, he said the following: “I’m going to tell our NAFTA partners that I intend to immediately renegotiate the terms of that agreement to get a better deal for our workers. And I don’t mean just a little bit better, I mean a lot better. If they do not agree to a renegotiation, then I will submit notice under Article 2205 of the NAFTA agreement that America intends to withdraw from the deal.”

Almost immediately after inauguration, President Trump began to fulfill this promise. For months, high-ranking Administration officials consulted with Congress on plans to renegotiate. In May 2017, within a few days after confirmation as the U.S. Trade Representative, Ambassador Lighthizer provided Congress with the 90-day notice required under Trade Promotion Authority to launch renegotiations. On August 16, 2017 – the 91st day after Congressional notification – those renegotiations began. They are currently ongoing.

In the renegotiations, USTR is committed to getting the best possible deal for all Americans. While NAFTA is certainly a bad deal for the United States, USTR recognizes that many Americans have benefited from it. Accordingly, USTR has moved rapidly in an effort to allow for a seamless transition to an updated version of NAFTA:

- USTR reviewed more than 12,000 public comments received with respect to the renegotiations.
- USTR prepared a complete new text, replete with new ideas and fresh approaches.
- USTR and other U.S. Government agencies have participated in seven separate negotiating rounds since August 2017 with their counterparts from Mexico and Canada.
- USTR has published its objectives for the renegotiation directly on its website, and updated these objectives in November 2017 to reflect the full scope of U.S. proposals.
- Since launching negotiations, Ambassador Lighthizer and USTR Staff have met personally with dozens of Members of Congress, and have spent more than 1,400 man-hours in consultation with Members and their staffs.
- During this process, USTR has also held extensive consultations with members of the private sector, representatives of labor, ranchers, farmers, and members of the Non-Government Organizations (NGO) community. There have been dozens of scheduled briefings to official advisory committees, hundreds of hours of stakeholder consultations, and a continuing open door policy.
- In fact, at each negotiating round, USTR chapter leads brief Congressional staff and members of advisory committees. These advisory committees cover agricultural, industry, small and medium-sized business, and labor and environmental concerns.

All of this work is being done to comply with Congressional rules, build support for a new version of NAFTA, and encourage a smooth transition to the updated agreement. In short, the Administration has not simply sought to eliminate NAFTA but has made great efforts to alleviate uncertainty for those Americans who rely on it.

In the renegotiations, the Administration has two primary goals.

First, it wants to update NAFTA with modern provisions representing a high standard agreement for the 21st century – including strong provisions on digital trade, intellectual property, cybersecurity, good regulatory practices, and treatment of state-owned enterprises. All parties agree that NAFTA is outdated – it was signed before most Americans had ever heard of the Internet. The Administration believes it is time to bring NAFTA up to date.

Second, the Administration seeks to rebalance NAFTA. The purpose of an agreement like NAFTA is to create special rules – to give certain countries unique access to this market, access that other countries lack. Instead, NAFTA encourages companies seeking to serve the U.S. market to put their facilities elsewhere – thereby putting American workers and businesses at an unfair disadvantage.

With this in mind, USTR has set as its primary objective for these renegotiations to: “Improve the U.S. trade balance and reduce the trade deficit with the NAFTA countries.” To accomplish this, we are focusing our efforts on tightening rules of origin for products imported into the United States from Canada and Mexico for which we have significant trade imbalances, like automobiles and automotive parts. Our proposals seek to strengthen the rules of origin for such products, and make them more enforceable through stricter tracing requirements, to ensure that they contain considerable regional, and U.S specific, content.

We are also determined to avoid provisions that will encourage outsourcing. If a company decides to build a factory in Mexico – and it has legitimate, market based reasons for doing so – then it should act as the market dictates. But we reject the notion that the U.S. Government should use NAFTA – or any other trade deal – to *encourage* outsourcing. The point of a trade deal is to create increased opportunities for market efficiency, not to encourage foreign investments that are otherwise not viable.

It should also be noted that we have made serious proposals in the labor and environment chapters that will help level the playing field for American workers and businesses and raise standards in these areas. For both chapters, we are insisting that all of the provisions be subject to the same dispute settlement mechanism that applies to other obligations in the agreement.

If we succeed in achieving these core objectives, a renegotiated NAFTA would certainly prove a fairer deal for all Americans. This includes those manufacturing workers across the country whose hold on their jobs has been tenuous due to a flawed trade agreement.

2. KORUS

The overall benefits to the United States of KORUS have fallen well short of initial expectations. Prior to passage of the agreement, the U.S. International Trade Commission estimated that U.S. merchandise exports to Korea would be approximately \$9.7 to \$10.9 billion higher with KORUS fully implemented, and Korea’s exports to the United States would be an estimated \$6.4 to \$6.9 billion higher. Many pointed to other benefits, including anticipated substantial improvements to Korea’s regulatory environment, which would significantly level the playing field for U.S. exporters and businesses.

The record after nearly six years of KORUS, however, has been disappointing.

After six rounds of tariff cuts under the KORUS, and with over 90 percent of two way trade in goods currently free of tariffs, U.S. exports of goods to Korea rose modestly from \$43.5 billion in 2011 to \$48.3 billion in 2017. In contrast, Korea's goods exports to the United States have grown rapidly, rising from \$56.7 billion in 2011 to \$71.2 billion in 2017. U.S. services exports showed early gains, but growth has since slowed substantially. In sum, the U.S. goods deficit with Korea has increased by 73 percent since the KORUS came into effect through 2017.

In addition, concerns have only risen with respect to Korea's preparedness to faithfully implement its obligations under KORUS. In far too many cases, Korea continues to fall short of adequately meeting key commitments in areas such as labor, competition, customs, and pharmaceuticals and medical devices. In other cases, Korea has introduced additional measures since the FTA came into effect – including in the area of autos – that have directly undermined the benefits of the agreement and limited U.S. export potential.

Faced with these facts, President Trump directed USTR to address these outstanding problems, as well as to seek fairer, more reciprocal trade with Korea. Accordingly, in July 2017 Ambassador Lighthizer called for a Special Session of the KORUS Joint Committee to initiate the process of seeking modifications and amendments to the agreement. In October 2017, Korea agreed to pursue discussions on modifications and amendments, and completed necessary domestic procedures in December in order to initiate such discussions.

USTR remains engaged in ongoing negotiations with Korea to improve KORUS in order to deliver more reciprocal outcomes for U.S. workers, exporters, and businesses. The Administration will continue to vigorously pursue U.S. objectives with the Korean government on an expedited timetable.

USTR's ongoing discussions and negotiations aim to achieve a range of objectives, including:

- Outcomes that improve U.S. export opportunities and facilitate more balanced, two way trade;
- Resolution of outstanding implementation issues that continue to harm or undermine U.S. interests and U.S. export potential;
- Rebalancing of commitments on tariffs necessary to maintain a general level of reciprocal and mutually advantageous commitments under the agreement;
- Reducing and eliminating non-tariff barriers to exports of U.S. made motor vehicles and motor vehicle parts; and
- Improvement of other terms to ensure the benefits of the agreement are more directly supportive of job creation in the United States.

Achieving these objectives would make KORUS a fairer deal for Americans.

3. Other Negotiations

The Trump Administration intends to reach other agreements designed to promote fair, balanced trade and support American jobs and prosperity. The Administration has already begun discussions and processes to achieve these goals.

a. Expanding Trade and Investment with the United Kingdom

The United States and the United Kingdom (UK) have a deep, long-standing trade and investment relationship. The UK is America's seventh largest goods trading partner and largest partner in services trade. In 2016, (most recent date available for full-year services trade) total two-way goods and services trade was \$227 billion, with a goods surplus of \$1 billion and a services surplus of \$14 billion. The United States and the UK have directly invested more than \$1 trillion in each other's economies. We share a common language, business culture, support for good regulatory practices and transparency, and respect for intellectual property rights. Our economies are diversified, and technology and innovation drive our growth.

In 2016, the UK voted in a referendum to leave the European Union (EU), and the UK is in the process of negotiating the terms of that departure (commonly called "Brexit"). The Trump Administration seeks to maintain and deepen our economic relationships with both the UK and the EU. The UK's negotiations with the EU on the terms both of its exit and its future relationship with the EU will likely have significant consequences for U.S. trade with both the UK and the EU.

In March 2017, the UK initiated a two year process to negotiate the terms of its withdrawal from the EU. In December 2017, the UK and EU issued a Joint Progress Report that laid out their agreement on issues related to the exit, referred to as the first phase of negotiations. During the second phase of negotiations, which has already begun, the UK and EU are discussing a transitional arrangement that would govern their relationship for a period of time following UK withdrawal from the EU, which is expected to start March 29, 2019, and last at least through 2020. We anticipate that during such a transition period, the UK would no longer be part of the EU and free to negotiate trade agreements with other countries, but it would remain unable to implement any agreements until the end of the transition period.

President Trump and UK Prime Minister Theresa May met in January 2017 and agreed to deepen current U.S.-UK trade and investment and lay the groundwork for a future trade agreement. While U.S.-UK trade is already substantial, and our economies are highly integrated, there is a range of areas where one could expect an ambitious FTA to be mutually beneficial. These include trade in industrial and agricultural goods, where tariff and other barriers still impede trade; differences in regulatory systems, which impose extra burdens on exporters, especially small- and medium-sized enterprises, without improving health and safety outcomes; and commitments in services, investment, and intellectual property that can foster deeper trade and innovation.

In July 2017, the United States and the UK established a Trade and Investment Working Group, under the auspices of the broader U.S.-UK Steering Group, which is focused on providing commercial continuity for U.S. and UK businesses, workers, and consumers as the UK leaves the EU and exploring ways to strengthen trade and investment ties ahead of the exit. The Working Group will also begin to lay the groundwork for a potential free trade agreement, once the UK has left the EU, and explore areas in which the two countries can collaborate to promote open markets around the world. The Working Group is examining a range of trade related areas, including industrial and agricultural goods; services, investment, financial services, and digital trade; intellectual property rights and enforcement; regulatory issues related to trade; labor and environment; and small- and medium-sized enterprises.

The Trade and Investment Working Group will guide sustained engagement by the United States and UK trade teams during 2018 and beyond. The Group is planning quarterly meetings, and trade policy officials from both sides will be advancing the work in between the quarterly meetings throughout the year. One of the U.S. priorities for this work will be to respond to evolving issues in the UK-EU negotiations, which could potentially impact the American business community. In addition, another area of our work with the UK will be to preserve market access of U.S. stakeholders as the UK begins to establish its World

Trade Organization schedules. The Working Group will also work with the U.S.-UK Economic Working Group, also established as part of the broader U.S.-UK Steering Group, to ensure that U.S.-UK agreements and other arrangements are in place once the UK leaves the EU. The United States will maintain commercial continuity in areas where UK and U.S. obligations to each other had previously been set out in U.S.-EU agreements or arrangements, and to identify ways we can enhance our trade and investment relationship prior to Brexit.

UK and the WTO. The UK will need to create its own distinct WTO schedules by the time it separates from the European Union at the end of March 2019. These schedules will need to include commitments and concessions on tariffs, tariff rate quotas (TRQs), services, and levels of agricultural domestic support. Similarly, the UK will need to negotiate a separate schedule for the WTO Government Procurement Agreement (GPA) to which the United States is also a Party. The UK accounts for 25 percent of the EU's \$330 billion government procurement covered under the GPA, representing the largest EU public procurement market for U.S exports.

The Trump Administration intends to ensure that the equities of U.S. stakeholders are taken fully into account as the UK begins this year to create its WTO schedules and negotiate its entry into the WTO GPA.

b. Countries of the Trans-Pacific Partnership

One of President Trump's first decisions was to withdraw the United States from the proposed Trans-Pacific Partnership. In doing so, he not only fulfilled a campaign promise – he avoided wasting further time on a proposed deal that faced major opposition from both parties in this country. In the 2016 campaign, Secretary Clinton had also promised to oppose the TPP if she had been elected.

The U.S. withdrawal from TPP allows the United States to pursue better and fairer trade relationships with the 11 other countries in the TPP. It should be noted that the United States already has free trade agreements with six TPP countries: Canada, Australia, Mexico, Chile, Peru, and Singapore. In 2017, these countries accounted for 47 percent of the total gross domestic product (GDP) of the 11 TPP countries. As discussed above, the United States is currently in talks to update our free trade agreement with Mexico and Canada.

The five remaining TPP countries are Japan, Vietnam, Malaysia, New Zealand, and Brunei. Japan is by far the largest of these economies – it accounts for 87 percent of their combined GDP. Since President Trump's visit with Japan's Prime Minister Shinzo Abe in February 2017, the United States has made clear that it seeks a closer trade relationship with Japan. President Trump has also indicated a willingness to engage with the other TPP countries – either individually or collectively – on terms that will lead to significantly improved market outcomes. In 2018, the Trump Administration will continue efforts to build stronger, better, and fairer trading relationships with these countries.

c. Seeking Bilateral Market Access for U.S. Agriculture

As highlighted in the *Report to the President of the United States from the Task Force on Agriculture and Rural Prosperity*, America's farmers and ranchers rely on exports to generate and sustain economic growth for rural America. In 2016, 20 percent of farm income was generated by exports to the 96 percent of the world's consumers that live outside the United States. In 2017, U.S. farmers, ranchers

and businesses exported \$159 billion of agriculture and agriculture related products, an increase of four percent over 2016.³

The day-to-day work of the Office of the U.S. Trade Representative and the U.S. Department of Agriculture to monitor actions by trading partners and eliminate unfair trade barriers is a central and vitally important part of our strategy to expand U.S. food and agricultural exports. The 2017 Annual Report highlights key successes in eliminating unfair and protectionist barriers to U.S. agricultural exports in 2017, but we can and will do better.

The Trump Administration will use all tools to ensure America's farmers are treated fairly. The Administration will use a whole of government approach to resolve barriers under our Trade Investment Framework Agreements, free trade agreement committees and other dialogues. This work also includes the daily engagement of USDA's overseas staff in 93 offices covering 171 countries and U.S. Department of State officers in over 180 countries to prevent and quickly resolve trade issues and port of entry problems. Further, building coalitions with other like-minded countries will multiply the Administration's effectiveness to advance science and risk-based regulatory policies for new technologies, animal health and plant health.

To combat the myriad of unfair trade barriers facing U.S. food and agricultural exports, the Trump Administration is also prioritizing its efforts for 2018 and will be working to resolve unfair trade barriers around the world for the full range of commodities, food, beverages, and agriculture products used for industrial inputs. For example, building on work completed in 2017, we will seek to open Argentina to U.S. pork and fruit; achieve science based standards for U.S. beef to Australia; resolve barriers to American lamb, beef, horticultural products and processed foods to Japan; establish year round markets for U.S. rice to Colombia, Nicaragua and China; resolve access issues with the European Union for U.S. high quality beef; reopen the Indian market to U.S. poultry and open it to pork; work with Middle Eastern countries, China and elsewhere on food certificates, where necessary, based on science; open Vietnam to meat offal; and resolve barriers to U.S. corn and soybeans derived from agricultural biotechnology in various countries. The Administration has prioritized removing barriers to U.S. exports to China, our second largest market in 2017 and the market with immediate and substantial potential to provide more sales for America's farmers, ranchers, and agribusiness. These are only a few of the Administration's priorities to provide America's farmers and ranchers expanded opportunities to market their products around the world.

d. Other Negotiations

As shown above, the United States currently has a very ambitious negotiating agenda. The scope of our current activity – as well as our lack of confirmed deputies – necessarily limits our ability to engage in other negotiations. Furthermore, any trade deal to be approved by the Trump Administration must be consistent with the principles discussed throughout this Agenda. Nevertheless, we remain interested in efforts to develop new trade rules that will promote efficient markets around the world. With this background in mind, we continue to analyze negotiations undertaken by the prior administration, including negotiations for a proposed Trade in Services Agreement, as well as the proposed Trans-Atlantic Trade and Investment Partnership between the United States and the European Union, in which the European Union has expressed little interest so far. If we see opportunities to use prior negotiations like these to advance the President's Agenda, and to build stronger markets for American workers and businesses, we will not hesitate to seize them.

³ Based on the WTO Agriculture Sectors, data from the USDA Foreign Agricultural Service's Global Agricultural Trade System.

C. Enforcing and Defending U.S. Trade Laws

The Trump Administration understands that there are no successful trade agreements without enforcement. It will continue to use U.S. trade laws and international enforcement mechanisms to ensure that other countries treat America fairly and play by the rules of existing international trade agreements. The United States has for years expressed serious and growing concerns that the WTO dispute settlement system is diminishing U.S. rights to combat unfair trade, effectively rewriting WTO rules. The Trump Administration shares those long-standing concerns and is determined to ensure the WTO remains a rules based system, with WTO disputes handled according to the rules as agreed by the United States.

1. Section 301

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

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

In each investigation, USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the acts, policies, or practices are determined to violate a trade agreement or to be unjustifiable, USTR must take action. If they are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, USTR must determine whether action is appropriate and if so, what action to take.

Actions that USTR may take under Section 301 include to: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations. After a Section 301 investigation is concluded, USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or USTR considers that the country fails to implement a WTO dispute panel recommendation, USTR must determine what further action to take under Section 301.

China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. On August 14, 2017, the President issued a Memorandum (82 FR 39007) to the U.S. Trade Representative instructing USTR to determine, consistent with section 302(b) of the Trade Act of 1974 (19 U.S.C. 2412(b)), whether to investigate any of China's laws, policies, practices, or actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development.

Pursuant to the President's Memorandum, on August 18, 2017, USTR initiated an investigation under section 302(b) of the Trade Act (19 U.S.C. 2412(b)) to determine whether acts, policies, and practices of the government of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory and burden or restrict U.S. commerce.

The acts, policies, and practices of the government of China directed at the transfer of U.S. and other foreign technologies and intellectual property are an important element of China's strategy to become a leader in a number of industries, including advanced technology industries, as reflected in China's "Made in China 2025" industrial plan, and other similar industrial policy initiatives. The Chinese government's acts, policies, and practices take many forms. The investigation initially will consider the following specific types of conduct:

First, the Chinese government reportedly uses a variety of tools, including opaque and discretionary administrative approval processes, joint venture requirements, foreign equity limitations, procurements, and other mechanisms to regulate or intervene in U.S. companies' operations in China, in order to require or pressure the transfer of technologies and intellectual property to Chinese companies. Moreover, many U.S. companies report facing vague and unwritten rules, as well as local rules that diverge from national ones, which are applied in a selective and nontransparent manner by Chinese government officials to pressure technology transfer.

Second, the Chinese government's acts, policies, and practices reportedly deprive U.S. companies of the ability to set market based terms in licensing and other technology related negotiations with Chinese companies and undermine U.S. companies' control over their technology in China. For example, the Regulations on Technology Import and Export Administration mandate particular terms for indemnities and ownership of technology improvements for imported technology, and other measures also impose non-market terms in licensing and technology contracts.

Third, the Chinese government reportedly directs or unfairly facilitates the systematic investment in, or acquisition of, U.S. companies and assets by Chinese companies to obtain cutting edge technologies and intellectual property and generate large scale technology transfer in industries deemed important by Chinese government industrial plans.

Fourth, the investigation will consider whether the Chinese government is conducting or supporting unauthorized intrusions into U.S. commercial computer networks or cyber enabled theft of intellectual property, trade secrets, or confidential business information, and whether this conduct harms U.S. companies or provides competitive advantages to Chinese companies or commercial sectors.

In addition to these four types of conduct, USTR also will consider information on other acts, policies, and practices of China relating to technology transfer, intellectual property, and innovation described in the President's Memorandum that might be included in the investigation or might be addressed through other applicable mechanisms.

Pursuant to section 302(b) (1) (B) of the Trade Act (19 U.S.C. 2412(b) (1) (B)), USTR has consulted with appropriate advisory committees. USTR also has consulted with members of the interagency Section 301 Committee. On the date of initiation, USTR requested consultations with the government of China concerning the issues under investigation, pursuant to section 303(a) (1) of the Trade Act (19 U.S.C. 2413(a) (1)).

USTR held a public hearing on October 10, 2017 and two rounds of public written comment periods. USTR received approximately 70 written submissions from academics, think tanks, law firms, trade associations, and companies.

Under section 304(a)(2)(B) of the Trade Act (19 U.S.C. 2414(a)(2)(B)), the U.S. Trade Representative must make his determination within 12 months from the date of the initiation whether any

act, policy, or practice described in section 301 of the Trade Act exists and, if that determination is affirmative, what action, if any, to take.

2. Section 201

Modern U.S. trade agreements rest on the expectation that reducing barriers to trade will increase opportunities for U.S. exporters and decrease costs to consumers. But they have also recognized that sometimes these expectations do not bear out, and that domestic industries facing increased imports will come under unusual competitive stress. To address these possibilities, all of our trade agreements have provisions, known as “escape clauses” or “safeguards” that allow the United States and its partners to impose temporary trade restrictions when increased imports of a product harm domestic producers of that product.

Section 201 of the Trade Act of 1974 provides one such mechanism. It allows domestic producers to request the U.S. International Trade Commission (“ITC”) to conduct an investigation of increased imports and their effects on the U.S. market. If the ITC finds that imports have increased such that they are a substantial cause of serious injury, or the threat thereof to a domestic industry producing an article like or directly competitive with the imported articles, the President shall take all appropriate and feasible action within his authority he considers necessary to facilitate efforts by the domestic industry to make a positive adjustment to import competition, as long as the economic and social benefits of such action are greater than the costs.

The last time the United States used Section 201 was in 2002, when President Bush imposed temporary tariff increases on a number of steel products. Steel producers used the respite to restructure their operations, emerging from the process stronger and more competitive than before. During the campaign, President Trump committed to use Section 201 to remedy trade disputes and get a fair deal for the American people.

In May and June 2017, U.S. producers filed petitions with the ITC requesting investigations of imports of solar cells and modules, and of large residential washing machines. The ITC conducted thorough investigations and determined in both cases that increased imports were a substantial cause of serious injury to U.S. producers. President Trump used his authority under Section 201 to increase tariffs on solar cells and modules by 30 percentage points, and to impose a 50 percent additional tariff on imports of washing machines beyond historic levels.

a. Large residential washing machines

During the 2012-2016 period, following an investigation initiated at the request of U.S. producers Whirlpool and General Electric (“GE”), the United States imposed antidumping and countervailing duties on washer imports from Korea and Mexico. However, the main Korean producers, LG and Samsung, frustrated the remedial purpose of these tariffs by shifting production to China. Whirlpool and GE then obtained antidumping duties on imports from China, which prompted LG and Samsung to shift their production operations again. The U.S. producers then turned to Section 201, which provides for application of trade restrictions against all countries, limiting foreign producers’ availability to evade duties by moving operations from one country to another.

The ITC investigation revealed that the volume of imported washing machines nearly doubled from 2012 to 2016. Samsung and LG engaged in significant underselling and aggressive pricing, forcing Whirlpool and GE to reduce prices to defend their market share. The domestic producers’ financial condition – already harmed by earlier dumping and subsidization – worsened, and they had to cut capital

and research and development spending. The ITC determined that the injury to the domestic industry was serious, and that increased imports were the most important cause of that injury.

U.S. producers stated that if the President imposed robust import restrictions on increased imports, they would maximize capacity utilization to expand production, reconsider curtailed projects in development, and invest in product line improvements. The Korean producers announced that they would expedite their plans to locate washing machine production in the United States, with Samsung in Newberry, South Carolina, and LG in Clarksville, Tennessee. They set a goal of producing the large majority of their washing machines for the United States market in the United States before 2020.

The President responded to the ITC's findings by imposing a tariff-rate quota ("TRQ") on imports of finished washing machines, with an additional 20 percent ad valorem tariff for the first 1.2 million units and 50 percent ad valorem for subsequent imports. There is also a TRQ for certain large parts of washing machines, with an additional 50 percent ad valorem tariff on imports beyond historic levels. The tariffs should result in the quantity of imports decreasing. These developments should allow domestic producers' prices to recover, and provide the revenue they need to improve their facilities and introduce new features on their products. The tariffs will also encourage Samsung and LG to move quickly to transfer production to the United States, bringing more new, well-paying jobs. To ease the transition from importing to domestic production, limited quantities of washing machines and parts are exempt from the additional duties.

b. Solar cells and modules

The situation with crystalline silicon photovoltaic ("CSPV") solar cells and modules followed a pattern similar to washers, with the added dimension of trade distorting effects from Chinese state industrial planning that targeted the solar industry. Over the last ten years, China has used state incentives, subsidies, and tariffs to dominate the global solar supply chain. Its' share of global cell production skyrocketed from 7 percent in 2005 to 61 percent in 2012. It now produces 60 percent of the world's solar cells, and 71 percent of solar modules.

U.S. producers sought relief from these trade practices through application of unfair trade remedies. In 2011 and 2013, they successfully petitioned for antidumping duties, first against China and then against Taiwan. But in both cases, CSPV solar goods from other countries – mainly produced by Chinese owned operations – entered the U.S. market in place of goods subject to trade remedies. The two remaining large-scale U.S. producers then turned to Section 201, which results in application of trade restrictions against all countries, limiting foreign producers' ability to evade duties by moving operations from one country to another.

The ITC investigation revealed that from 2012 to 2016, U.S. imports of CSPV solar cells and modules grew nearly six-fold, and prices fell dramatically. Most U.S. producers ceased production entirely, or moved their facilities to other countries. Despite very favorable demand conditions, prices fell. Those producers who remained were operating at below full capacity and employment levels, and suffered consistently negative financial performance. These conditions forced them to reduce capital investment and research and development expenditures. The ITC determined that the injury to the domestic industry was serious, and that increased imports were the most important cause of that injury.

U.S. producers of both cells and modules made commitments that, if import relief were granted, they would increase capacity and capacity utilization, and invest in research and development. They also believed that import relief would create favorable market conditions that would incentivize other producers to build new facilities in the United States.

The President responded to the ITC's findings by imposing additional tariffs of 30 percent on both cells and modules. He exempted 2.5 gigawatts of cell imports from the measure, which will ensure supply of cells to U.S. producers who make modules using imported cells. These measures will increase production of solar cells and related manufacturing employment, and help to ensure a vibrant solar energy industry in the United States in the long term.

3. Antidumping and Countervailing Duties

The U.S. Department of Commerce (USDOC), through its Enforcement and Compliance Unit, rigorously enforces U.S. trade laws by conducting antidumping and countervailing duty investigations in response to U.S. industry petitions alleging that imports are being dumped (sold at less than fair value) or unfairly subsidized. The independent U.S. International Trade Commission (USITC) then determines whether those imports are materially injuring, or threatening material injury to, the competing U.S. industry. Investigations vary widely in scope and complexity, and will result in an antidumping and countervailing order upon affirmative determinations by both USDOC and the USITC. These orders direct Customs and Border Protection to collect duties on dumped or unfairly subsidized goods coming into the country, giving relief to domestic industry harmed by unfair trading practices. USDOC continues to monitor and enforce its antidumping and countervailing orders through various proceedings and defends its determinations in U.S. courts and before WTO and NAFTA dispute settlement panels.

a. Increase in Investigations

In the first year of President Trump's Administration, the Administration initiated 84 antidumping and countervailing duty investigations -- a 59 percent increase from the last year of the previous administration. Eighty-two of those investigations were initiated in response to petitions from domestic industries. These investigations have covered a wide range of products from steel to chemicals to agricultural products from across the globe.

b. Self-Initiation of Investigations

While unfair pricing and government subsidies are most often addressed through the filing of antidumping and countervailing duty petitions by the affected U.S. industry, USDOC also possesses the statutory authority to self-initiate antidumping and countervailing duty investigations. In November 2017, for the first time in over 25 years, USDOC self-initiated two investigations, an antidumping investigation and a countervailing duty investigation, on common alloy aluminum sheet from China. Self-initiation can shield potential U.S. petitioners that may face retaliation by the exporting country, and can provide small or fragmented U.S. industries with needed assistance. It is also a potentially valuable tool to address attempts to circumvent our existing antidumping and countervailing duty orders. Going forward, the Administration intends to fully utilize all the tools available under U.S. law, including self-initiation of antidumping and countervailing duty investigations, to help address unfair trade practices.

4. Section 232

In 2017, the USDOC launched investigations into the effect of steel and aluminum imports on U.S. national security under Section 232 of the Trade Expansion Act of 1962, as amended. In reports submitted to the President in January 2018, the USDOC found that these imports threaten to impair the national security. In the case of steel, six basic oxygen furnaces and four electric furnaces have closed since 2000 and employment has dropped by 35 percent since 1998. For certain types of steel, such as for electrical transformers, only one U.S. producer remains. In the case of aluminum, employment fell by 58 percent from 2013 to 2016, six smelters shut down, and only two of the remaining five smelters are operating at

capacity, even though demand has grown considerably. To curb these imports and protect national security, USDOC proposed three options to the President in the form of global tariffs, targeted tariffs with global quotas, and global quotas. The President may choose to adopt or modify these recommendations or may take no action under Section 232.

5. Defending U.S. Trade Remedy Laws at the WTO

For decades, Congress has maintained a series of laws designed to prevent foreign governments or companies from injuring U.S. companies and workers through unfair practices such as dumped or subsidized imports, or by harmful surges of imports. These laws have been a critical aspect of the bargain between the U.S. Government and American workers, farmers, ranchers, and businesses (large and small) that has long supported the free and fair trade system in this country. These laws have also reflected the core principles and legal rights of the multilateral trading system since its founding in 1947 with the General Agreement on Tariffs and Trade (GATT). It is notable that Article VI of the GATT in the strongest language possible, states that injurious dumping “is to be condemned.” Similarly, the WTO Agreement on Subsidies and Countervailing Measures specifically permits Members to impose countervailing duties in response to another Member’s injurious subsidies under specified circumstances. Trade remedies are a foundation to the implementation of the WTO agreements, and to avoid market distortions. It is critical that WTO members fully recognize their centrality to the international trading system.

Accordingly, efforts by the United States to defend U.S. trade remedy laws at the WTO are critical to ensure that the United States maintains its right to respond to unfair trade practices and maintains a fundamental basis for U.S. support for the WTO. Accordingly, the United States vigorously defends the use of U.S. trade laws against challenges in a number of WTO disputes as a top Administration priority.

For instance, in an ongoing dispute,⁴ China is challenging the ability of the United States to reject and replace non-market prices or costs in the context of anti-dumping investigations involving Chinese producers and exporters. China asserts that WTO Members agreed in China’s Accession Protocol to set a time period after which market economy conditions would automatically be deemed to exist in China (or a Chinese industry or sector), no matter what the actual facts in China revealed.

That is wrong.⁵ The expiry of one provision of China’s Accession Protocol, Section 15(a) (ii), does not mean that WTO Members no longer have the ability to reject and replace non-market prices or costs for purposes of antidumping comparisons. Rather, the legal authority to reject prices or costs not determined under market economy conditions flows from GATT 1994 Articles VI:1 and VI:2 and the need to ensure comparability of prices and costs when establishing normal value. This authority exists in Articles VI:1 and VI:2 and is reflected in legal text and consistent practice spanning decades: the proposal to amend Article VI:1 and eventual adoption of the Second Note Ad Article VI:1 (1954-55), confirming the legal authority existed in Articles VI:1 and VI:2; the GATT Secretariat review of Contracting Parties’ application of Articles VI:1 and VI:2, demonstrating a subsequent, common practice rejecting non-market prices or costs in determining normal value (1957); the Accessions to the GATT of three non-market economies – Poland (1967), Romania (1971), and Hungary (1973) – in which the GATT contracting parties affirmed their existing ability to reject non-market prices or costs in situations other than “the case” described in the Second Note; Article 2 of the WTO Anti-Dumping Agreement (1995), bringing forward the key concepts from Article VI:1 and reinforcing (through terms such as “proper comparison”) that market determined prices or costs are necessary for antidumping comparisons; and Section 15 of China’s Accession Protocol

⁴ United States – Measures Related to Price Comparison Methodologies (WT/DS515).

⁵ See, e.g., the shared U.S. / EU legal interpretation submitted in *EU – Measures Related to Price Comparison Methodologies* (WT/DS516), found at <https://ustr.gov/sites/default/files/enforcement/WTO/US.Legal.Interp.Doc.fin.percent28publicpercent29.pdf>.

(2001), which clarifies that domestic prices or costs will be used when “market economy conditions prevail” for the industry under investigation, but domestic prices or costs may be rejected when market economy conditions do not prevail. The evidence is overwhelming that WTO Members have not surrendered their longstanding rights in the GATT and WTO to reject prices or costs that are not determined under market economy conditions in determining price comparability for purposes of antidumping comparisons.

And the facts demonstrate that China, over 16 years after it joined the WTO, still has not transitioned to an economy that operates based on market economy principles. China’s government continues to intervene heavily in the market and significantly distort prices and costs to the advantage of domestic industries. This is leading to severe stresses in the international trading system, including significantly distorted prices and severe excess capacity and overproduction, with the resulting surplus product dumped all over the world. China does not have the right to engage in government interference and intervention in market mechanisms, distorting market outcomes and undermining WTO rules, without consequence. The United States will vigorously defend this position at the WTO along with a strong and growing group of Members who share this position.

Another important dispute is one brought by Canada challenging various purported “measures” maintained by the U.S. Department of Commerce and the International Trade Commission in antidumping and countervailing duty proceedings.⁶ Canada is seeking to invent new obligations not reflected in the text of the WTO Agreement. This is a broad and ill-advised attack on the U.S. trade remedies system. U.S. trade remedies ensure that trade is fair by counteracting dumping or subsidies that are injuring U.S. workers, farmers, and manufacturers. Moreover, Canada’s claims threaten the ability of all countries to defend their workers against unfair trade, and Canada’s complaint is thus bad for Canada as well. The United States will vigorously defend against Canada’s unfounded claims.

In another example, the United States successfully defended against a challenge Indonesia brought against U.S. countervailing duties. Indonesia has been subsidizing its domestic pulp and paper industry for years. The U.S. Department of Commerce (USDOC) has conducted three investigations of alleged subsidy programs benefitting Indonesian paper producers, most recently with respect to uncoated paper in 2016. Pursuant to the USDOC’s 2010 investigation of coated paper, USDOC found that Indonesia provided standing timber to domestic logging companies at less than adequate remuneration; banned log exports, which kept log prices to domestic producers artificially low; and forgave debt by permitting an affiliate of the respondent paper producer to purchase hundreds of millions of the latter’s debt for pennies on the dollar. The United States International Trade Commission (USITC) then made an affirmative threat of injury determination. Almost five years later, Indonesia brought a challenge at the WTO, claiming that the United States acted inconsistently with its WTO obligations.

The WTO rejected all of Indonesia’s claims in a complete and resounding victory for the United States.⁷ The WTO found that the USDOC and USITC determinations with respect to coated paper from Indonesia fully comply with WTO rules. The WTO also rejected Indonesia’s challenge to a U.S. law relating to the USITC’s handling of tie votes. The United States will continue to administer its trade remedy laws to ensure that U.S. workers and industries receive relief when there is injury or threat of injury from dumped or subsidized imports.

6. Protecting U.S. Rights under International Trade Agreements

The United States is committed to strong enforcement of U.S. rights under international trade agreements. To that end, we are using all of the enforcement tools at our disposal. The United States has

⁶ *US – Certain Systemic Trade Remedies Measures* (WT/DS535).

⁷ WT/DS491/R, adopted January 22, 2018 (WT/DS491/6).

moved forward with a number of dispute settlement matters where the United States is challenging the measures of other WTO Members that are denying the United States the benefits it was promised under the WTO Agreement. In addition to trade remedy disputes discussed above, the United States has vigorously defended challenges to U.S. measures. The following are some examples that demonstrate U.S. efforts to protect U.S. rights.

a. Offensive Enforcement Actions

The United States, working together with New Zealand, challenged Indonesia's import licensing regimes for horticultural products and animals and animal products. Indonesia maintains a complex web of import licensing requirements that restrict or prohibit imports of horticultural products and animal products from the United States. These restrictions cost U.S. farmers and ranchers millions of dollars per year in lost export opportunities in Indonesia.

The WTO found that all 18 Indonesian measures challenged by the United States are inconsistent with Indonesia's WTO obligations and are not justified as legitimate public policy measures.⁸ This is a complete victory for the United States and New Zealand.

The United States has challenged the excessive government support China provides for production of rice, wheat, and corn.⁹ In 2015, China's "market price support" for these products was estimated to be nearly \$100 billion in excess of the levels China committed to during its accession. China's excessive market price support for rice, wheat, and corn inflates Chinese prices above market levels, creating artificial government incentives for Chinese farmers to increase production. The United States is challenging China's government support on behalf of American rice, wheat, and corn farmers to help reduce distortions for rice, wheat, and corn, and help American farmers to compete on a more level playing field. This dispute presents issues of systemic importance. USTR had a panel established in 2017 and will pursue this case aggressively.

The United States has also challenged China's administration of tariff-rate quotas (TRQs) for rice, wheat, and corn.¹⁰ The United States Department of Agriculture (USDA) estimates that China's TRQs for these commodities were worth over \$7 billion in 2015. If the TRQs had been fully used, China would have imported as much as \$3.5 billion worth of additional crops last year alone. China's TRQ policies breach their WTO commitments and limit opportunities for U.S. farmers to export competitively priced, high-quality grains to customers in China. USTR had a panel established in 2017 and will also aggressively pursue this challenge.

In another dispute, the United States successfully challenged India's ban on various U.S. agricultural products. India's ban on products such as poultry meat, eggs, and live pigs was allegedly maintained to protect India against avian influenza. The WTO agreed with U.S. claims that, for example, India's ban was not based on international standards or a risk assessment, India discriminated against U.S. products in favor of Indian products, India's measures were more trade restrictive than necessary because it is safe to import U.S. products meeting international standards, and India's restrictions were not adapted to the characteristics of U.S. exporting regions.¹¹

⁸ WT/DS477/AB/R, WT/DS478/AB/R, adopted November 22, 2017.

⁹ *China – Domestic Support for Agricultural Producers* (WT/DS511).

¹⁰ *China – Tariff Rate Quotas for Certain Agricultural Products* (WT/DS517).

¹¹ WT/DS430/11.

This victory helps address barriers to the Indian market for U.S. farmers, including those in the U.S. poultry industry in particular, and also signals to other WTO Members that they must ensure that any avian influenza restrictions they impose are grounded in science, such as by taking into account the limited geographic impact from outbreaks, and are not simply a disguise for protectionism. After India failed to comply with the WTO recommendations and rulings within the agreed reasonable period of time, the United States requested WTO authorization to suspend over \$450 million in concessions or other obligations with respect to India per year,¹² and that request is in arbitration. India requested the WTO to review India's claim of subsequently having complied, and that proceeding is also underway. The United States is vigorously working to protect U.S. rights in these simultaneous proceedings.

The United States also is challenging Canada's regulations regarding the sale of wine in grocery stores. Canada's regulations discriminate against U.S. wine by allowing only British Columbia wine to be sold on regular grocery store shelves while imported wine may be sold in grocery stores only through a so-called "store within a store." The United States will vigorously work to protect U.S. rights through this dispute.

b. Defensive Enforcement Actions

The United States has also achieved significant successes in defense of other Members' challenges to U.S. actions. As noted above, USTR prevailed in a challenge brought by Indonesia against U.S. countervailing measures on paper products.

The United States also achieved a complete victory in an EU challenge involving aircraft. The EU challenged "conditional tax incentives established by the State of Washington in relation to the development, manufacture, and sale of large civil aircraft," alleging that seven such tax incentives were prohibited subsidies. The EU approach would have had far-reaching implications for the ability of Members to provide incentives based on where a product was produced. The United States however explained why the EU arguments were in error and that the WTO did not prevent the United States from maintaining the measures at issue. The WTO agreed with the United States, finding that none of the seven challenged programs were prohibited import substitution subsidies.

The WTO also found in favor of the United States in a panel report rejecting almost all claims by the European Union (EU) that U.S. subsidies to Boeing harmed Airbus's ability to sell large civil aircraft. The EU challenged 29 U.S. state and federal programs that allegedly conferred \$10.4 billion over six years in subsidies to Boeing, but the panel found that 28 of the 29 programs were consistent with WTO rules. The panel found only one state-level program, which had an average value of \$100 to \$110 million in the 2013-2015 period, to be contrary to WTO rules. The United States disagrees, the panel report is currently on appeal, and the United States is vigorously defending against the EU's claims on appeal.

c. U.S. Concerns with WTO Dispute Settlement

The United States considers that, when the WTO dispute settlement system functions according to the rules as agreed by the United States and other WTO Members, it provides a vital tool to enforce WTO rights and uphold a rules based trading system. However, the United States has been raising its concerns for well over a decade that a number of WTO dispute settlement reports have not followed those rules.

The most significant area of concern has been panels and the Appellate Body adding to or diminishing rights and obligations under the WTO Agreement. In 2002 and again in 2015, the U.S. Congress mandated that the Executive Branch consult with it on strategies to address concerns that WTO

¹² WT/DS430/16.

dispute settlement reports were adding to or diminishing U.S. rights or obligations by not applying the WTO Agreement as written. Detailing numerous examples and concerns raised in U.S. statements to the Dispute Settlement Body, the Bush and Obama Administrations stated that they would pursue reforms and seek to ensure in each dispute that WTO adjudicators follow the rules and perform their functions appropriately.¹³ In 2005 the United States also proposed formal guidance for Members to adopt to reaffirm that “WTO adjudicative bodies must take care that any interpretive approach they may use results neither in supplementing nor in reducing the rights and obligations of Members under the covered agreements.”¹⁴

These efforts have not yielded significant results. Concerns abound that dispute reports have added to or diminished rights or obligations in varied areas, such as subsidies, antidumping duties, and countervailing duties;¹⁵ standards (under the TBT Agreement); and safeguards.¹⁶ For example:

- The United States and several other Members have expressed significant concerns with a number of Appellate Body interpretations that would significantly restrict the ability of WTO Members to counteract trade-distorting subsidies provided through SOEs, posing a significant threat to the interests of all market-oriented actors.¹⁷
- In a number of disputes, the United States has expressed concerns with the Appellate Body’s interpretation of the non-discrimination obligation under the TBT Agreement¹⁸ which calls for reviewing factors unrelated to any difference in treatment due to national origin. The United States has pointed out that this approach could find that identical treatment of domestic and imported products could nonetheless be found to discriminate against imported products due to differences in market impact. There is nothing in the text or negotiating history of the TBT Agreement to support that Members had ever negotiated or agreed to such an approach.¹⁹
- The United States disagreed with panel and Appellate Body reports in the *US – FSC* dispute, which resulted in an interpretation under which WTO rules do not treat different (worldwide vs. territorial) tax systems fairly. This dispute disregarded the broader

¹³ See, e.g., the 2015 Executive Branch Strategy Regarding WTO Dispute Settlement Panels and the Appellate Body – Report to the Congress Transmitted by the Secretary of Commerce, at 2: “At the same time, however, certain findings resulting from the dispute settlement system have raised significant concerns, including in connection with reports involving U.S. trade remedies. The U.S. experience with these issues in the period since the previous report to Congress, along with the focus on trade remedies experienced in WTO dispute settlement overall, has amplified certain of these concerns. The Executive Branch is committed to addressing these concerns through our participation in the current dispute settlement system as well as the ongoing WTO negotiations.”

¹⁴ TN/DS/W/82/Add.1 and Corr.1.

¹⁵ See examples given in 2015 Executive Branch Strategy Regarding WTO Dispute Settlement Panels and the Appellate Body -- Report to the Congress Transmitted by the Secretary of Commerce, at 9-14.

¹⁶ See, e.g., Minutes of the March 8, 2002 DSB meeting (WT/DSB/M/121), para. 35.

¹⁷ For example, the United States and several other Members have criticized the Appellate Body findings on “public body” (can an SOE be deemed to confer a subsidy) and on simultaneous application of countervailing duties and antidumping duties under a non-market economy methodology in the DS379 dispute. Dispute Settlement Body, Minutes of Meeting Held on March 25, 2011, WT/DSB/M/294, at 18 (U.S.), 21 (Mexico), 22 (Turkey), 24 (EU), 25 (Canada), 25 (Australia), 26 (Japan), 29 (Argentina). See also 2015 Executive Branch Strategy Regarding WTO Dispute Settlement Panels and the Appellate Body -- Report to the Congress Transmitted by the Secretary of Commerce, at 12-13.

¹⁸ WTO Agreement on Technical Barriers to Trade (TBT Agreement).

¹⁹ See, e.g., Minutes of the June 13, 2012 DSB meeting (WT/DSB/M/317), para. 13 et seq., and July 23, 2012 DSB meeting (WT/DSB/M/320), para. 94 et seq.

perspective that, in the GATT, Members had agreed to an understanding that a country did not need to tax foreign income, and there was no evidence that the U.S. FSC distorted trade or was more distortive than the territorial tax system used by most other WTO Members.

- In a number of disputes, the United States has expressed concerns that the Appellate Body’s non-text-based interpretation of Article XIX of the GATT 1994 and the Safeguards Agreement has seriously undermined the ability of Members to use safeguards measures. The Appellate Body has disregarded the agreed WTO text and read text into the Agreement, applying standards of its own devising.²⁰
- Another area of concern is that the Appellate Body in effect created a new category of prohibited subsidies that was neither negotiated nor agreed by WTO Members (*US – CDSOA*).²¹ The U.S. Congress had made a policy decision to assist industries harmed by illegal dumping and subsidization, and no provision in the WTO Agreement limits how a WTO Member might choose to make use of the funds collected through antidumping and countervailing duties.

It has been the longstanding position of the United States that panels and the Appellate Body are required to apply the rules of the WTO agreements in a manner that adheres strictly to the text of those agreements, as negotiated and agreed by its Members. Over time, U.S. concerns have increasingly focused on the Appellate Body’s disregard for the rules as set by WTO Members. Successive Administrations and the Congress have voiced those concerns, and the United States called for WTO adjudicators to follow their role as laid out in the DSU. But the problem has been growing worse, and not better. Following are some examples of concerns with the approach of the Appellate Body that the United States has raised in the WTO over many years.

i. Disregard for the 90-day deadline for appeals

Since at least 2011, the United States and other Members have been expressing concern regarding the Appellate Body’s decision to ignore the mandatory 90-day deadline for deciding appeals set out in WTO rules. Instead, the Appellate Body has assumed the authority to take whatever time it considers appropriate for individual appeals. However, WTO Members agreed in the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) that for each appeal “[i]n no case shall the proceedings exceed 90 days.”²² The 90-day deadline helps ensure that the Appellate Body focuses its report on the issue on appeal. The Appellate Body has never explained on what legal basis it could choose to breach a clear and categorical rule set by WTO Members.

Until 2011, the Appellate Body respected this deadline, including where necessary consulting with and obtaining the agreement of the parties to an appeal to extend the deadline for that appeal. However, the Appellate Body has changed its approach. It no longer consults with the parties, but simply informs the Dispute Settlement Body that it will not comply with the DSU deadline. In recent years, the Appellate

²⁰ See, e.g., Minutes of the May 16, 2001 DSB meeting (WT/DSB/M/105), para. 41 et seq., and March 8, 2002 (WT/DSB/M/121), para. 35 et seq.

²¹ See Minutes of the January 27, 2003 DSB meeting (WT/DSB/M/142), para. 55 et seq.

²² Article 17.5 of the DSU.

Body has also declined to comply with the requirement in the DSU to provide, within 60 days, an estimate of the period within which it will submit its report.²³

Two examples of the Appellate Body's approach are the recent appeals in the compliance proceedings involving the United States and the European Union concerning large civil aircraft. In one appeal, the notice of appeal was filed on October 13, 2016, and the Appellate Body informed Members by letter of December 21, 2016 (more than 60 days after the notice of appeal was filed) that: "The circulation date of the Appellate Body report in this appeal will be communicated to the participants and third participants in due course."²⁴ Over a year after the appeal began, the Appellate Body has still not informed the DSB of an estimate of the period within which it will submit its report. Similarly, in another appeal, the notice of appeal was filed on June 29, 2017, and the Appellate Body informed Members by letter of September 18, 2017 (more than 60 days after the notice of appeal was filed) that: "The circulation date of the Appellate Body report in this appeal will be communicated to the participants and third participants in due course."²⁵ But the Appellate Body has still not informed the DSB of an estimate of the period within which it will submit its report.

The United States and other Members, including Argentina, Australia, Canada, Chile, Costa Rica, Guatemala, Japan, Mexico, Norway, and Turkey, have repeatedly expressed their concerns with the Appellate Body's departure from its earlier approach and its breach of an explicit obligation imposed on it by the DSU.²⁶ One concern expressed regards the lack of transparency in the Appellate Body's approach. Another concern is how the Appellate Body's approach, and the resulting delay to resolve a dispute, accords with Members' agreement that the "prompt settlement of situations in which a Member considers that any benefits accruing to it directly or indirectly under the covered agreements are being impaired by measures taken by another Member is essential to the effective functioning of the WTO and the maintenance of a proper balance between the rights and obligations of Members."²⁷ Other concerns expressed include that "any uncertainty connected to whether a report was deemed to be an Appellate Body report circulated pursuant to Article 17.5, and hence the adoption procedure for that report, would be unfortunate."²⁸

ii. Continued service by persons who are no longer AB members

Another example of a failure by the WTO to follow the rules that apply to it arises from continued service deciding appeals by persons who are not Appellate Body members. Recent decisions by the Appellate Body to, in its words, "authorize" a person who is no longer a member of the Appellate Body to continue hearing appeals created a number of very serious concerns, which the United States has expressed.²⁹

First, and foremost, the Appellate Body simply does not have the authority to deem someone who is not an Appellate Body member to be a member. The Appellate Body purports to find in Rule 15 of its

²³ Article 17.5 of the DSU: "When the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report."

²⁴ WT/DS316/31.

²⁵ WT/DS353/29.

²⁶ See, e.g., Minutes of the DSB meetings of July 15, 2011 (WT/DSB/M/299), para. 11 et seq., July 28, 2011 (WT/DSB/M/301), para. 11 et seq., October 11, 2011 (WT/DSB/M/304), para. 4 et seq., July 31, 2012 (WT/DSB/M/317), paras. 17 and 30, and June 19, 2015 (WT/DSB/M/364), paras. 7.8, 7.16, and 7.17.

²⁷ DSU Article 3.3.

²⁸ Statement by Norway, Minutes of the DSB meeting of June 19, 2015 (WT/DSB/M/364), para. 7.16.

²⁹ See, e.g., Minutes of the DSB meeting of August 31, 2017 (WT/DSB/M/400), para. 5.4 et seq.

Working Procedures³⁰ the authority to “deem” as an Appellate Body member one of its own members whose term has expired. However, under the WTO Agreement, it is the Dispute Settlement Body, not the Appellate Body, that has the authority and responsibility to decide whether a person whose term of appointment has expired should continue serving. Indeed, Rule 15 itself acknowledges that it applies to “a person who [has] cease[d] to be a member of the Appellate Body”.³¹

Before 2017, Rule 15 was invoked sparingly and was used to cover relatively short extensions. This changed significantly in 2017, as the Appellate Body invoked Rule 15 in a number of disputes, for indefinite and extended periods of time, and even on appeals where work had not begun before the member’s term expired.

The United States is resolute in its view that Members need to resolve this issue before moving on to the issue of replacing former Appellate Body members. The United States has noted that it is an important issue of principle whether WTO Members are going to respect their own rules and take appropriate action.

iii. Issuing Advisory Opinions on Issues Not Necessary to Resolve a Dispute

The United States has been increasingly concerned by the tendency of WTO reports to make findings unnecessary to resolve a dispute or on issues not presented in the dispute. Article 3.4 of the DSU provides that: “Recommendations and rulings made by the DSB shall be aimed at achieving a satisfactory settlement of the matter in accordance with the rights and obligations under this Understanding and under the covered agreements.” Similarly, Article 3.7 provides that “the aim of the dispute settlement mechanism is to secure a positive solution to a dispute.” And pursuant to Articles 7.1 and 11 of the DSU, panels and the Appellate Body are charged with making those findings “as will assist in making” the DSB in making a recommendation, pursuant to Article 19.1, to a Member to bring a measure that has been found to be WTO-inconsistent into conformity with WTO rules. Accordingly, WTO panels and the Appellate Body are not to make findings that cannot “assist the DSB in making [its] recommendations.”

The purpose of the dispute settlement system is not to produce reports or to “make law,” but rather to help Members resolve trade disputes among them. WTO Members have not given panels or the Appellate Body the power to give “advisory opinions” as some national or international tribunals have. Indeed, both the Dispute Settlement Understanding and the WTO Agreement expressly provide that WTO Members, acting in the Ministerial Conference or General Council, have the “exclusive authority” to render an authoritative interpretation of the WTO agreements.³²

³⁰ Rule 15 of the Working Procedures for Appellate Review (WT/AB/WP/6)(“Rule 15”).

³¹ Rule 15 provides: “A person who ceases to be a Member of the Appellate Body may, with the authorization of the Appellate Body and upon notification to the DSB, complete the disposition of any appeal to which that person was assigned while a Member, and that person shall, for that purpose only, be deemed to continue to be a Member of the Appellate Body.”

³² Article IX:2 of the WTO Agreement (*Marrakesh Agreement Establishing the World Trade Organization*) makes clear that the Ministerial Conference and the General Council “have the exclusive authority to adopt interpretations” of the covered agreements. Article 3.9 of the Dispute Settlement Understanding provides that “[t]he provisions of this Understanding are without prejudice to the rights of Members to seek authoritative interpretation of provisions of a covered agreement through decision-making under the WTO Agreement or a covered agreement which is a Plurilateral Trade Agreement.”

The United States has repeatedly raised concerns for more than 16 years on this issue.³³ In 2006, the United States proposed formal guidance for Members to adopt to reaffirm that WTO adjudicative bodies should avoid making findings that are not aimed at resolving the dispute before them.³⁴ Yet there are numerous occasions when a panel or the Appellate Body has made unnecessary findings or rendered “advisory opinions.” Increasingly, the United States has noted that the Appellate Body is reaching issues not necessary to resolve the dispute, which contributes to delays in concluding an appeal.³⁵ In one egregious instance, the United States noted that *more than two-thirds* of the Appellate Body’s analysis – 46 pages – was in the nature of *obiter dicta*.³⁶ The Appellate Body had reversed one finding by the panel and itself said that this reversal rendered moot all the panel’s findings on all other issues covered in the panel report. Yet, the Appellate Body report then went on at great length to set out interpretations of various provisions of the GATS.³⁷ These interpretations served no purpose in resolving the dispute – they were appeals of moot panel findings. Thus, more than two-thirds of the Appellate Body’s analysis comprised simply advisory opinions on legal issues. This is not only contrary to WTO rules as agreed by the United States and WTO Members, but raises concerns about the quality and purpose of such unnecessary findings.

iv. Appellate Body Review of facts and review of a Member’s domestic law de novo

Another significant concern is the Appellate Body’s approach to reviewing facts. Article 17.6 of the DSU limits an appeal to “issues of law covered in the panel report and legal interpretations developed by the panel.” Yet the Appellate Body has consistently reviewed panel fact-finding under different legal standards, and has reached conclusions that are not based on panel factual findings or undisputed facts.³⁸

The United States has also noted with concern the Appellate Body’s review of the meaning of Member’s domestic law that is being challenged.³⁹ In a WTO dispute, the key fact to be proven is what a Member’s challenged measure does (or means), and the law to be interpreted and applied are the provisions

³³ See, e.g., Minutes of the DSB meetings of August 23, 2001 (WT/DSB/M/108), paras. 43 et seq. (e.g., at para. 50: “One such boundary had been crossed in this case, an extremely important one. That boundary was the well - established principle that the GATT, and now the WTO, dispute settlement system was designed to resolve disputes, not to generate advisory opinions on abstract, theoretical legal questions.”), November 14, 2008 (WT/DSB/258), para. 8 et seq. (e.g., at para. 8: “In its Report, unfortunately, the Appellate Body had undertaken unnecessary analyses of provisions of the DSU and invented rules, procedures, and even obligations that were simply not present in the DSU. The United States referred Members to the communication that it had circulated that explained the US concerns in more detail.”), and May 23, 2016 (WT/DSB/M/379), para. 6.4 et seq. (e.g., at para. 6.4: “The Appellate Body was not an academic body that may pursue issues simply because they were of interest to them or may be to certain Members in the abstract. Indeed, as the Appellate Body itself had said many years ago, it was not the role of panels or the Appellate Body to ‘make law’ outside of the context of resolving a dispute, in effect, to use an appeal as an occasion to write a treatise on a WTO agreement. But that was what the report had done in this appeal.”). See also the concerns raised in the November 7, 2008 Communication from the United States on concerns regarding the Appellate Body’s Report (WT/DS320/16).

³⁴ TN/DS/W/82/Add.2.

³⁵ See, e.g., U.S. statement at the September 29, 2017, DSB meeting (<https://geneva.usmission.gov/2017/09/29/statements-by-the-united-states-at-the-september-29-2017-dsb-meeting/>) and November 22, 2017 DSB meeting (https://geneva.usmission.gov/wp-content/uploads/2017/11/Nov22.DSB_.pdf).

³⁶ *Statement by the United States at 9 May 2016 DSB Meeting*, <https://geneva.usmission.gov/wp-content/uploads/2016/05/May-9-DSB.pdf>, involving the dispute *Argentina – Measures Relating to Trade in Goods and Services* (DS453).

³⁷ General Agreement on Trade in Services (“GATS”).

³⁸ See, e.g., Minutes of the DSB meeting of April 24, 2012 (WT/DSB/M/315), para. 74.

³⁹ Minutes of the DSB meeting of October 26, 2016 (WT/DSB/M/387), para. 8.9 et seq. The Appellate Body uses the term “municipal law” in referring to domestic law.

of the WTO agreements. But the Appellate Body consistently asserts that it can review the meaning of a Member's domestic measure as a matter of law rather than acknowledging that it is a matter of fact and thus not a subject for Appellate Body review. Furthermore, when the Appellate Body reviews the meaning of a Member's domestic measure, it does not provide any deference to a panel's findings of fact. As other commentators have noted:

[T]he logic of the Appellate Body's finding [that panel findings on municipal law are issues of law under DSU Article 17.6] is difficult to understand. Just because a panel assesses whether a domestic legal act – which represents a fact from the perspective of WTO law – is consistent or inconsistent with WTO law does not suddenly turn the meaning of the domestic legal act into a question of WTO law [T]here must . . . be a discernible line between issues of fact and issues of law. After all, the Appellate Body's jurisdiction is circumscribed precisely by this distinction.⁴⁰

The Appellate Body's approach is therefore not only contrary to WTO rules but again raises concerns about the purpose of insisting on an unnecessary and erroneous approach.

v. The Appellate Body claims its reports are entitled to be treated as precedent

Without basis in the DSU, the Appellate Body has asserted its reports effectively serve as precedent and that panels are to follow prior Appellate Body reports absent “cogent reasons.” However, this is not consistent with WTO rules. WTO Members established one and only one means for adopting binding interpretations of the obligations that they agreed to: Article IX: 2 of the WTO Agreement. While Appellate Body reports can provide valuable clarification of the covered agreements, Appellate Body reports are not themselves agreed text nor are they a substitute for the text that was actually negotiated and agreed. Indeed, the Appellate Body's approach means that panels are simply to abdicate their responsibility to conduct an objective assessment of the matters before them and just follow prior Appellate Body reports.

D. Strengthening the Multilateral Trading System

The WTO is an important institution, and the United States has a strong track record of building coalitions of like-minded Members to use the WTO committee system, in particular, to pressure non-complying economies to bring measures into conformity with WTO rules, to advance transparency and predictability in global trade rules, and to avert the need to resort to dispute settlement. The Trump Administration believes that the WTO has achieved positive results and has the potential to achieve even more in the future. However, for the past two decades, the United States has been concerned that the WTO is not operating as the contracting parties envisioned. As a result, the WTO is undermining our country's ability to act in its national interest.

This is not a new problem. Multiple administrations have voiced various concerns with the WTO system and the direction in which it has been headed. First among those concerns is that the WTO dispute settlement system has appropriated to itself powers that the WTO Members never intended to give it. As discussed above, the United States has been expressing its concerns regarding WTO dispute settlement for many years. Those concerns include where panels or the Appellate Body have, through their findings, sought to add to or diminish rights and obligations of Members under the WTO Agreement and encompass a broad range of areas. The United States has grown increasingly concerned with the activist approach of the Appellate Body on procedural issues, interpretative approach, and substantive interpretations. These

⁴⁰ Jan Bohanes & Nick Lockhart, “Standard of Review in WTO Law,” *The Oxford Handbook of International Trade Law* 42 (2009), quoted in the Minutes of the October 26, 2016 DSB meeting (WT/DSB/M/387), para. 8.14.

approaches and findings do not respect WTO rules as written and agreed by the United States and other WTO Members. WTO Members need to address these concerns, and the United States stands ready to work with Members in this regard.

Second, there is also longstanding concern in the United States about the WTO's inability to reach agreements that are of critical importance in the modern global economy.

After spending close to 15 years attempting to conclude the Doha Development Agenda (DDA) negotiations, Ministers at the WTO's Tenth Ministerial Conference in December 2015 collectively acknowledged that there was no consensus to reaffirm the DDA's mandates. Consequently, the Trump Administration will not negotiate off the basis of the DDA mandates or old DDA texts and considers the Doha Round to be a thing of the past.

However, some WTO Members continue to cling to the DDA mandates because the associated draft texts would have exempted their economies from meaningful new commitments and placed the burden of new trade rules and liberalization on a small number of Members, including the United States. Positive, future oriented work at the WTO remains severely constrained by the few Members demanding that no new work can be achieved until the DDA mandates are fulfilled. This stance of a few Members has stymied new initiatives that could benefit today's trading system. Due to these few Members, the focus remains largely on how trade worked in 2001, at the launch of the DDA, and not on today's realities. This is unacceptable.

For the WTO to be successful going forward, its membership will need to break from the failures of the last decade, and base future work on lessons learned, but also current data and up to date notifications. Moving on entails a focus on issues that are affecting our stakeholders today and into the future. The Trump Administration seeks to work with those Members who are ready and able to negotiate free, fair and reciprocal agreements, with the expectation that participants to these agreements will contribute commensurate with their status in the global economy.

Third, we note the acute need for the WTO to change how it approaches questions of development. While "least developed countries" (LDCs) are defined in the WTO using the United Nations criteria, there are no WTO criteria for what designates a "developing country." Any country may "self-declare" itself as a developing country, thus entitling itself to all "special and differential" treatment afforded to developing countries under the WTO Agreements, as well as any new flexibilities afforded to developing countries under current or forthcoming negotiations. In practice, this means that more advanced countries like Brazil, China, India, and South Africa receive the same flexibilities as very low-income countries, despite these more advanced countries' very significant role in the global economy. Such disparities, where countries that some institutions categorize as high- or high-middle-income receive the same flexibilities as low- or low-middle-income, makes it challenging to find balance in the application of existing obligations or the development of new commitments.

Finally, there is significant concern that the WTO is unable to manage the rise of countries – notably China – that pay lip service to the values of free trade but intentionally avoid, circumvent, or violate the commitments accompanying those values.

The Trump Administration will work with other like-minded countries to address these concerns.

1. The WTO as a Forum for Trade Negotiations

At its heart, the WTO is supposed to be a Member driven organization that should perform or fail based on the choices made by its Members. Some Members have become too rigid in perceiving that new

agreements and other forms of outcomes can only occur at Ministerial Conferences, and that all work must be tied back to the DDA mandate, with very few exceptions. Additionally, the ability of any country to self-declare “developing country” status to avail itself of flexibilities under the WTO agreements ultimately undermines the predictability of the WTO rules and diminishes the certainty of negotiated outcomes under new liberalization agreements.

If the WTO is to reclaim its credibility as a vibrant negotiating and implementing forum, Members must take advantage of every opportunity to advance work and seize results as they present themselves. In looking ahead to the period before the twelfth Ministerial Conference in 2019, the United States seeks to work with other WTO Members to begin the process of identifying opportunities to achieve accomplishments, even if incremental ones, and avoid buying into the predictable, and often risky, formula of leaving everything to a package of results for Ministerial action. Whether the issue is agriculture or digital economy, the WTO will impress capitals and stakeholders most by simply doing rather than posturing for the next Ministerial Conference.

To remain a viable institution that can fulfill all three pillars of its work, the WTO must find a means of achieving trade liberalization between Ministerial Conferences, must adapt to address the challenges faced by traders today, and – most importantly – must ensure that the flexibilities a country may avail itself of are commensurate to that country’s role in the global economy. We look to discussions on agriculture, fisheries subsidies and e-commerce, among other issues and opportunities, to work with other WTO Members on these goals.

a. WTO Agriculture Negotiations

In 1994, America’s farmers and ranchers entered into a new world in trade with countries around the world, as the United States for the first time agreed to reduce import tariffs on food and agricultural products and concomitantly reduce trade distorting domestic support and export subsidies. U.S. food and agricultural exports since then have expanded nearly 200 percent providing important additions to American farmer’s incomes and supporting our rural communities. Since 1994, however, we have witnessed a failure of the WTO to make significant headway in further negotiations to eliminate trade distortions in agricultural trade. As import tariffs faced by U.S. exporters declined with the implementation of the Uruguay Round commitments, our farmers and ranchers have experienced an increase in other unwarranted barriers imposed on our exports. As we embark in 2018, the Trump Administration will renew efforts at the WTO in two key areas to help America’s farmers and ranchers compete on an even playing field: a reset of the agriculture WTO negotiations and enabling farmer access to safe tools and technologies.

The WTO is the critical institution to eliminate unfair policies and promote a market-based trading system for agricultural producers around the world. The Trump Administration strongly supports the continuation of the reform process as agreed to in the 1994 Uruguay Round to eliminate unfair trade policies and pursue the long-term objective of substantial, progressive reductions in support and protection.

Unfortunately, the recent negotiating history at the WTO has focused on creating exceptions for new unfair and protectionist measures that run counter to what is best for America’s, and the world’s, farmers and ranchers. With the failure of the Doha Round, the Trump Administration in December 2017 called for WTO countries to reset and reinvigorate the agriculture negotiations to tackle the real-world international trade concerns facing agriculture today. To reset the negotiations, the United States advocates for countries to improve the transparency of their policies and programs by providing mandated notifications on a timely basis. The United States also calls on countries to embrace the role that fair and liberalized trade plays in advancing farmer welfare in all countries and to support market-oriented reforms as the primary objective of the WTO.

The Administration's major focus at the WTO on agriculture in 2018 will be to enhance notifications and transparency to inform discussions about the problems that face agricultural trade today and to begin consideration of new ways forward in negotiations on agriculture. For productive discussions in Geneva, the United States plans to work with WTO Members to:

- Identify, analyze and agree on the issues facing agricultural trade today;
- Identify unfair agricultural trade policies that the WTO could address such as high tariffs, trade distorting subsidies, and the application of non-tariff measures;
- Identify the reasons for WTO agriculture negotiations failure in recent years;
- Identify a new trade approach to address these problems in the WTO.

b. Enabling Farmer Access to Safe Tools and Technologies

Regulatory barriers in foreign markets increasingly limit American farmers' access to safe tools and technologies to enhance production and provide for economic well-being in rural communities. Regulatory approaches of our trading partners that lack sufficient scientific justification, are unnecessarily burdensome, and are not in line with international standards result in unwarranted barriers to U.S. trade and innovation. At the WTO 11th Ministerial Conference, the United States joined with 16 other WTO Members⁴¹ in a joint ministerial statement outlining our concerns that these barriers are having a substantial negative impact on production of, and trade in, safe food and agricultural products, and we made recommendations for how to address those barriers. In 2018, the Trump Administration will build on this work to reduce regulatory barriers to exports of food and agriculture products. Specifically, working with a coalition of WTO countries, the United States will advance implementation of the recommendations found in the ministerial statement to address pesticide-related issues that impede and disrupt agricultural production and trade:

- (1) WTO Members should work together to increase the capacity and efficiency of the Codex Alimentarius Commission to set international, risk-based standards on pesticide maximum residue levels (MRLs);
- (2) WTO Members should improve the transparency and predictability of their regulatory systems in the setting of national MRLs.
- (3) WTO Members should achieve greater harmonization in MRL setting at the national regional and international level; and,
- (4) WTO Members should collaborate on ways to enable greater access to lower-risk alternative pesticides and pesticides for minor-use crops, particularly in developing countries.

This initiative reaffirms the central role of risk analysis in assessing, managing and communicating risks associated with pesticide use to protect public health while enabling farmers around the world to have access to the safe use of pesticides and technology and facilitating trade in food and agricultural products. Through science based decision-making and countries' abiding by the rules of the WTO on food safety, we can reduce unfair regulatory barriers in foreign markets to America's wholesome and healthful agriculture bounty.

⁴¹ Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Guatemala, Japan, Kenya, Madagascar, Panama, Paraguay, Peru, Uganda, and Uruguay.

c. Fisheries Subsidies

WTO Members began work to discipline harmful fisheries subsidies in 2001, when global trade in seafood totaled approximately \$57 billion. At the time, approximately 15-18 percent of global fish stocks were estimated to be in an overfished condition and about half of the stocks were considered to be in a fully fished condition (meaning no room to expand catches).

Today, the situation has significantly worsened for the fish, the legitimate fishermen trying to support their families by catching them, and the millions of developing country consumers who rely on fish as a key source of protein. As of 2016, global trade in seafood had grown to \$126 billion, and China alone exported nearly as much seafood annually as the next three largest exporters combined. Global fishing capacity has increased approximately 50 percent from 2001 to a level that some have estimated is 250 percent greater than what is needed to fish at sustainable levels.

Harmful global subsidies to support fishing are estimated to total up to \$20 billion annually. These harmful fisheries subsidies are considered to be a major contributing factor in the unsustainable exploitation of fisheries resources. The Food and Agriculture Organization (FAO) most recently estimated that approximately 31 percent of global fish stocks are now in an overfished condition and almost 60 percent are fully fished and therefore are at risk of overexploitation without effective management.

Urgent action is needed to address the overexploitation of fisheries resources. WTO Members can make a significant contribution to ending these destructive subsidy programs that are exacerbating overfishing and overcapacity by agreeing to new prohibitions on the most harmful fisheries subsidies. The Trump Administration supports strong prohibitions on subsidies that contribute to overfishing and overcapacity and those that support illegal fishing activities. The Administration will continue to press for an ambitious agreement on fisheries subsidies that includes enhanced transparency and notifications of fisheries subsidies programs, which has been lacking in the WTO for years. To be meaningful, we will insist that an agreement must not exempt the largest subsidizers, producers, and exporters of seafood, including China and India. The United States will continue to work with like-minded WTO Members to achieve new WTO rules that can help our oceans and our law-abiding fishermen.

d. Digital Trade

Digital trade provides enormous value to all sectors of the U.S. economy, and U.S. companies face significant challenges when foreign governments impose restrictions on digital trade. In December, the United States joined 70 other WTO Members in initiating exploratory work on possible future negotiations on these issues. The Trump Administration intends to use these discussions as a valuable forum to develop commercially meaningful rules that address restrictions on digital trade, and will work with like-minded WTO Members who share the Administration's interest in moving forward on digital trade issues within the WTO.

3. Development at the WTO

The Trump Administration intends to contribute to a new discussion on trade and development at the WTO, now that Members are no longer laboring under the framework of the Doha Round. We will work with like-minded Members to advance a deeper understanding of the relationship between trade rules and development and to break the cycle of an insistence that exceptions to trade rules be negotiated before new trade rules themselves. It is the view of the United States that the full implementation of WTO rules is a building block for sustainable development, and that the role of special and differential treatment is, on

a case-by-case basis, to enable a specific WTO Member to fully implement a specific commitment in a specific WTO agreement.

4. Countering Members that Flout WTO Rules

Another instance where the United States continues to work with like-minded countries to ensure that the WTO as an institution enforces rules of fair trade liberalization as agreed by Members and address the rise of countries that flout those rules involves dispute settlement. For example, as discussed above, the United States is working with other concerned WTO Members against China's position that importing Members must ignore the extensive distortions in China's economy and grant China special rights and privileges under the anti-dumping rules that are not accorded any other WTO Member. We will aggressively continue pursuing these and other issues to ensure that the WTO promotes true market competition that rewards hard work and innovation – not market-distorting practices in countries like China.

CONCLUSION

President Trump was elected in part due to his commitment to reform the global trading system in ways that would lead to fairer outcomes for U.S. workers and businesses, and more efficient markets for countries around the world. In 2017, the Trump Administration began to fulfill that commitment. Already we have begun to revise outdated and unfair trade deals, build a stronger U.S. economy, pursue an aggressive enforcement agenda, and press for significant reform of the WTO. In 2018, we will continue these efforts.

Ambassador Robert E. Lighthizer
March 2018

**2017 ANNUAL REPORT
OF THE
PRESIDENT OF THE UNITED STATES
ON THE
TRADE AGREEMENTS PROGRAM**

II. AGREEMENTS AND NEGOTIATIONS

A. Agreements Under Negotiation

1. North American Free Trade Agreement

Overview

In 1993, as part of his campaign urging Congress to approve the North American Free Trade Agreement (NAFTA), President Bill Clinton stated that the U.S. trade balance with Mexico had gone from a \$5.7 billion trade deficit in 1987 to a \$5.4 billion surplus in 1992. President Clinton argued that this development had brought “hundreds of thousands of jobs” to the United States.⁴² At the same time, in a 1993 debate on NAFTA with Ross Perot, Vice President Gore went even further, promising that NAFTA would provide “a larger trade surplus with Mexico than with any country in the entire world.”⁴³

On September 14, 1993, President Clinton signed the bill that approved NAFTA. The Clinton Administration sold NAFTA on the grounds that it would generate a significant net surplus for the United States – and that this surplus would lead to hundreds of thousands of new jobs in the United States.

Unfortunately for American workers, the facts proved to be very different.

On January 1, 1994, the NAFTA between the United States, Canada, and Mexico entered into force. Tariffs on nearly all goods were eliminated progressively, with all final duties and quantitative restrictions eliminated, as scheduled, by January 1, 2008. Canada still maintains tariffs on dairy, poultry, and egg products while the United States still maintains tariffs on dairy, sugar, and peanut products from Canada. United States-Mexico trade is fully duty-free. In 2017, the United States exported \$282.5 billion worth of goods to Canada, and imported \$300.0 billion worth of goods from Canada, for a bilateral trade deficit in goods of \$17.5 billion. During the same year, the United States exported \$243.0 billion worth of goods to Mexico, and imported \$314 billion worth of goods from Mexico, for a bilateral trade deficit of \$71.1 billion. The United States has had a trade deficit in goods with both Mexico and Canada in every year since 1994, and a trade surplus in services in every year since 1999 (when data available).⁴⁴

⁴² Clinton Presidential Papers, 1993, Book 2, Page 1487.

⁴³ <http://ggallarotti.web.wesleyan.edu/govt155/goreperot.htm>

⁴⁴ The international shipment of non-U.S. goods through the United States can make standard measures of bilateral trade balances potentially misleading. For example, it is common for goods to be shipped through regional trade hubs without further processing before final shipment to their ultimate destination. This can be seen in data reported by the United States’ two largest trading partners, Canada and Mexico. The U.S. data report an \$11.0 billion goods deficit with Canada in 2016, and a \$64.4 billion goods deficit with Mexico. Both countries report substantially larger U.S. goods surpluses in the same relationship. Canada reports an \$87.5 billion surplus, and Mexico a \$123.1 billion surplus. This reflects the large role of re-exported goods originating in other countries (or originating in one NAFTA partner, arriving in the United States, and then returned or re-exported to the other partner without substantial transformation).

U.S. statistics count goods coming into the U.S. customs territory from third countries and being exported to our trading partners, without substantial transformation, as exports from the United States. Canada and Mexico, however, count these re-exported goods as imports from the actual country of origin. In the same way, Canadian and Mexican

There are many reasons for these declines, including economic factors not directly tied to NAFTA, but it is inaccurate to state that NAFTA played no role. In fact, many provisions in the 1994 agreement further facilitated outsourcing by reducing the costs of moving American production offshore and exposing American workers to harmful Mexican export subsidies, which further accelerated the decline in American manufacturing, particularly in the auto sector.

On May 18, 2017, President Trump notified the Congress of the Administration's intent to renegotiate the NAFTA in order to modernize and rebalance the Agreement. On July 17, USTR publicly released a detailed summary of the objectives the Administration seeks to achieve through this renegotiation. In developing these objectives, USTR held dozens of meetings with Congressional leaders and private sector advisory committees, and held three days of public hearings. In response to a *Federal Register* notice, USTR also received more than 12,000 public comments, which were carefully reviewed and integrated into Administration priorities for the renegotiation. On August 16, 2017, after the 90-day consultation period required by the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, Ambassador Lighthizer formally launched the renegotiation of the NAFTA in Washington D.C. On November 17, 2017, after four rounds of negotiation, USTR released an updated summary of the NAFTA negotiating objectives.

Through the renegotiation, the Administration has two principal objectives: first, to update the agreement with modern provisions representing the best text available. This will bring NAFTA into the 21st century by adding improved provisions to protect intellectual property and facilitate efficient cross-border trade among other updates. The renegotiated agreement will also contain new provisions that did not exist when the original NAFTA was negotiated, such as language to protect digital trade and ensure that labor and environmental chapters that are included in the body of the text and protected by the same enforcement mechanisms as the rest of the agreement.

Second, however, USTR seeks to rebalance NAFTA and reduce the U.S. trade deficit in order to achieve greater benefits for our workers, farmers, ranchers and businesses. USTR is currently seeking to ensure that U.S. investors do not have additional incentives to offshore, that strong labor provisions are made enforceable and brought into the text of the agreement, and that the performance of the Agreement is regularly reviewed to make certain that the agreement remains in the interest of the United States. USTR is also seeking to increase the percentage of the goods traded through this agreement are made by North American workers, particularly those in the United States.

These are common-sense provisions, reasonable updates and new protections to ensure that the North American market operates on the principals of free and fair trade, with minimal market distortions.

The United States is advancing at an unprecedented pace in these negotiations. With continued progress, the Trump Administration looks forward to concluding the agreement and achieving a more balanced deal for all three countries.

Five full negotiating rounds were completed by the end of 2017.

export data may include re-exported products originating in other countries as part of their exports to the United States, whereas U.S. data count these products as imports from the country of origin. These counting methods make each country's bilateral balance data consistent with its overall balance, but yield large discrepancies in national measures of bilateral balance. It is likely that a measure of the U.S. trade deficit with Canada and Mexico excluding re-exports in all accounts would be somewhere in between the values calculated by the United States and by our country trading partners.

Elements of NAFTA

Operation of the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), composed of the U.S. Trade Representative, the Canadian Minister of Foreign Affairs, and the Mexican Secretary of Economy, or their designees. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and government-to-government dispute settlement.

The FTC held its most recent meeting in Washington, D.C. on April 3, 2012. Since October 2012, trade ministers, senior officials, and experts from the United States, Canada, and Mexico have met regularly to expand and deepen trade and investment opportunities in North America, and now meet on a frequent basis to renegotiate the Agreement.

NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws. The NAALC established a tri-national Commission for Labor Cooperation, composed of a Ministerial Council and an administrative Secretariat. Each NAFTA Party also established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and to provide for the submission and review of public communications on labor law matters. Since 2010, the NAOs have assumed the duties of the NAALC Secretariat, including carrying out cooperative activities. As part of the NAFTA renegotiation, the United States is seeking to bring the labor obligations of the NAALC into the core of the Agreement, and ensure they are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.

As of 2017, there are seven pending submissions under the NAALC. Four are pending with the Mexican NAO (three involving the United States and one involving Canada), one with the United States' NAO (involving Mexico), and two with the Canadian NAO (one involving Mexico and one involving the United States). One submission is pending with the United States and Canadian NAOs.

In December 2017, Mexico's Executive submitted legislation to its Congress that would amend the Federal Labor Law to implement landmark constitutional reforms to the labor justice system enacted in February 2017. The reforms would transfer the authority to adjudicate labor disputes from biased tripartite Conciliation and Administrative Boards to new labor courts and the registration of unions and collective bargaining agreements to a new, independent, impartial, and specialized Federal "Institute." The legislation also includes a number of provisions from a previous legislative proposal submitted by Mexico's President Peña Nieto in April 2016 related to the registration of so-called protection contracts, which are collective bargaining agreements entered into by non-representative unions, often without the knowledge of workers, and undermine legitimate collective bargaining and suppress wages.

The Administration is consulting closely with the Mexican Government regarding the content of the reforms, including through the ongoing renegotiation of NAFTA, to ensure the final legislation improves labor standards and the protection of labor rights for Mexican workers. Mexico's Congress is currently considering the implementing legislation related to these reforms.

NAFTA and the Environment

The North American Agreement on Environmental Cooperation (NAAEC), a supplemental agreement to the NAFTA, promotes effective enforcement of environmental laws and supports regional environmental cooperation initiatives. The NAAEC established the Commission for Environmental Cooperation (CEC), comprised of a Council, a Secretariat, and a Joint Public Advisory Committee (JPAC). The Council is the CEC governing body, and is comprised of environmental ministers from the United States, Canada and Mexico. The Secretariat facilitates cooperation activities and receives public submissions. The JPAC advises the Council on matters within the scope of the NAAEC, and serves as a source of information for the Secretariat. As part of the NAFTA renegotiation, the United States is seeking to modernize the existing NAAEC framework by bringing the environmental obligations into the core of the Agreement, and ensure they are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.

On June 27-28, 2017, the Council met in Prince Edward Island, Canada. The Council approved the Operational Plan 2017-18 and outlined a new trilateral work program focused on strengthening the nexus between trade and environment, such as projects related to supporting the legal and sustainable trade in select North American species and improving industrial energy efficiency. In 2017, the CEC Parties continued the practice of reporting on actions taken on public submissions on enforcement matters concluded over the previous year.

Since 1993, Mexico and the United States also have helped border communities with environmental infrastructure projects in furtherance of the goals of the NAFTA. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with communities throughout the United States-Mexico border region to address their environmental infrastructure needs.

2. Korea-U.S. Free Trade Agreement

Overview

The United States-Korea Free Trade Agreement (KORUS FTA), which came into force on March 15, 2012, has been a major disappointment overall. Since the agreement has been in effect, U.S. imports of goods from Korea rose from \$56.7 billion in 2011 to \$71.2 billion in 2017, while U.S. exports of goods to Korea only rose from \$43.5 billion in 2011 to \$48.3 billion in 2017. Thus, the U.S. trade deficit in goods with Korea increased by 73 percent since the entry-into-force of the Agreement, and the goods and services deficit with Korea nearly tripled between 2011 and 2016 (latest data available).

These statistics are particularly troubling given President Obama's claim that "the tariff reductions in this agreement alone are expected to boost annual exports of American goods by up to \$11 billion. And all told, this agreement ... will contribute significantly to achieving my goal of doubling U.S. exports over the next five years."⁴⁵

The United States did see initial gains from services trade in the early years of implementation; however, services export growth has since stalled. In 2011, the U.S. benefited from \$16.7 billion in services exports, which grew to \$21.0 billion in 2013. But exports have remained virtually flat since then. In 2016, the U.S. only exported \$21.1 billion of services to Korea.

⁴⁵ "Remarks by the President on the U.S.-Korea Free Trade Agreement," President Barack Obama, December 4, 2010, <https://obamawhitehouse.archives.gov/the-press-office/2010/12/04/remarks-president-announcement-a-us-korea-free-trade-agreement>.

While six rounds of tariff cuts have taken place under the KORUS FTA, Korea has still fallen short on faithful implementation of the agreement. As a candidate, President Trump described the KORUS FTA as a “job-killing deal.” As President, he has acted – directing USTR to seek changes to rebalance the KORUS FTA in ways that will be more favorable to American workers and businesses. These efforts are ongoing.

Operation and Improvement of the Agreement

In recent years, stakeholders have voiced increasing concern that Korea has not fully implemented commitments in too many areas or has taken actions that undermined benefits that the United States had expected under the FTA.

On paper, the KORUS FTA resulted in improvements in market access to Korea’s goods and services market. For example, it was supposed to improve market access and regulatory transparency for U.S. service suppliers in Korea’s roughly \$760 billion services market, including in the areas of financial services, business and professional services, telecommunications, and audiovisual services.

Too often, however, Korea has undermined these improvements in access to its market in a number of areas by introducing counter-measures and through other practices. Examples include:

- targeted efforts to provide preferential treatment within Korea’s market to domestic firms,
- the introduction of new non-tariff barriers,
- and the denial of adequate procedural fairness by Korean enforcement authorities for U.S. companies.

The Agreement’s central oversight body is the Joint Committee, chaired by the U.S. Trade Representative and the Korean Trade Minister. Meetings of Senior Officials are typically held just prior to the Joint Committee meetings to coordinate and report on the activities of the committees and working groups established under the Agreement. The U.S. Government also addresses the KORUS FTA compliance and other trade issues on a continual basis through regular inter-sessional consultations, through respective embassies, and through other engagements with the Korean government (including at senior levels) in order to resolve issues in a timely manner.

Using these FTA committees and working groups, certain issues related to Korea’s implementation of the agreement have been resolved. These include ensuring that Korea established and implemented regulations to allow the outsourcing of data offshore, the inclusion of biologics in Korea’s new patent linkage system, and the resolution of a series of technical automotive regulatory issues, such as testing protocols for vehicle sunroofs.

However, it became clear that traditional engagement with the government of Korea had not been enough. Despite years of effort, Korea failed to adequately address a number of implementation and related concerns that continue to undermine benefits of the agreement that should be available to U.S. exporters and companies.

In July 2017, USTR called for a special session of the Joint Committee under the KORUS FTA to initiate bilateral negotiations to address serious concerns regarding the persistent, significant trade deficit with Korea and the asymmetric benefits that the Agreement has generated. This first-ever special session of the Joint Committee was held on August 22, 2017, in Seoul, Korea. At the second special session of the Joint

Committee, held in Washington, D.C. on October 4, 2017, USTR continued to seek improvements to the Agreement to achieve more reciprocal benefits for American exporters, as well as resolution of a number of outstanding implementation concerns, including in the areas of customs, competition policy, automobiles, medical device and pharmaceutical pricing, labor and services.

Following the special session of the Joint Committee on October 4, 2017, Korea initiated its domestic procedures to allow the Korean government to engage in negotiations with the United States on potential amendments to the Agreement. Korea completed these procedures in December, and the United States and Korea held negotiations on amendments and modifications to improve the Agreement on January 5 and again on January 31-February 1, 2018.

In addition to these efforts, throughout last year, committees and working groups established under the KORUS FTA met to discuss issues related to the Agreement. These included the Automobiles Working Group, the Committee on Sanitary and Phytosanitary Matters, the Committee on Services and Investment, the Committee on Trade in Goods, the Committee on Technical Barriers to Trade, the Professional Services Working Group, and the Committee on Trade Remedies. USTR consults closely with Congress and stakeholders regarding the work of the KORUS FTA committees.

For a discussion of environment related activities in 2017, see chapter IV.D.2.

B. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. The United States met regularly with Australia throughout the year to review the FTA, which was described by the Vice President during his April 2017 visit to Australia as a model for what a mutually beneficial trade agreement can be. The United States and Australia held a meeting of the United States-Australia Joint Committee in December 2017 to review the operation of the FTA and to address priority issues related to goods, services, investment, plant and animal health, and intellectual property. Since the FTA entered into force, U.S.-Australia goods and services trade have increased, with bilateral U.S.-Australia trade in services nearly tripling. In 2017, the United States had a \$14.6 billion goods trade surplus with Australia and in 2016, a \$14.7 billion services trade surplus, relative to \$12.6 billion and \$15.1 billion, respectively, in the year before. In 2017, the United States had a \$1.8 billion deficit in agricultural trade with Australia.

2. Bahrain

The United States-Bahrain Free Trade Agreement (FTA), which entered into force on August 1, 2006, continues to generate export opportunities for the United States. Upon entry into force of the Agreement, 100 percent of the two-way trade in industrial and consumer products, and trade in most agricultural products, immediately became duty free. Duties on other products were phased out gradually over the first ten years of the Agreement. In 2017, the United States exported \$907 million worth of goods to Bahrain, relative to \$899 million the year before, and imported \$996 million worth of goods from Bahrain, relative to \$768 million the year before. In addition, Bahrain opened its services market, creating important new opportunities for U.S. financial services providers and U.S. companies that offer telecommunication, audiovisual, express delivery, distribution, health care, architecture, and engineering services. The United States-Bahrain Bilateral Investment Treaty, which took effect in May 2001, covers investment issues between the two countries.

To manage implementation of the FTA, the agreement establishes a central oversight body, the United States-Bahrain Joint Committee (JC), chaired jointly by USTR and Bahrain's Ministry of Industry and Commerce. Meetings of the JC have addressed a broad range of trade issues, including efforts to increase bilateral trade and investment levels; efforts to ensure effective implementation of the FTA's customs, investment, and services chapters; possible cooperation in the broader Middle East and North Africa (MENA) region; and additional cooperative efforts related to labor rights and environmental protection.

During 2017, U.S. Government officials continued to engage with officials from Bahrain's Ministries of Labor, Industry and Commerce, and Foreign Affairs, and with labor unions and business representatives, to address labor rights concerns highlighted during consultations that began in 2013 under the United States-Bahrain FTA. Areas of discussion included: improving Bahrain's capacity to respond to cases of employment discrimination, considering legal amendments to improve the consistency of Bahraini labor laws with international labor standards, enhancing outreach and enforcement of labor laws on freedom of association and collective bargaining, and encouraging regular tripartite dialogue on labor matters. The government of Bahrain signed an agreement during 2014 with the General Federation of Bahrain Trade Unions and the Bahrain Chamber of Commerce and Industry to address many of these concerns, including employment discrimination. That agreement led to the closing of a complaint filed with the International Labor Organization by Bahrain's unions. However, challenges remain in fulfilling the terms of the agreement, particularly in the area of employment discrimination and freedom of association. USTR and the U.S. Departments of Labor and State met with the Bahraini Ministers of Labor and of Industry and Commerce in December 2017 in Washington and discussed potential initiatives by the government of Bahrain to address remaining concerns. The United States and Bahrain agreed to continue these discussions in 2018.

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

3. Central America and the Dominican Republic

Overview

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. CAFTA-DR eliminates tariffs, opens markets, reduces barriers to services, and promotes transparency.

Central America and the Dominican Republic represent the third largest U.S. goods export market in Latin America, behind Mexico and Brazil. U.S. goods exports to the CAFTA-DR countries were valued at \$30.7 billion in 2016, compared to \$28.7 billion in the year before. Combined total two-way trade in 2017 between the United States and CAFTA-DR Parties was \$54.4 billion, compared to \$52.1 billion in the year before. The United States had a \$7.1 billion trade surplus with the CAFTA-DR countries, compared to \$5.4 billion in the year before.

The Agreement has been in force since January 1, 2009, for all seven countries that signed the CAFTA-DR. It entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009.

Elements of the CAFTA-DR

Operation of the Agreement

The central oversight body for the CAFTA-DR is the Free Trade Commission (FTC), composed of the U.S. Trade Representative and the trade ministers of the other CAFTA-DR Parties or their designees. The CAFTA-DR Coordinators, who are technical level staff of the Parties, maintain ongoing communication to follow up on agreements reached by the FTC, to advance technical and administrative implementation issues under the CAFTA-DR, and to define the agenda for meetings of the FTC.

U.S. export and investment opportunities with Central America and the Dominican Republic have continued to grow under the CAFTA-DR. All of the CAFTA-DR partners have committed to strengthening trade facilitation, regional supply chains, and implementation of the Agreement. All U.S. consumer and industrial goods may enter duty free in all of the other CAFTA-DR countries' markets. Nearly all U.S. textile and apparel goods meeting the Agreement's rules of origin enter the other CAFTA-DR countries' markets duty free and quota free, promoting regional integration and opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies. Under the CAFTA-DR, exports of sensitive products under tariff rate quotas constitute two-thirds of U.S. agricultural exports to the region. These quotas will continue to increase annually until all tariffs are eliminated by no later than 2025.

Labor

Labor Capacity Building

Ongoing labor capacity building activities are supporting efforts to promote workers' rights and improve the effective enforcement of labor laws in the CAFTA-DR countries. This includes ongoing support from USAID for efforts to protect the rights of workers in the informal economy and to lift barriers to formalization, for building the capacity of workers and their organizations to constructively advocate for workers' rights with public authorities and employers, and for ensuring that workers and employers develop skills and expertise to resolve disputes. In 2017, USAID continued to support these activities as part of its Global Labor Program, and the U.S. Department of State continued funding a program to combat labor violence in Honduras and Guatemala.

Guatemala

Closing a process that began in 2008, the arbitral panel, which was convened to review the labor enforcement case brought by the United States against Guatemala under the CAFTA-DR, issued its final report on June 26, 2017. While the panel determined that Guatemala failed to effectively enforce its labor laws, it ultimately concluded that the United States did not prove that any noncompliance by Guatemala affected trade. USTR strongly disagrees with some of the interpretations developed by the panel and notes that no FTA panel can set "precedent" for future panels. For additional information, visit <https://ustr.gov/issue-areas/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>.

In June 2017, the government of Guatemala restored administrative sanction authority to the Ministry of Labor and, in November 2017, the government, employers, and workers signed an agreement on a way to address a 2012 complaint submitted to the International Labor Organization (ILO) related to freedom of association and collective bargaining. Restoring sanction authority to the Ministry of Labor has been a key element of U.S. Government engagement with Guatemala, including as part of the CAFTA-DR labor enforcement case. It was also an element of the ILO complaint. To date, implementation of the new sanction authority has been slow, with little evidence of concrete progress on effective enforcement of labor

law on the ground. In addition, violence against labor union activists continues to be reported by the ILO, labor stakeholders and international NGOs as a concern.

Dominican Republic

In September 2013, the DOL issued a report in response to a public communication received in December 2011 that alleged that the government of the Dominican Republic failed to effectively enforce labor laws in the Dominican sugar sector. The 2013 DOL report highlighted concerns about potential and apparent violations of Dominican Republic labor laws in the sugar sector with respect to: (1) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; (2) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and (3) a prohibition on the use of any form of forced or compulsory labor. The DOL also noted concerns in the sugar sector with respect to Dominican labor law on freedom of association, the right to organize, and collective bargaining. In addition, the report raised significant concerns about procedural and methodological shortcomings in the inspection process that undermine the government's capacity to identify labor violations. During 2017, the United States has continued to engage with the government of the Dominican Republic, the sugar industry, and civil society groups on the concerns identified in the report. Sugar producers have engaged in the process to varying degrees and have implemented reforms that address some underlying concerns raised in the public communication and DOL report. Nevertheless, procedural and methodological shortcomings in the labor inspections process remain.

Honduras

In March 2012, the American Federation of Labor and Congress of Industrial Organizations and 26 Honduran worker and civil society groups filed a public submission with the DOL alleging that the government of Honduras had failed to effectively enforce its labor laws under the CAFTA-DR labor chapter. In February 2015, the DOL issued a public report with detailed recommendations to improve respect for labor rights in Honduras and address the concerns identified in the submission. Both governments pledged to work together to address the issues raised in the report and issued a joint statement to announce their intention to develop a plan with concrete commitments and timelines to bolster labor enforcement. Subsequently, the DOL and Honduras announced the multi-year Monitoring and Action Plan (MAP) in December 2015, which includes comprehensive commitments by Honduras to address legal and regulatory frameworks for labor rights, undertake institutional improvements, intensify targeted enforcement, and improve transparency. (For additional information on the DOL report and the joint statement, visit <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/february/statement-us-trade-representative>, and <http://www.dol.gov/opa/media/press/ilab/ILAB20150066.htm>.)

Honduras passed a comprehensive new labor inspection law in January 2017, and has made significant progress over the past two years implementing the MAP, including by convening seven tripartite meetings with private sector and labor stakeholders to discuss progress under the MAP.

The U.S. Government is providing a number of technical cooperation projects in Honduras to support employment and labor rights, including programs supported by USAID and by the U.S. Department of State to promote freedom of association, union formation, and labor-management relations and to counter labor violence. The DOL funds an \$8.7 million project to reduce child labor and improve labor rights, in support of the government of Honduras' implementation of MAP commitments, as well as a \$16.5 million project to support vocational training for vulnerable youth in El Salvador and Honduras, including youth at risk of migrating. In 2017, the DOL also facilitated exchanges on enforcement practices between the Honduran Ministry of Labor and DOL's Occupational Safety and Health Administration and Wage and Hour Division.

Environment

For a discussion of environment related activities in 2017, see chapter IV.D.2.

Trade Capacity Building

In addition to the labor and environment programs discussed above, trade capacity building programs and planning in other areas continued throughout 2017 under the Central America Strategy formulated by the Office of the U.S. Trade Representative and other U.S. Government agencies.

The Central America Strategy promotes trade facilitation in the region and directs diplomatic engagement and programs toward increasing trade capacity within the CAFTA-DR countries. USAID and other U.S. Government donors, including agencies such as the U.S. Departments of Agriculture (USDA), State, and Commerce, carried out bilateral and regional projects with the CAFTA-DR partner countries.

In 2017, USAID continued implementing the Regional Trade and Market Alliances Project to build trade and institutional capacity in Central America and improve trade facilitation. Through this project, USAID supports Central American governments and businesses in areas related to coordinated border management, including customs administration and other border control agencies, promoting improved information technology and efficient procedures, harmonizing regulations, and other steps to reduce the time and cost to trade across borders. USAID also supported a series of workshops to provide technical assistance to border control agencies like those responsible for customs, agriculture, immigration, and police, to design coordinated border inspection procedures. Additional funds were committed to focus on key commercial border crossings between the Northern Triangle countries of El Salvador, Guatemala and Honduras. USAID also fostered enhanced public-private dialogue regarding trade facilitation, paving the way for the implementation of the WTO Trade Facilitation Agreement. In 2017, a partnership between USAID and the International Finance Corporation (IFC) to implement an information technology (IT) platform for mutual recognition of sanitary registries with Central American Ministries of Health was operational for food and beverage products produced by and traded among Costa Rica, El Salvador, Guatemala, and Honduras. To strengthen this IT mutual registration platform, in 2017 USAID provided IFC with additional funds to develop the national level systems of Guatemala and Honduras to improve procedural, legal and organizational efficiencies. Additional training also was provided to the private sector on how to use the Mutual Recognition IT system.

USAID also has partnered with USDA to continue supporting CAFTA-DR countries so that their private sectors can take advantage of the trade agreement. In FY 2017, USAID, in an interagency agreement with USDA, organized two workshops on the U.S. regulatory system, internal standards, and WTO obligations for CAFTA-DR countries. The purpose of these workshops was to show the CAFTA-DR countries how the U.S. regulatory system operates, introduce them to their counterparts in the U.S. Government, and to begin to resolve a number of outstanding policy issues that disrupt trade with the United States and between CAFTA-DR members. In addition, USDA delivered 11 training sessions in the region on the U.S. Food and Drug Administration Food Safety Modernization Act to inform the private sector and government officers of Central America and the Dominican Republic on the new requirements for exporting food products to the United States. By meeting these international export standards, Central America will be able to increase exports and household income.

Other Implementation Matters

During 2017, the FTC agreed on modifications to the product-specific rules of origin to reflect the 2017 changes to the Harmonized System nomenclature. In December 2017, President Trump proclaimed the implementation of the 2017 modifications for the United States, to be effective on a future date that will be

announced in the *Federal Register*. We anticipate countries will take the necessary domestic actions for the changes to be implemented during 2018.

During 2017, USTR consulted with El Salvador, Guatemala, Honduras, and Nicaragua for the purposes of determining each importing country’s annual tariff-rate quota (TRQ) quantity of chicken leg quarters for the five-year period between January 1, 2018, and January 1, 2023. These consultations were necessary because the TRQ quantity and individual-country quota levels established under the agreement had only been established through December 31, 2017. These newly established TRQ levels will remain in effect through December 31, 2023, after which all U.S. chicken leg quarters will be imported duty free. As a result of these consultations, El Salvador, Guatemala, Honduras, and Nicaragua agreed to establish a total regional duty-free TRQ of 21,810 metric tons (MT) per year, with individual country minimum quota levels, for U.S. chicken leg quarters.

In April 2017, the United States and Guatemala reached an agreement that Guatemala would accelerate the elimination of tariffs on U.S. exports of fresh, frozen, and chilled chicken leg quarters. Under this new agreement, Guatemala’s elimination of tariffs for fresh, frozen and chilled poultry occurred four and a half years earlier than originally planned; U.S. poultry exports would have faced an out-of-quota tariff of 12.5 percent in 2017, but instead were duty free. Guatemala and the United States also reached a bilateral agreement for Guatemala to establish a TRQ allowing imports of 1,000 metric tons of processed chicken leg quarters to enter duty free each year through December 31, 2021. The tariffs and TRQ will be eliminated effective January 1, 2022.

The United States held poultry TRQ consultations with El Salvador, Honduras, and Nicaragua on July 24, 2017, and reached agreement, establishing TRQs for chicken leg quarters beginning on January 1, 2018. The new TRQ agreement was established through bilateral exchanges of letters between the United States and each respective country and through a Decision of the FTC. The agreed TRQ levels – which represent increases from current TRQ levels – are set out in the table below.

COUNTRY	2017 TRQ (MTs)	AGREED TRQs (MTs)					2023
		2018	2019	2020	2021	2022	
Honduras	5,344	5,477	5,587	5,810	6,043	6,284	Unlimited
El Salvador	4,638	4,858	4,955	5,153	5,359	5,574	Unlimited
Nicaragua	3,174	3,582	3,654	3,800	3,953	4,111	Unlimited
TOTAL	13,156	13,917	14,196	14,763	15,355	15,969	Unlimited

In 2017, the United States also continued to work closely with its CAFTA-DR partners on bilateral matters related to proper implementation of the Agreement. For example, the U.S. Government continued to work with several CAFTA-DR partners on implementation of agricultural trade matters. The U.S. Government worked to improve the transparency and effectiveness of TRQ administration procedures, which has resulted in improved access for U.S. exporters of several agricultural products including rice, onions, and potatoes.

The U.S. Government also worked with several countries to ensure implementation of the Agreement's provisions on intellectual property (IP), including those related to the protection of geographical indications, plant varieties, certain undisclosed test and other data, and other IP enforcement efforts.

The FTC committed to addressing inefficiencies and obstacles to cross-border trade in the region to increase the transparency and predictability of trade and doing business. The CAFTA-DR countries are poised to benefit from trade facilitation, including reforms to customs practices that reduce the costs and time of transporting goods across borders within highly integrated manufacturing and supply chain networks that exist throughout the region.

The FTC further emphasized the need for greater regional integration and agreed to support supply chain systems in the region through several project initiatives. These initiatives include efforts to support the U.S. textile and apparel industry by strengthening utilization of the Agreement.

4. Chile

Overview

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004 and, as of January 1, 2015, all originating goods exports can now enter the United States and Chile duty free under the FTA.

The FTA is a comprehensive free trade agreement that has significantly liberalized trade in goods and services between the United States and Chile. The U.S. goods and services trade surplus with Chile totaled \$6.7 billion in 2016, compared to \$9.2 billion in the year before.

The FTA eliminates tariffs and opens markets, reduces barriers for trade in services, provides protection for intellectual property, promotes regulatory transparency, guarantees nondiscrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anticompetitive business conduct, and requires effective enforcement of the Parties' respective labor and environmental laws. In 2016, U.S. goods exports to Chile increased by 5.3 percent to \$13.6 billion and up 401 percent since 2003 (pre-FTA). While U.S. goods imports from Chile increased by 20 percent to \$10.6 billion and are up 185 percent since 2003. Chile is currently the United States' 29th largest goods trading partner with \$24.2 billion in total (two-way) goods trade during 2017. The U.S. goods trade surplus with Chile was \$3.1 billion in 2017. The United States had a services trade surplus of \$2.6 billion with Chile in 2016, up 5.5 percent from 2015.

U.S. foreign direct investment in Chile (stock) was \$29.4 billion in 2016, a 3.1 percent increase since 2015. U.S. direct investment in Chile is led by mining, finance, insurance and manufacturing sectors.

Elements of the United States-Chile FTA

Operation of the Agreement

The central oversight body for the FTA is the United States-Chile Free Trade Commission (FTC), comprised of the U.S. Trade Representative and Chile's Director General of International Economic Affairs, or their respective designees. The United States has worked effectively with the government of Chile through the FTC to address U.S. priority issues, including trade in table grapes, beef grade labeling, technical barriers to trade (e.g., cell phones and phone chargers, car seats, etc.), and environmental

protection for endangered species. The United States also continues to press in the FTC for Chile to resolve U.S. concerns with implementing FTA commitments concerning intellectual property rights protections.

The United States and Chile plan to hold the next meeting of the FTC in 2018.

Labor

Chile's most recent labor reform went into effect in April 2017. The reform made a variety of changes related to collective bargaining, including limiting the ability of employers to replace striking workers, expanding collective bargaining rights to some temporary workers and apprentices, and removing obstacles that previously inhibited bargaining beyond the individual enterprise level. In its 2016 annual report on Findings on the Worst Forms of Child Labor, the U.S. Department of Labor (DOL) recognized Chile as having made "significant advancement" in its efforts to eliminate the worst forms of child labor, and noted positive measures taken in the areas of legal framework, labor and criminal law enforcement, coordination of government efforts, government policies, and social programs.

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

5. Colombia

Overview

The United States-Colombia Trade Promotion Agreement (CTPA) entered into force on May 15, 2012. U.S. two-way goods trade with Colombia totaled \$26.8 billion in 2017, with U.S. goods exports to Colombia totaling \$13.3 billion. The seventh set of annual tariff reductions under the CTPA took effect on January 1, 2018. Duties on over 80 percent of U.S. exports of consumer and industrial products to Colombia were eliminated immediately upon entry into force of the CTPA, with remaining tariffs phased out over 10 years. More than half of U.S. agricultural exports to Colombia became duty free immediately upon entry into force, with virtually all remaining tariffs to be eliminated within 15 years. Tariffs on a few most sensitive agricultural products will be phased out in 17 to 19 years. In addition, with limited exceptions, U.S. services suppliers gained access to Colombia's services market, estimated at \$156 billion in 2016 (last data available). Colombia also agreed to important new disciplines in investment, government procurement, intellectual property rights, labor, and environmental protection.

Elements of the United States-Colombia TPA

Operation of the Agreement

The CTPA's central oversight body is the United States-Colombia Free Trade Commission (FTC), composed of the U.S. Trade Representative and the Colombian Minister of Trade, Industry, and Tourism or their designees. The FTC is responsible for overseeing implementation and operation of the CTPA. In 2017, the United States and Colombia continued to work together to carry out certain initiatives launched at the November 19, 2012, FTC meeting, including establishment of certain elements related to the dispute settlement mechanism established under the CTPA, and updates to the Agreement's rules of origin. In 2017, the CTPA Committees on Agriculture and Sanitary and Phytosanitary Measures also met, which led to an August 2017 exchange of letters, which expanded market access for U.S. paddy rice in Colombia by removing temporary mitigation measures agreed to in a 2012 exchange of letters. Also in 2017, the United States and Colombia concluded work to update the Agreement's rules of origin to reflect 2007 and 2012 changes to the Harmonized System (HS) nomenclature, and agreed to develop the appropriate modifications to reflect the 2017 changes to the Harmonized System. The United States and Colombia expect to complete

this work in 2018, and to implement all three sets of updates at the same time. In addition, to ensure that U.S. exports receive the intended preferential tariff treatment under the CTPA, in 2017, the FTC took two decisions, one in November, clarifying the tariff treatment for U.S. yellow corn entering Colombia under a tariff rate quota (TRQ) and the other in December, clarifying product coverage of the Colombian TRQ for U.S. variety meats. The corn TRQ decision allows U.S. corn exports to continue to receive the duty-free treatment under the TRQ, and the variety meats decision is expected to increase the U.S. share of Colombia's imports for variety meats in 2018. USTR expects to hold the second FTC meeting to review implementation of the CTPA in 2018.

Labor

The CTPA Labor Chapter includes commitments requiring both countries to adopt and maintain in laws and practices the fundamental labor rights as stated in the 1998 Declaration of Fundamental Principles and Rights at Work of the International Labor Organization, and not to fail to effectively enforce their labor laws or waive or derogate from those laws in a manner affecting trade or investment. The obligations of the Labor Chapter are subject to the same dispute settlement provisions as the rest of the CTPA and are subject to the same remedies. The entry into force of the CTPA was accompanied by progress by Colombia under the Action Plan Related to Labor Rights (Action Plan), which was developed jointly by the Parties and launched in 2011, and includes specific commitments by the Colombian government to address key areas of concern.

The United States engaged with the Colombian government on labor issues throughout 2017. This included supporting its ongoing efforts to implement the commitments made in the Action Plan, as well as reviewing its progress on the recommendations made in the U.S. Department of Labor's (DOL) January 2017 report on the submission received in July 2016 under the Labor Chapter of the CTPA. The report included 19 recommendations made to the government of Colombia on improving the labor law inspection system, improving the application and collection of fines for employers who violate labor laws, combating abusive subcontracting and collective pacts, and improving the investigation and prosecution of cases of violence and threats against unionists. In addition, the report recommended that the U.S. Government initiate consultations between the contact points of the two governments under the Labor Chapter of the trade agreement to discuss the questions and concerns identified in the review and explore options for implementing the report's recommendations.

The Colombian government took some steps to make progress on labor issues, including applying three sanctions for illegal subcontracting in the Action Plan priority sectors and mandating the use by labor inspectors of an electronic case management system. The United States will continue to work closely with Colombia on remaining challenges, including the collection of assessed fines for illegal subcontracting and inspections in priority sectors.

To address the issue of violence, Colombia's Prosecutor General's Office has 18 prosecutors who work on cases of violence against unionists and 83 investigators to support the work of the prosecutors. The United States has worked with Colombia to increase the number of resolved cases of violence and threats against unionists. In cases of employers violating certain workers' rights under Article 200 of the criminal code, the Prosecutor General's Office reported 103 case conciliations through November 2017. Conciliations involve voluntary agreements between workers and employers to settle alleged violations of Article 200. Hundreds of cases under Article 200 remain under investigation, and to date no case has completed the trial phase and resulted in a conviction.

In 2017, the United States worked closely with Colombia to follow up on the DOL's report on the 2016 public submission under the Labor Chapter of the United States-Colombia Trade Promotion Agreement and to continue implementation of the Colombian Action Plan, which culminated in a report by the DOL

released on January 11, 2017. Engagement with Colombian officials in 2017 included three meetings of the contact points under the Labor Chapter, a videoconference in April, a meeting in Washington, DC in July, and a meeting in Bogota in September. High-level engagement occurred during a meeting between Colombia's new Minister of Labor and the U.S. Secretary of Labor R. Alexander Acosta in July, and a follow-up meeting between the Minister of Labor and the Deputy Undersecretary of International Affairs at the DOL in October. Officials from USTR and the DOL also held meetings with Colombian labor stakeholders, business representatives, and the Prosecutor General's Office. In addition, during 2017, the U.S. Agency for International Development funded technical assistance in Colombia that aimed to: improve the government's capacity to enforce workers' rights, as well as workers' access to information on their rights and their ability to protect and assert them.

In December 2017, the DOL continued its labor attaché program by posting a labor attaché to the U.S. Embassy in Bogotá. Colombia is the only country where the DOL currently has a labor attaché, highlighting the Administration's commitment to ensuring close engagement with Colombia on labor rights.

Environment

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

6. Jordan

The United States – Jordan partnership remained strong in 2017. A key element of this relationship is the United States - Jordan Free Trade Agreement (FTA), which entered into force on December 17, 2001, and was implemented fully on January 1, 2010. The United States – Jordan FTA further benefits from Qualifying Industrial Zones (QIZs), as established by Congress in 1996. The QIZ program allows products with a specified amount of Israeli content to enter the United States duty free if manufactured in Jordan, Egypt, or the West Bank and Gaza.

U.S. goods exports to Jordan were an estimated \$2.0 billion in 2017, up 34.5 percent from 2016. QIZ products account for about one percent of Jordanian exports to the United States. The QIZ share of these exports is declining relative to the share of exports shipped to the United States under provisions of the FTA.

At the Joint Committee's most recent meeting, which was held in May 2016, the United States and Jordan discussed labor, agriculture, current technical barriers to agricultural trade, acceptance of the WTO Trade Facilitation Agreement, and accession to the WTO Government Procurement Agreement. The parties opened a dialogue to outline concrete steps to boost trade and investment bilaterally, and between Jordan and other countries in the Middle East region. After the meetings concluded, the United States and Jordan resolved the issue regarding import licensing of poultry from the United States to allow the importation of U.S. poultry into Jordan. Poultry imports of \$8 million were exported to Jordan in 2017.

The United States also continued to work with Jordan in the area of labor standards. In 2016, the Department of Labor (DOL) removed Jordanian garments from its List of Goods Produced by Child Labor or Forced Labor because there had been a significant reduction in the incidence of forced labor in Jordan's garment sector. The United States and Jordan sought to build on this success through ongoing efforts under the Implementation Plan Related to Working and Living Conditions of Workers in Jordan, signed in 2013. The Plan addresses labor concerns in Jordan's garment factories including those regarding anti-union discrimination against foreign workers, conditions of accommodations for foreign workers, and gender discrimination and harassment. In 2016, the Jordanian Ministries of Health and Labor signed an agreement that purports to ensure that labor inspections include garment dormitories, thereby addressing one of the pending commitments in the Implementation Plan; inspections

began in 2017. During 2017, the United States and Jordan continued to work towards completion of the Implementation Plan.

The Ministry of Labor (MOL) is working with the DOL funded International Labor Organization (ILO) Better Work program to improve understanding of internationally recognized labor standards and the process for conducting audits in the garment sector, including by assigning labor inspectors to the project. Ongoing engagement focuses on internalizing lessons learned from Better Work to build labor inspector capacity, conducting inspections that include dormitories in the QIZs, and continuing outreach efforts to ensure that stakeholders understand their legal rights to participate in unions and enjoy workplaces free of discrimination and harassment. Jordan also worked with Better Work Jordan to ensure that factory-level audits were publicly available in 2017.

Following the May 2016 Joint Committee meeting, the MOL and the DOL have explored cooperative activities to support Jordan's efforts to improve labor law enforcement and compliance. In 2017, the DOL provided technical assistance to the MOL to strengthen mediation capacity and improve its ability to support collective bargaining. The DOL also awarded funding in 2017 to the ILO to build central and regional government capacity to address child labor.

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

7. Morocco

The United States-Morocco Free Trade Agreement (FTA) entered into force on January 1, 2006. The FTA supports the ongoing economic and political reforms in Morocco and lays the groundwork for improved commercial opportunities for U.S. exports to Morocco in the agriculture and automotive sectors.

Since the entry into force of the FTA, two-way U.S.-Morocco trade in goods has grown from \$927 million in 2005 (the year prior to entry into force) to \$3.3 billion in 2017. U.S. goods exports to Morocco in 2017 were \$2.1 billion, up 9.5 percent from the previous year. Corresponding U.S. imports from Morocco in 2017 were \$1.2 billion, up 20.4 percent from 2016. Services trade in 2016 (the most recent year available) included \$569 million in exports and \$625 million in imports.

The United States and Morocco held the fifth meeting of the FTA Joint Committee (JC) on October 18, 2017, in Washington, D.C. During the JC meeting, U.S. and Moroccan officials highlighted bilateral progress in the areas of agriculture, labor and environment (*see below and Chapter IV.D*). They also noted Morocco's commitment to ensure unimpeded access for U.S. exports of automobiles manufactured to U.S. safety standards. The two sides agreed to further discuss the concerns of some U.S. pharmaceutical companies regarding access to the Moroccan market for their products.

The United States continued to raise questions from previous meetings regarding Morocco's July 2014 implementation of an export and harvest quota for Gigartina seaweed, a key input for a U.S. processor. The United States also questioned Morocco regarding its planned implementation of a pending Moroccan-European Union agreement on the protection of geographical indications for EU products in the Moroccan market and expressed concerns that the agreement might limit U.S. rights holders' ability to enforce their existing trademarks for generic names and the Moroccan government pledged to come up with a solution. The Moroccan delegation emphasized its interest in expanding access to the U.S. market for Moroccan textile and apparel products and renewed earlier requests for assistance in promoting cooperation between U.S. and Moroccan investment promotion entities.

Agriculture and SPS Issues

U.S. and Moroccan officials also held Agriculture and SPS FTA Subcommittee meetings in October 2017 in Washington, D.C. The two-day meetings covered a full range of bilateral agricultural and SPS issues and provided opportunities for technical consultations. At the Agriculture Subcommittee meetings and later at the JC meeting, Morocco agreed to ensure that Moroccan wheat tariff rate quota (TRQ) amounts under the FTA would be fully tendered each calendar year. Morocco agreed that, if there were unassigned or unshipped volumes from the first tender of the calendar year or an additional calendar year quota above 400,000 metric tons (MT) following the summer harvest, it would ensure that the remaining balance (total volume owed minus volume shipped) would be retendered. Furthermore, Morocco also agreed to retender unused TRQ volumes if the duty was lowered mid-season. Following this meeting, the Moroccan authorities reissued a common wheat tender and, as a result, 2017 marked the first year under the FTA that the U.S. common wheat TRQ was fully allocated. Also, at the Joint Committee meeting, Morocco committed to accelerate the tariff phase out of approximately 40 tariff lines of wheat, beef, and poultry products in cases where Morocco was applying a lower duty to EU products.

Morocco continues to be the only U.S. FTA partner not to allow imports of U.S. beef or poultry products, due to various animal and public health concerns. However, at the October 2017 FTA SPS Subcommittee meeting, Morocco removed the ban on beef product imports from the United States due to *bovine spongiform encephalopathy* (BSE) and agreed to further engagement aimed at finalizing export certificates for U.S. beef and poultry products. Morocco also committed to not permanently adopt threshold alerts for Deoxynivalenol (DON) levels in wheat imports, which Moroccan authorities temporarily had set at levels stricter than Codex Alimentarius guidance.

Labor Issues

With regard to activities related to the FTA's labor chapter, in 2017 the U.S. Department of Labor continued to fund two projects under the FTA labor cooperation mechanism. One, which concluded during the year, helped reduce child labor and build the capacity of relevant government agencies to combat child labor, and another supported the development and implementation of gender parity in employment policies. USAID supported activities with women workers in agriculture that partnered with the DOL-supported work on gender parity. In August 2017, the government of Morocco began implementing a domestic worker law that addresses an area of concern raised by the United States during the 2014 FTA Labor Subcommittee meeting. The law, when fully implemented, will extend protections and benefits to domestic workers by setting a minimum wage, establishing a minimum age for employment, limiting weekly hours of work, and providing such workers with a day of rest.

Environment Issues

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

8. Oman

The United States-Oman Free Trade Agreement (FTA), which entered into force on January 1, 2009, complements other U.S. FTAs in the MENA region to promote economic reform and openness throughout the region. Under the FTA, Oman provided immediate duty-free access on virtually all industrial and consumer products. Duties on other products are phased out gradually over the first ten years of the Agreement. Since the entry into force of the FTA, two-way U.S.-Oman trade in goods has grown from \$2.2 million in 2008 (the year prior to entry into force) to \$3.2 billion in 2017. In 2017, the United States

exported \$2.1 billion worth of goods to Oman, up 16.2 percent from the year before, and imported \$1.1 billion worth of goods from Oman, down 5.0 percent from 2016.

To manage implementation of the FTA, the agreement establishes a central oversight body, the United States-Oman Joint Committee (JC), chaired jointly by USTR and Oman's Ministry of Commerce and Industry. Meetings of the JC have addressed a broad range of trade issues, including efforts to increase bilateral trade and investment levels; efforts to ensure effective implementation of the FTA's customs, investment, and services chapters; possible cooperation in the broader MENA region; and additional cooperative efforts related to labor rights and environmental protection.

The Oman trade union federation was formed in 2006, as a result of major labor reforms by the government of Oman enacted in the context of entry into force of the FTA, which allowed independent unions in Oman for the first time. Oman has since seen an increase in unionization with over 200 enterprise-level unions and several sectoral sub-federations for trade unions established, including in the oil and gas sectors. The government signed a Memorandum of Understanding with the ILO in June 2017 to jointly develop a new Decent Work Country Program that would build on successes of the program that ended in 2016. The parties anticipate that the new program will structure activities through 2019 and focus on three priorities: social protection; employment, skills, and entrepreneurship development; and international labor standards and labor governance.

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

9. Panama

Overview

The United States-Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. Under the TPA, tariffs on 86 percent of U.S. consumer and industrial goods exports to Panama (based on 2011 trade flows) were eliminated upon entry into force, with any remaining tariffs phased out within 10 years. Additionally, nearly half of U.S. agricultural exports immediately became duty free, with most remaining tariffs to be phased out within 15 years. Tariffs on a few of the most sensitive agricultural products will be phased out in 18 to 20 years. Following the first tariff reduction under the TPA on October 31, 2012, subsequent tariff reductions occur on January 1 of each year; the seventh round of tariff reductions took place on January 1, 2018. The TPA also provides new access to Panama's estimated over \$36 billion services market (2016 data; most recent available) and includes disciplines related to customs administration and trade facilitation, technical barriers to trade, government procurement, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection. The United States' two-way goods trade with Panama was \$6.9 billion in 2017, with U.S. goods exports to Panama totaling \$6.4 billion. As of 2016 (latest data available), U.S. services trade with Panama included \$1.5 billion in exports and \$1.3 billion in imports.

Elements of the United States-Panama TPA

Operation of the Agreement

The TPA's central oversight body is the United States-Panama Free Trade Commission (FTC), composed of the U.S. Trade Representative and the Panamanian Minister of Trade and Industry or their designees. The FTC is responsible for overseeing implementation and operation of the TPA. The United States and Panama continued to work cooperatively during 2017 to continue to implement the provisions of the TPA and to address the few issues of concern that arose during the year. The United States and Panama last held

an FTC meeting on November 22, 2016, to review progress on implementation of the TPA. The FTC also discussed Panama's next steps on outstanding intellectual property commitments such as Internet Service Provider Liability (Article 15.11.27) and pre-established damages (Article 15.11.8), and bilateral concerns related to trade in agricultural products. Both sides agreed that implementation was proceeding and providing new opportunities for traders and investors, and agreed on next steps on ongoing issues. USTR expects to hold the third FTC meeting to review implementation of the TPA in 2018.

Recognizing the importance of an effective dispute settlement procedure to ensuring both countries' rights and benefits under the Agreement, in 2017, both sides continued to work to establish four rosters of potential panelists for disputes that may arise under the TPA concerning general matters, as well as under the Labor, Environment, and Financial Services chapters of the TPA. The finalization of the rosters will complete the establishment of the dispute settlement infrastructure for the Agreement, building on the 2014 FTC decisions establishing model rules of procedures for the settlement of disputes, a code of conduct for panelists, remuneration of panelists, assistants, and experts, and the payment of their expenses. In December 2016, the United States and Panama agreed to modify the TPA's rules of origin to reflect the 2007 and 2012 changes to the Harmonized System (HS) nomenclature through an FTC decision, and are working to modify the rules of origin to reflect the 2017 HS nomenclature changes.

Labor

U.S. Government officials from the Department of Labor (DOL) met with officials from the Panamanian Ministry of Labor and Maritime Authority in August 2017 and discussed labor law enforcement issues in the areas of child labor, wage-and-hour protections, union registration, subcontracting and short-term contracts, and occupational safety and health. In addition, DOL funded three active technical assistance projects to combat child labor in Panama and an independent research project to collect data on the prevalence, nature, and possible effects on workers of a variety of working conditions and health issues, including work-related violence, in Panama and five other countries in Central America. These actions were subsequent to Panama's undertaking a series of major legislative and administrative actions between 2009 and 2016 to further strengthen its labor laws and labor enforcement, including new laws to protect the right to strike, eliminate restrictions on collective bargaining, update the list of hazardous occupations prohibited for children, and protect the rights of temporary workers. Some of these administrative actions included addressing concerns in the areas of subcontracting, temporary workers, employer interference with unions, bargaining with non-union workers, strikes in essential services, and labor rights in the maritime sector.

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

10. Peru

Overview

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. Customs duties for PTPA qualifying U.S. goods have been eliminated on substantially all Peruvian tariff lines. Peru will remove all remaining tariffs, which apply only to select agricultural products, by 2026.

The PTPA is a comprehensive free trade agreement that resulted in the significant liberalization of trade in goods and services between the United States and Peru. The U.S. goods and services trade surplus with Peru totaled \$2.8 billion in 2016.

The PTPA eliminates tariffs, removes barriers to U.S. goods and services, and 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 protections. In 2017, U.S. goods exports to Peru totaled \$8.7 billion, up 9.2 percent from the year before, while U.S. goods imports from Peru totaled \$7.3 billion, up 16.5 percent from 2016. Peru was the United States' 35th largest goods trading partner with \$16.0 billion in total (two-way) goods trade in 2017. U.S. exports of agricultural products to Peru totaled \$1.2 billion in 2017. Leading product categories include corn (\$224 million), wheat (\$87 million), cotton (\$84 million), soybean meal (\$82 million), and dairy products (\$80 million). The United States had a services trade surplus of \$1.1 billion in 2016.

U.S. foreign direct investment in Peru (stock), primarily in the mining sector, was \$6.2 billion in 2016, a 7.7 percent increase from 2015.

Elements of the PTPA

Operation of the Agreement

The central oversight body for the PTPA is the United States-Peru Free Trade Commission (FTC), which supervises the implementation of the agreement. The United States has worked effectively with Peru through the FTC process to address U.S. priority issues, including the removal of remaining Peruvian bovine spongiform encephalopathy-related (BSE) trade restrictions on U.S. beef and beef products, and the continued elimination of child and forced labor. In addition, the United States has continued to work with Peru on logging issues under the Annex on Forest Sector Governance (Forest Annex). (*See Chapter IV.D.2. for a discussion of environment related activities in 2017*). The Forest Annex includes concrete steps to be taken to strengthen forest sector governance and combat illegal logging and illegal trade in timber and wildlife products. The Forest Annex also includes monitoring tools such as a requirement that Peru conduct audits and verifications of particular producers and exporters upon request from the United States.

The United States and Peru plan to hold the next meeting of the FTC in 2018.

Agriculture (SPS)

Since the PTPA entered into force, Peru has become one of the fastest growing markets for U.S. beef in Latin America, with growth accelerating after U.S. engagement to lift market access restrictions related to BSE, which resulted in full market access for U.S. beef exports in March 2016. U.S. exports of beef and beef products to Peru were valued at \$22.2 million in 2017, more than tripling the \$6.4 million posted in pre-PTPA 2008.

Labor

Throughout 2017, the U.S. Government engaged with the government of Peru on the issues identified in the Department of Labor's (DOL) March 2016 report in response to a public communication under the PTPA Labor Chapter received in July 2015. The communication raised issues related to Peru's adoption and maintenance of laws and practices that protect fundamental labor rights and the effective enforcement of labor laws, particularly with regard to Peru's laws on non-traditional exports and the use of temporary contracts in the textiles sector and agricultural industry. The DOL report that reviewed those issues recognized a number of positive steps taken by the Peruvian government to improve its labor law enforcement since signing the PTPA in 2007, but raised some questions about the effectiveness of the country's labor law enforcement, and provided six recommendations to the government of Peru aimed at addressing questions and concerns mentioned in the report. DOL's nine-month review statement, published

in December 2016, noted steps and commitments by Peru in the area of labor inspections that would represent progress if fully implemented, but also identified remaining concerns regarding enforcement of labor laws and the right to freedom of association in Peru's non-traditional export sectors. USTR, DOL, and the State Department continue to engage with the government of Peru to review progress on addressing the issues identified in the report. USTR and DOL officials traveled to Lima in June 2017 and met with Peruvian government, worker, business and civil society representatives. USTR and DOL also had two videoconferences with Peruvian government officials during the year. Further information on the Peru labor public communication is available at: <http://www.dol.gov/ilab/trade/agreements/fta-subst.htm>.

In addition, DOL has funded over \$22 million in programming to help improve Peru's enforcement of labor laws and compliance with the PTPA Labor Chapter. The six technical assistance projects active in 2017 included one that supported the activities of the National Superintendence of Labor Inspection (SUNAFIL) in its enforcement of laws, regulations, and other legal instruments governing subcontracting, outsourcing, and the use of short-term employment contracts, especially in the textile and apparel and agricultural export sectors. Another project helped worker organizations identify labor law violations and trigger SUNAFIL enforcement actions, supplementing labor inspection capacity building efforts. A third project carried out an exchange program between Brazil and Peru on good practices to address forced labor. As part of the program, Brazilian and Peruvian law enforcement officials, including SUNAFIL representatives, conducted joint forced-labor inspections in Brazil and Peru and developed and piloted tools to investigate forced labor cases in Peru.

Environment

For a discussion of environment related activities in 2017, see Chapter IV.D.2.

11. Singapore

The United States met regularly with Singapore in 2017 to discuss priority bilateral and regional issues and to evaluate the performance of the United States-Singapore Free Trade Agreement (FTA), which has been in force since January 1, 2004. The joint statement from the President's meeting with Prime Minister Lee of Singapore on October 23, 2017 noted the success of the FTA in expanding trade, enhancing joint prosperity, and promoting broader relations for the benefit of both countries. Other key meetings between the United States and Singapore on FTA matters in 2017 included a review of the FTA environment provisions in October, discussions with Singapore labor officials in March and December, and a comprehensive review of the FTA in Singapore in July. Since entry into force of the FTA, U.S.-Singapore trade maintained consistent trade surpluses in both goods and services with Singapore (in 2017 the goods surplus was \$10.4 billion, and the services surplus in 2016 was \$9.7 billion).

C. Other Negotiating Initiatives

1. The Americas

Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms

USTR chairs bilateral meetings with non-FTA partners in the Americas to discuss market opening opportunities, including improving access for small and medium sized enterprises (SMEs) and resolving trade issues with those governments. The United States has Trade and Investment Framework Agreements (TIFAs) with Argentina, signed in March 2016; with Uruguay, signed in January 2007; and with the Caribbean Community, signed in May 2013 (to update and enhance a prior TIFA signed in 1991). The

United States and Paraguay established a Bilateral Council on Trade and Investment in 2004. The United States and Ecuador signed a Trade and Investment Council agreement in 1990. The United States and Brazil signed the Agreement on Trade and Economic Cooperation in 2011.

Other Priority Work

The United States continued its engagement with other countries in the region, aimed at fostering bilateral trade relations and resolving trade problems during 2017. Highlights of USTR's other priority activities in the region include:

Argentina

In March 2016, the United States and Argentina signed a TIFA, which established the United States–Argentina Council on Trade and Investment. The Council serves as a forum for engagement on a broad range of bilateral trade issues, such as market access, intellectual property rights protection, and cooperation on shared objectives in the World Trade Organization and other multilateral fora. The second meeting of the Council was held in Buenos Aires in October 2017. The Council established the Innovation and Creativity Forum for Economic Development (the Forum) in 2016 to discuss issues of mutual interest, including geographical indications, industrial designs, and the importance of intellectual property protections for small and medium sized enterprises. The first meeting of the Forum was held in December 2016 in Buenos Aires, and the second meeting was held in Washington in July 2017. The Council and the Forum will meet again in 2018.

Brazil

Bilateral dialogue with Brazil is conducted through the United States–Brazil Commission on Economic and Trade Relations (the Commission) established by the Agreement on Trade and Economic Cooperation (ATEC), which was signed in 2011. The ATEC was intended to deepen U.S. engagement with Brazil and expand the trade and investment relationship on a broad range of issues including trade facilitation, intellectual property rights and innovation, and technical barriers to trade. The most recent Commission meeting under the ATEC was held in March 2016 at the ministerial level. The next Commission meeting will be held in 2018 in Brazil.

Canada

Trade tensions over softwood lumber are longstanding and deeply-rooted. In the United States, most of the fiber used to make softwood lumber is privately owned and sold; in Canada, provincial governments own and control most of the fiber supply and most set the price for harvesting timber rather than allowing the market to determine such prices.

On June 29, 2016, the two countries released a statement that a new softwood lumber agreement would be designed to maintain Canadian exports at or below an agreed market share. On November 25, 2016, the U.S. Lumber Coalition initiated actions under U.S. trade remedy laws challenging the harmful effects of “dumped” and unfairly subsidized Canadian lumber in the U.S. market. This marked the fifth time in approximately 30 years that U.S. industry has availed itself of U.S. trade remedy laws to address this imbalance, often resulting in bilateral softwood lumber dispute settlement agreements. The most recent agreement expired in 2015. On November 8, 2017, the United States Department of Commerce published the final rates for antidumping (AD) and countervailing duties (CVD) on U.S. imports of softwood lumber from Canada. On December 7, 2017, the U.S. International Trade Commission voted unanimously that imports of softwood lumber from Canada materially injured U.S. softwood lumber producers. The applicable duty rates range from 3.20 to 7.28 percent for AD and 3.34 to 17.99 percent for CVD. Taken

together, the generally applicable “all others” rate for AD and CVD totals to 20.23 percent. Canada has initiated dispute settlement proceedings to challenge these duties under NAFTA and at the World Trade Organization.

Paraguay

In June 2015, the United States and Paraguay signed a Memorandum of Understanding on Intellectual Property Rights, under which Paraguay committed to take specific steps to improve its IPR protection and enforcement environment, and USTR removed Paraguay from the Special 301 Watch List. In November 2015, Paraguay hosted the twelfth meeting of the Bilateral Council on Trade and Investment. The United States and Paraguay discussed a broad range of bilateral trade and investment issues, including increased collaboration to expand economic opportunities for businesses and investors, implementation of the MOU on IPR, and market access issues. On January 13, 2017, the United States and Paraguay signed a TIFA, which will enter into force once the parties notify each other in writing that they have completed any necessary internal procedures. The first meeting of the Trade and Investment Council established under the TIFA is expected to be held in Washington in 2018.

Uruguay

In May 2016, Uruguay hosted the seventh meeting of the United States–Uruguay Trade and Investment Council under the TIFA, which was signed in 2007. The United States and Uruguay discussed a range of bilateral trade and investment issues, including trade facilitation, improving opportunities for SMEs, and market access matters. The next meeting of the Trade and Investment Council will be held in Washington in 2018.

2. Europe and the Middle East

The United States uses Free Trade Agreements (FTAs), Bilateral Investment Treaties (BITs), TIFAs, and other mechanisms to engage with the European Union (EU) and its 28 Member states, non-EU European countries, Russia, certain countries of western Eurasia, the Middle East, and North Africa to eliminate trade barriers, increase U.S. exports, encourage the development of intraregional economic engagement, foster partner country policies grounded in the rule of law, and, where relevant, advance countries’ accessions to the WTO (*see Chapter V.J.6. for more information on WTO accessions*).

During 2017, USTR focused on implementing a plan for engagement with the EU aimed at reducing regulatory and other barriers to U.S. exports and strengthening cooperation on global trade issues and third countries of common concern, especially China. USTR established a new United States-United Kingdom (UK) Trade and Investment Working Group to begin shaping the U.S.-U.K. relationship post Brexit. In 2017, USTR also pressed Russia to implement fully its WTO commitments and promoted policies in Eurasia to open markets to U.S. exports and support economic diversity and independence. USTR’s efforts in the Middle East and North Africa (MENA) region centered on ongoing political and economic reforms, as well as trade and investment integration.

Deepening U.S.-EU Trade and Investment Relations

The U.S. trade and investment relationship with the EU is the largest and most complex economic relationship in the world. Transatlantic trade flows (goods and services trade plus earnings and payments

on investment) averaged an estimated \$5.1 billion *each day* of 2017.⁴⁶ The total stock of transatlantic investment was \$5.2 trillion in 2016 (latest data available).

The United States and the EU launched negotiations on the proposed Trans-Atlantic Trade and Investment Partnership (T-TIP) agreement in 2013. By the end of 2016, following 15 negotiating rounds, important differences remained on critical negotiating areas of the agreement.

In May 2017, the President and EU leaders asked senior officials to develop a plan to guide U.S.-EU engagement on reducing trade barriers and strengthening cooperation on global trade issues of shared concern, with particular attention to the increasing challenges posed by China. Thus in 2017, USTR and European Commission Trade Directorate staff met several times, most recently in October in Washington, D.C., to pursue this plan, while experts responsible for specific issues engaged with counterparts on an ongoing basis.

With respect to China, the USTR and Trade Directorate teams have been cooperating on issues including China's WTO challenges against the decision by the United States and the EU not to grant China "market economy status," China's "Made in China 2025" industrial plan, forced technology transfer, steel excess capacity, subsidies and state-owned enterprises, and antidumping duty evasion.

On bilateral trade barriers, the United States has worked with the European Commission to address costly EU regulatory barriers to U.S. exports, building on the bilateral discussions of previous years. These include:

- Technical barriers to trade and sanitary and phytosanitary barriers that impede U.S. exports to the EU of numerous specific products.
- An EU regulatory system that generally does not recognize U.S. standards and other international standards that U.S. manufacturers use.
- The EU's refusal to allow U.S. product testing bodies to assess the conformity of U.S. manufactured goods with EU regulatory requirements, as EU testing bodies do for EU goods bound for the U.S. market.
- Inadequate transparency and opportunity for stakeholder participation in EU regulatory processes.
- The EU's practice of encouraging trade agreement partners to adopt EU standards and to exclude products manufactured to different U.S. and other international standards.

U.S.-UK Trade and Investment Working Group: Following a national referendum in 2016, the UK notified the EU in March 2017 of its intention to leave the European Union (known as "Brexit"), which began a two-year process of negotiating the terms of the UK exit from the EU, as well as their future trade and investment relationship. The UK exit from the EU is likely to have significant effects on U.S.-UK and U.S.-EU trade, including raising the potential of a bilateral U.S.-UK trade agreement once the UK leaves the EU. In July 2017, the United States and the UK established a Trade and Investment Working Group in order to: (1) explore ways to strengthen trade and investment ties prior to Brexit; (2) ensure that existing U.S.-EU agreements are transitioned to U.S.-UK agreements; (3) lay the groundwork for a potential future free trade agreement once the UK has left the EU; and (4) collaborate on global trade issues.

⁴⁶ Based on the first three quarters of 2017.

The Working Group met in July and November 2017, in addition to *ad hoc* meetings of technical specialists throughout the year, and intends to continue to meet quarterly.

Ongoing Engagement with Turkey and the Middle East and North Africa

The revolutions and other changes that swept through the MENA region beginning in 2011 have provided new opportunities and posed new challenges with respect to U.S. trade and investment relations with MENA countries (especially countries in transition such as Tunisia, Morocco, Jordan, Egypt, and Libya). USTR has coordinated with other U.S. federal agencies as well as with outside experts and stakeholders in both the United States and MENA partner countries to explore prospective areas for cooperation that could yield the quickest results in terms of increased trade and investment, in addition to developing longer-term trade and investment objectives with regional trading partners.

In 2017, the United States continued to monitor, implement, and enforce existing U.S. FTAs in the region (Bahrain, Israel, Jordan, Morocco, and Oman) and pursued TIFA consultations with Algeria, Egypt, Saudi Arabia, and Tunisia.

The United States also pursued further engagement with the Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) as a group through the U.S.-GCC Framework Agreement for Trade, Economic, Investment and Technical Cooperation. Enhanced U.S. dialogue with the GCC is aimed at ensuring that U.S. interests are fully represented as the GCC develops as a regional organization dedicated to harmonizing standards, import regulations, and conformity assessment systems among its member states.

Recognizing Turkey's continuing importance as a trade and investment partner, the United States in 2017 revived discussions with the Turkish government under the bilateral TIFA process. Key issues of focus were the openness of the digital economy, intellectual property protection and enforcement, and the reduction of various market access barriers for both goods and services.

Promoting Transparent and Rules-Based Economies in Eurasia

Throughout 2017, the United States worked with countries on Europe's eastern periphery and in the Caucasus to reinforce the importance of international trading rules and to promote economic growth.

For example, the United States continued to work with stakeholders and government interlocutors in Ukraine to address market access barriers, advance a stable investment environment, and promote the strong enforcement of intellectual property rights. In October, the United States participated in the seventh meeting of the United States-Ukraine Trade and Investment Council in Kyiv, and identified priority areas in which cooperation could lead to an expanded bilateral trade and investment relationship. Likewise, the United States and Moldova held the second meeting of the United States-Moldova Joint Commercial Commission in Chisinau, Moldova, at which both sides identified concrete steps to promote and protect bilateral market access. The United States also continued discussions with Georgia and Armenia to promote strong market-opening trade and investment policies through the United States-Georgia High-Level Dialogue on Trade and Investment and the United States-Armenia Trade and Investment Framework Agreement.

Russia continues to employ increasingly protectionist policies, discriminating against imports in favor of domestic goods and services. Although the United States continues to restrict its bilateral engagement with Russia as a consequence of Russia's actions in Ukraine, it has not hesitated, where appropriate, to highlight the potential WTO inconsistency of Russia's protectionist trade policies, and has employed various WTO mechanisms to pursue full compliance where Russia appeared to fall short. The United States will continue

to insist that Russia implement its WTO obligations and will use all available tools of the WTO, as appropriate, to enforce those obligations. The United States will also continue to follow and evaluate the actions of the Eurasian Economic Commission (EEC), the administrative arm of the Eurasian Economic Union (EAEU; comprising Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Russia), on Central Asian states and, where appropriate, work with the individual EAEU member states to ensure compliance with WTO rules.

3. Japan, Republic of Korea, and the Asia-Pacific Economic Cooperation Forum

Japan

The Trump Administration is committed to achieving a fair and reciprocal trading relationship with Japan. It seeks equal and reliable access for American exports to Japan's markets in order to address chronic trade barriers, imbalances, and deficits with Japan.

In February 2017, President Trump and Prime Minister Shinzo Abe agreed to the United States-Japan Economic Dialogue when the two leaders met in Washington, D.C. In April 2017, Vice President Mike Pence and Deputy Prime Minister Taro Aso launched the United States-Japan Economic Dialogue in Tokyo, Japan. They agreed to structure the Economic Dialogue along three policy pillars, including one focused on trade and investment rules and issues. In October 2017, Vice President Pence and Deputy Prime Minister Aso met for the second round of the Economic Dialogue, where they affirmed the importance of strengthening bilateral economic, trade, and investment ties.

Some initial progress was achieved on bilateral trade issues in the October meeting, including the lifting of Japan's restrictions on U.S. potatoes from Idaho. In the area of automobiles trade, Japan agreed to streamline noise and emissions testing procedures for U.S. automobile exports certified under Japan's Preferential Handling Procedure (PHP). Japan committed to ensure meaningful transparency and fairness in its system for geographical indications (GIs) in accordance with its domestic law and procedures, including those receiving protection through international agreements. Japan also committed to ensure meaningful transparency continuously with respect to reimbursement policies related to life sciences innovation.

In November 2017, during President Trump's trip to Japan and meeting with Prime Minister Abe, the leaders discussed promoting balanced trade, including by taking additional steps bilaterally to advance these objectives. Building on outcomes under the Economic Dialogue, President Trump recognized further steps taken by Japan in the areas of automotive standards and governmental financial incentives for motor vehicles, as well as efforts to strengthen the transparency of deliberations affecting the life sciences industry, as signs of continuing progress on bilateral trade issues. President Trump and Prime Minister Abe decided to accelerate engagement on trade in ways that expand the potential of the bilateral trade relationship.

The United States continues to engage with Japan to seek further progress on bilateral trade issues, in order to secure better access and fair treatment for U.S. exporters seeking to expand exports and other opportunities in the market of the United States' fourth largest trading partner.

The United States also worked closely with Japan in various fora in 2017 to address trade issues of common interest, including those in third-country markets. This work included closely coordinating on certain World Trade Organization (WTO) dispute settlement cases. In addition, on the sidelines of the WTO ministerial meeting in December 2017, the United States, Japan, and the EU agreed to strengthen their

commitment to ensure a global level playing field by tackling unfair practices which have led to global overcapacity and other unfair market distorting and protectionist practice by third countries. The United States and Japan also worked closely together in the Asia-Pacific Economic Cooperation (APEC) forum to advance issues such as digital trade.

Republic of Korea (Korea)

(See Chapter II.A.2 for discussion of the United States-Korea Free Trade Agreement.)

In addition to close engagement with counterparts in the Korean government through committee meetings and working groups established under the United States-Korea Free Trade Agreement (KORUS FTA), USTR continues to hold bilateral consultations with Korea in a variety of formats to address bilateral trade issues, as well as other emerging issues. These meetings are augmented by senior-level engagement. In 2017, the United States and Korea held a number of bilateral trade consultations, in which the United States addressed a substantial number of outstanding issues, including those related to automobiles, customs, competition policy, medical device/pharmaceutical reimbursement pricing, agriculture, labor, and services.

APEC

Overview

According to its Secretariat, the 21 member economies of the Asia-Pacific Economic Cooperation (APEC) Forum collectively account for approximately 40 percent of the world's population, approximately 57 percent of world GDP and about 45 percent of world trade (if intra-EU trade is included in world trade, or 59 percent if intra-EU trade is excluded). In 2017, United States-APEC total trade in goods was \$2.6 trillion. Total trade in services was \$458 billion in 2016 (latest data available). The significant volume of U.S. trade in the Asia-Pacific region underscores the importance of the region as a market for U.S. exports.

Since its founding in 1989, U.S. participation in the APEC forum has substantially contributed to lowering barriers across the Asia-Pacific to U.S. exports.

In 2017, Vietnam hosted APEC under the theme “Creating New Dynamism, Fostering a Shared Future.” At the November APEC Leaders and Ministers’ meetings in Danang, Vietnam, APEC economies reported progress and identified areas for future work in areas such as removing trade barriers, creating more transparent and open regulatory regimes, and reducing trade costs. The activities below describe the key outcomes that advance the U.S. trade and investment agenda in the region.

2017 Activities

Digital Trade: APEC continues to advance a U.S.-led initiative to identify building blocks to facilitate digital trade. These building blocks will promote policies to prevent barriers to digital trade that negatively affect U.S. competitiveness, as well as help APEC economies take advantage of the rapidly growing digital economy. In 2018, APEC will continue development of this initiative through policy dialogues. The United States also will seek to expand participation in its initiative with 11 other APEC economies to support a permanent customs duty moratorium on electronic transmissions, including electronically transmitted content.

Trade Facilitation: In 2017, APEC adopted the second phase of an action plan that aims to continue to improve trade facilitation efforts by APEC economies into 2018, including supply chain performance and implementation of the WTO Trade Facilitation Agreement. APEC’s work in these areas help make it significantly cheaper, easier, and faster for U.S. exporters to access markets across the Asia-Pacific region.

In 2017, APEC member economies participated in a number of projects, including in areas such as pre-arrival processing, advance rulings, expedited shipments, release of goods, and electronic payments. In 2018, APEC will focus on improving transparency with respect to procedures, forms, and documents necessary for import, export, and transit of goods within the region.

Services: APEC economies continue to implement the APEC Services Competitiveness Roadmap (ASCR). The ASCR sets APEC-wide and individual targets to advance services liberalization and domestic regulatory reform to be achieved by 2025. APEC is developing a services trade restrictiveness index to identify areas in which removal of restrictions can improve the overall competitiveness of services markets. This index should be compatible with similar indices prepared by organizations such as the OECD, so that comparisons can be made with non-APEC economies. APEC is also working on developing a non-binding set of principles on domestic regulation, to help improve the transparency and due process of services licensing bodies in APEC economies.

Regulatory Transparency: In 2017, APEC economies built on earlier work related to good regulatory practices (GRP), including regulatory transparency. In August 2017, the United States worked closely with Vietnam to organize the 10th Conference on Good Regulatory Practices, which included panels on transparency, internal coordination of rulemaking activity, enquiry point operations, processing public comments, regulatory impact assessment, and rulemaking in a crisis. The United States also organized a workshop to enhance regulators' expertise on the WTO Technical Barriers to Trade Agreement. This program included presentations on determining when to regulate, developing effective technical regulations, reports in WTO cases, regulatory cooperation, and conformity assessment.

Food and Agricultural Trade: In 2017, the APEC Food Safety Cooperation Forum Partnership Training Institute Network, a U.S.-led effort that strengthens capacity in food safety, held a workshop on export certificates to help attendees determine when such documentation is necessary. Also as of 2017, one APEC economy has implemented the APEC Model Wine Export Certificate developed by the APEC Wine Regulatory Forum in 2016. Greater use of risk-based, scientific principles for food export certificates and the model wine certificate, where appropriate, could reduce administrative burdens on producers and traders. In 2017, the High Level Policy Dialogue for Agricultural Biotechnology continued its work to remove barriers to the use and trade of agricultural biotechnology. The Committee on Trade and Investment held a session on the removal of barriers to trade in agriculture products. An APEC private sector study highlighted that reductions in unwarranted barriers to trade in agricultural goods could increase trade among APEC members and improve food security.

Intellectual Property: In 2017, the United States continued to use APEC to build capacity and raise standards for the protection of intellectual property rights in the Asia-Pacific region. This included U.S.-led initiatives on combating trademark-infringing and counterfeit goods, which often present threats to consumer health and safety, at the border.

Free Trade Area of the Asia-Pacific (FTAAP): In 2017, APEC advanced implementation of the 2016 Lima Declaration on FTAAP. In that regard, economies proposed and considered work streams in areas related to tariffs, services, investment, non-tariff measures, rules of origin, and next generation trade and investment issues. The United States introduced important topics designed to foster free and fair trade in the region, including work in the areas of technology choice, addressing issues presented by state owned enterprises, and trade in remanufactured products. Work related to FTAAP can improve the ability of all APEC economies to participate in bilateral or other free trade agreements that achieve high standards by removing barriers and unfair practices while embracing more open markets.

APEC, in addition, recognized its important role in support of a trading system that is free and open, but also one that is fair and reciprocal. For the first time, APEC leaders recognized the importance of reciprocal

and mutually advantageous trade and investment frameworks, and committed to work together to address unfair trade practices. APEC also acknowledged that the WTO is only able to function properly when all Members follow the rules as negotiated, and committed to improve the functioning of the WTO to address the challenges facing that institution. In the future, APEC's commitment to free and open trade will be tied to APEC's ability to serve as an effective forum to address the barriers that negatively impede our companies from realizing the opportunities in the Asia-Pacific region.

4. China, Hong Kong, Taiwan, and Mongolia

China

See USTR 2017 Report to Congress on China's WTO Compliance: <https://ustr.gov/sites/default/files/files/Press/Reports/China%202017%20WTO%20Report.pdf>.

United States-Hong Kong Trade Relations

The United States continued its efforts to expand trade with Hong Kong, a Special Administrative Region of the People's Republic of China. Following a partial market expansion for U.S. beef exports to Hong Kong in 2013 and the World Organization for Animal Health's upgrade of the U.S. risk classification for bovine spongiform encephalopathy to negligible risk, Hong Kong opened its market fully to all U.S. beef and beef products in 2014. However, there are a few pending issues of concern. While Hong Kong generally provides robust protection and enforcement of intellectual property rights, the copyright system has not been updated and is vulnerable to digital copyright piracy. In addition, Hong Kong finalized its Code of Marketing and Quality of Formula Milk and Related Products and Food Products for Infants and Young Children in June 2017. Although this Code is voluntary, there is concern among U.S. stakeholders that it will become *de facto* mandatory if compliance is required by Hong Kong Hospital Authority tenders.

United States-Taiwan Trade Relations

The United States-Taiwan Trade and Investment Framework Agreement (TIFA) Council, which meets under the auspices of the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States, is the key forum for both economies to resolve and make progress on a wide range of issues affecting the United States-Taiwan trade and investment relationship. The most recent TIFA Council meeting was held in October 2016. Prior to this meeting, authorities from both sides convened meetings at the working group level and held expert level discussions on issues including intellectual property rights, agriculture, medical devices, and pharmaceuticals. The TIFA Council meeting itself yielded important concrete results for U.S. stakeholders. The United States welcomed efforts by Taiwan authorities to follow through on prior TIFA commitments related to intellectual property rights (IPR), including with respect to digital piracy; pharmaceuticals; medical devices; and, registration of chemical substances. With respect to IPR, the TIFA talks took stock of progress on pharmaceutical patent protection and committed to strengthen engagement on Taiwan's IPR legislation, promote the use of legitimate educational materials and enhance enforcement cooperation. The two sides also discussed how to deepen exchanges and cooperation in the area of transparency and agreed to continue the exchange of views on pending revisions to Taiwan's Copyright Act.

In July 2017, under the auspices of the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States, the United States and Taiwan held follow-up meetings in which the two sides assessed the progress being made on TIFA commitments. The two sides also held the Second Medical Devices Time-to-Market Dialogue and the Transparency and Procedural Fairness Dialogue.

The United States continues to express serious concerns about Taiwan’s agricultural policies that are not based upon science. Priorities for the United States include removing Taiwan’s bans on U.S. pork products and certain U.S. beef products produced using ractopamine and removing other barriers to U.S. beef offal products. Other key areas of focus include Taiwan’s rice procurement systems, restrictions on potatoes with greening, the regulatory process for setting pesticide maximum residue limits, and market access barriers facing U.S. agricultural biotechnology products and certified U.S. organic products.

The United States will continue to work to address and resolve the broad range of trade and investment issues important to U.S. stakeholders through engagement under the TIFA framework as well as through multilateral fora such as the WTO. The United States will continue to engage on agricultural issues, IPR issues such as those involving Taiwan’s Copyright Act, and issues relating to transparency and predictability in pharmaceutical and medical device pricing and reimbursement. The United States also will continue to utilize the TIFA Investment Working Group for dialogue with Taiwan authorities to address a robust set of priority investment issues and to improve Taiwan’s investment climate. In addition, the United States will continue to conduct exchanges under the TIFA Technical Barriers to Trade Working Group to ensure that technical regulations do not create excessive burdens for the industries that they affect, such as chemicals, cosmetics, and consumer products.

United States-Mongolia Trade Relations

The United States and Mongolia renewed their engagement under the United States-Mongolia Trade and Investment Framework Agreement (TIFA) in 2015, holding a meeting in May of that year. This fifth TIFA meeting was the first one since the two sides launched negotiations over a bilateral agreement on transparency in matters relating to trade and investment in 2009. The two sides reviewed Mongolia’s ongoing efforts to make the legal changes necessary for the entry into force of the bilateral transparency agreement, which was signed by the two sides in 2013 and ratified by the Mongolian Parliament in 2014. The TIFA meeting also provided the opportunity to discuss recent changes to Mongolia’s investment and mining laws aimed at encouraging more foreign investment into Mongolia as well as a range of investor concerns about Mongolia’s investment climate.

In January 2017, the United States and Mongolia exchanged letters enabling their bilateral transparency agreement to enter into force, effective 60 days later. This agreement applies to matters relating to international trade and investment and includes joint commitments to provide opportunities for public comment on proposed laws and regulations and to publish final laws and regulations. This publication commitment includes the obligation to publish final laws and regulations in English, which should make it easier for U.S. and other foreign enterprises to do business in, and invest in, Mongolia. The transparency agreement also commits the two parties to ensure that administrative agencies apply fair, impartial and reasonable procedures and that persons affected by the decisions of administrative agencies have a right to appeal those decisions. Additional commitments address the application of disciplines on bribery and corruption.

5. Southeast Asia and the Pacific

Free Trade Agreements

Throughout the year, the United States continued to monitor and enforce its FTAs with Singapore and Australia (*See Chapter II.B for additional information*).

Managing U.S.-Southeast Asia and Pacific Trade Relations

The President's landmark trip to Asia in the fall of 2017 set a new course for U.S. trade policy in the Indo-Pacific. In his speech to the APEC CEO Summit in Danang, Vietnam on November 10, 2017, the President offered a renewed partnership to work together to strengthen the bonds of friendship and commerce in the Indo-Pacific and to promote prosperity and security. In his speech, the President announced that the United States would pursue trade agreements with nations in the Indo-Pacific that want to partner with the United States and that will abide by the principles of fairness and reciprocity.

In support of these objectives, the United States met throughout 2017 with countries in Southeast Asia and the Pacific to pursue trade outcomes that increase U.S. economic growth, promote job creation in the United States, promote reciprocity with U.S. trading partners, and expand U.S. exports. These discussions took place under our bilateral Trade and Investment Framework Agreements (TIFAs) with eight Association of Southeast Asian Nations (Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Thailand, and Vietnam) and New Zealand and under our joint FTA Committees with Australia and Singapore.

Removing market access barriers that block U.S. exports and contribute to our trade deficits with Southeast Asian and Pacific countries was a key focus of our TIFA meetings over the past year. Notable engagements include Vietnam, where the United States held two formal TIFA meetings and working group meetings to address issues related to motor vehicles, agriculture, electronic payments, digital trade, intellectual property, and labor reforms. With Indonesia, the United States held a formal TIFA meeting in June 2017 and subsequent discussions in Jakarta and Washington, D.C. to address a number of serious market access restrictions including agricultural import barriers, import licensing restrictions, and localization requirements. In addition, the United States worked to address priority market access issues in TIFA meetings with nearly all other countries in Southeast Asia including the Philippines, Thailand, Malaysia, Burma, Cambodia, and Laos.

The United States also used TIFA meetings in 2017 to encourage important trade policy reforms by partners in Southeast Asia. In line with a bilateral intellectual property work plan agreed in 2016, Thailand adopted several corrective actions that improved its intellectual property regime and resulted in Thailand being moved from the Special 301 Priority Watch List to Watch List in December 2017. With Burma, the United States held a preparatory TIFA meeting to encourage continued economic reforms, particularly in the areas of investment, customs, agriculture, and import licensing, and continued work under the Myanmar Labor Initiative, launched in 2014, including preparations for a labor stakeholder forum that took place in January 2018. Following USTR and Department of State advocacy, in January 2018 the Burmese government renewed two lapsed agreements with the ILO to address the issue of forced labor. In addition, the United States provided training to Indonesia on good regulatory practices and continued to encourage labor-related reforms in Laos and Cambodia.

U.S.-ASEAN Trade and Investment Framework Arrangement

The United States continued to work with ASEAN under the auspices of the ASEAN-United States Trade and Investment Framework Arrangement to further enhance trade and investment ties between the United States and ASEAN, which collectively represents our fourth largest trading partner, to create fairer and more reciprocal trade. The work includes cooperation on trade facilitation initiatives; work on specific standards development and practices; promoting opportunities for small and medium sized enterprises (SMEs); and pursuing initiatives that advance common interests on trade and the environment. Working with Singapore under the Third Country Training Program, the United States has also provided training on digital trade, SMEs, and implementation of the WTO Trade Facilitation Agreement in 2017. After concluding joint principles with ASEAN on investment, and transparency, and good regulatory practices in

2016, USTR continued in 2017 to work on establishing common approaches to digital trade, including the importance of free flow of data and prohibiting localization requirements.

6. Sub-Saharan Africa

Overview

Throughout the year, USTR maintained an active program to promote U.S. trade and investment interests across sub-Saharan Africa, including by participation in the African Growth and Opportunity Act (AGOA) Forum and bilateral engagement with a range of sub-Saharan African partners, including Kenya, Nigeria, and South Africa.

Total two-way goods trade with Sub-Saharan Africa was \$39 billion in 2017, exports were \$14.1 billion, up 4.6 percent from the year before, while imports were \$24.9 billion, up 23.6 percent from 2016.

President Trump's Working Lunch with African Leaders

On September 20, 2017, President Trump hosted a working lunch in New York with African Heads of State from Cote d'Ivoire, Ethiopia, Ghana, Guinea, Namibia, Nigeria, Senegal, South Africa, and Uganda. At the lunch, the President stated his desire to promote prosperity and peace in the region on a range of economic, humanitarian, and security activities. President Trump expressed a desire to foster opportunities for job creation in both Africa and the United States and to extend economic partnerships to countries that are committed to self-reliance.

AGOA Forum

On August 8-9, 2017, Ambassador Robert E. Lighthizer led a U.S. delegation to the annual AGOA Ministerial Forum in Lomé, Togo (*for more information on AGOA, see Chapter III.A.11*).

Ministerial on Trade, Security, and Governance in Africa

On November 17, 2017, USTR participated in a Ministerial on Trade, Security, and Governance in Africa hosted by Secretary of State Rex Tillerson at the U.S. Department of State. Senior U.S. Government officials, foreign ministers, and representatives from 37 African countries and the African Union Commission, as well as representatives from the U.S. and African private sectors, discussed efforts to reinforce economic partnerships with Africa to facilitate greater growth and prosperity for both Africa and the United States.

U.S.-Nigeria Binational Commission Meeting

On November 20, 2017, USTR participated in the U.S.-Nigeria Binational Commission meeting in Abuja, Nigeria, highlighting key concerns as well as opportunities for cooperation in the bilateral trade relationship.

Trade and Investment Hubs

USAID maintains three Trade and Investment Hubs in sub-Saharan Africa that provide extensive support to deepen the U.S.-Africa economic and commercial relationship - the East Africa Trade and Investment Hub in Nairobi, Kenya; the Southern Africa Trade and Investment Hub in Pretoria, South Africa; and the West Africa Trade and Investment Hub in Accra, Ghana. The Hubs work to boost trade and investment

with and within each region. Each Hub has been working to deepen regional integration, increase the competitiveness of select regional agriculture value chains, and promote two-way trade with the United States under AGOA.

Bilateral Trade Programs

In the summer of 2015, following the U.S.-Africa Leaders Summit, USAID and USTR mobilized to expand trade programs bilaterally in five countries: Cote d'Ivoire, Ghana, Mozambique, Senegal, and Zambia. U.S. officials signed Memoranda of Understanding with the respective governments highlighting the common goals of enhancing two-way trade between the United States and these countries, increasing intra-regional trade, and improving the environment for trade and investment. Activities include implementation of the World Trade Organization's Trade Facilitation Agreement (TFA), Agreement on Technical Barriers to Trade (TBT), and Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures. Trade promotion efforts under this initiative include supporting these governments' development of export and AGOA strategies; strengthening the institutional capacity of trade support institutions like local export-import banks, investment promotion agencies, and standards bureaus; and, working with port authorities and customs agencies to reduce fees, streamline customs procedures, and improve port and border management. Under this initiative, USAID also is supporting regional capacity building on customs and SPS matters through the Economic Community of West African States (ECOWAS).

7. South and Central Asia

India

Two-way U.S.-India trade in goods and services in 1980 was only \$4.8 billion; it grew to an estimated \$114 billion in 2016 (latest data available for goods and services trade) – an annual growth rate over this period of more than 9 percent. Although existing Indian trade and regulatory policies have inhibited an even more robust trade and investment relationship, India's economic growth and development could support significantly more U.S. exports in the future. India's reform of its goods and services tax may help create a common internal market that significantly lowers transaction costs. Additionally, implementation of India's National Intellectual Property Rights policy could protect U.S. innovations. While these reforms are encouraging, there has also been a general trend of tariff increases in India, which reflects an active pursuit of import substitution policies. The United States continues to press India to make meaningful progress in relation to these ambitious goals, primarily through the United States-India Trade Policy Forum (TPF).

In addition to these ongoing concerns, U.S. stakeholders submitted petitions in late 2017 on restrictions on market access for dairy products and medical devices, seeking suspension of India's benefits under the Generalized System of Preferences (GSP) program. The most recent TPF, held on October 26, 2017, in Washington, DC, yielded limited progress on these and other areas of concern. USTR will continue to press for progress across the full range of bilateral trade issues, including intellectual property rights and market access for agriculture, non-agriculture goods, and services. These efforts will include TPF intersessional meetings, which include participation by senior-level officials from key U.S. departments and agencies, and the ministerial-level TPF at the end of 2018. This enhanced bilateral engagement will provide an opportunity to achieve meaningful results on a wide range of trade and investment issues.

Supporting Workers' Rights in Bangladesh

Following the 2013 suspension of Bangladesh's GSP benefits based on shortcomings related to workers' rights, USTR dedicated significant time in 2014 and 2015 to working with the government of Bangladesh

and other stakeholders to monitor Bangladesh's progress in addressing U.S. concerns. Since then, USTR annually has led senior delegations to Bangladesh to assess the status of efforts to address workers' rights and workers' safety issues. USTR also led the U.S. delegation to a meeting of the Sustainability Compact in 2017, which includes Bangladesh, Canada, the European Union, and the International Labor Organization (ILO). Although Bangladesh has made some progress on these issues, especially with respect to workplace safety, more progress is necessary before GSP benefits can be restored, particularly with respect to freedom of association, including cumbersome union registration requirements and the protection of labor leaders from violent reprisals. USTR and the Departments of Labor and State continue to monitor this issue carefully, including situations of labor unrest in 2017.

In May 2017, the United States and Bangladesh met in Dhaka under the United States-Bangladesh Trade and Investment Cooperation Forum Agreement (TICFA). The TICFA provides a mechanism for both governments to discuss trade and investment issues and areas of cooperation, and provides an additional opportunity for the U.S. Government to exchange views on Bangladeshi efforts to improve workers' safety and workers' rights.

USTR will continue its efforts to strengthen respect for workers' rights in Bangladesh and address market access and other trade barriers through the TICFA. Additionally, the U.S. Department of State, the U.S. Department of Labor, and USAID continue to implement technical assistance projects aimed at addressing the concerns that led to the withdrawal of GSP benefits. USTR will coordinate efforts to convene a meeting of the Sustainability Compact and work with the governments of Bangladesh, Canada, and the European Union, the ILO, and multi-stakeholder initiatives, such as the Alliance for Bangladesh Worker Safety (the Alliance) and the Bangladesh Accord on Fire and Building Safety (the Accord). The Alliance will terminate its present operations in Bangladesh in June 2018 but is in the process of setting up a successor initiative. USTR will carefully monitor the transition to the new initiative and its implementation.

Advancing U.S. Engagement with Central Asia

In the World Trade Organization (WTO), the United States provided strong support for WTO Membership for the Central Asian countries, playing a critical role in Kazakhstan's accession in 2015 and consulting with Uzbekistan in 2017 on its renewed interest in WTO accession.

Regionally, in 2017, a United States-Central Asia Trade and Investment Framework Agreement (TIFA) Council meeting was convened in Almaty, Kazakhstan, with the five Central Asian countries – Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan, and Tajikistan – as Members, plus Afghanistan as an Observer. The next TIFA Council meeting will be convened in the fall of 2018 to continue to focus on actions to address regional connectivity, economic cooperation, customs issues, sanitary and phytosanitary measures, standards and technical barriers to trade, intellectual property rights, worker rights, women's economic empowerment, energy trade, and country-specific trade and investment issues. In 2017, USTR proposed and attained consensus for a new working group on Intellectual Property Rights under the United States-Central Asia TIFA. While in Kazakhstan, USTR engaged the government and other stakeholders regarding a GSP petition submitted in 2017 by the American Federation of labor and Congress of Industrial Organizations (AFL-CIO). The petition alleges violations of internationally recognized worker rights, and USTR will lead the interagency process in 2018 to determine whether to accept it for review. USTR also engaged with the new government of Uzbekistan to discuss longstanding concerns regarding labor and intellectual property rights in hopes of deepening trade and economic engagement and addressing concerns raised under the GSP.

Improving Trade and Investment Relations with Sri Lanka, Nepal, and the Maldives

A reform-minded government elected in Sri Lanka in late 2015 has committed to address human rights and accountability for actions taken during the long civil war against Tamil insurgents and to enact wide ranging political and economic reforms. In September 2017, USTR met in Colombo with key Sri Lankan ministers to discuss the U.S. Administration's trade policy priorities. In the first half of 2018, USTR will host the next United States-Sri Lanka TIFA Council meeting to work on concrete steps to increase trade.

Nepal is still recovering from a devastating earthquake that struck the country in 2015. Implemented in 2016, the Nepal preference program provides duty-free treatment through December 31, 2025 for 77 types of products from Nepal, including certain carpets, headgear, shawls, and scarves. This program is designed to improve Nepal's export competitiveness and help Nepal's economic recovery following the earthquake. The United States will continue to work with Nepal and provide technical assistance, aid its recovery, and deepen bilateral trade engagement.

In 2017, to follow-up on the first ever TIFA meeting with the Maldives in 2014, USTR continued to monitor efforts to improve workers' rights in the Maldives, including through U.S. Department of Labor technical assistance and continued discussion on sectors of mutual interest, such as the fishing and tourism industries.

Contributing to Regional Stability

In 2017, the President announced the South Asia strategy, and USTR promoted complementary efforts to strengthen our engagement with South and Central Asia as part of a broader effort to boost trade, trade-fostering investment, employment, poverty reduction, and sustainable development. Working with other U.S. agencies, USTR participated in bilateral and other high-level meetings with officials from South Asia, Afghanistan, Iraq, Pakistan, and Central Asia. Key highlights from 2017 include the following:

- Under the United States-Afghanistan TIFA, USTR led a U.S. delegation to a TIFA Council meeting in March of 2017 in Kabul. Both sides focused on efforts on improving trade and investment flows, as well as the U.S. Government's continuing assistance to Afghanistan in the implementation of the obligations in its accession protocol to the WTO, a milestone that was achieved in 2015. USTR is working with Afghanistan on obtaining its full membership in the United States-Central Asia TIFA as well. This will further Afghanistan's cooperation with Central Asia and further boost its trade and economic ties with the region.
- USTR worked with Iraq to identify ways to address market access barriers to U.S. agricultural exports such as poultry, rice and wheat. USTR continues to review Iraq's eligibility for GSP benefits in response to a petition from the AFL-CIO that alleges violations of internationally recognized worker rights. During 2016, Iraq implemented labor reforms that directly addressed a number of the chief complaints in the GSP petition. USTR met with a high-level Iraqi trade delegation in July 2017 and pushed for market access for U.S. agricultural goods.
- USTR and the Ministry of Commerce of Pakistan held an intersessional meeting of the United States-Pakistan TIFA in June 2017. During the meeting, the U.S. delegation advocated for market access for U.S. beef products, distiller's dried grains, soybeans, pulses, and chickpeas; enhanced engagement on intellectual property rights; and tax predictability for U.S. companies.
- Afghanistan's recent accession to the WTO will provide an impetus to efforts to foster improved transit trade and regional connectivity. Such efforts will create opportunities for U.S. exporters in 2018 by providing increased market access and economies of scale. With Uzbekistan's recent

interest in acceding to the WTO and further ratification of the Trade Facilitation Agreement across the region, transit of goods through the region could become easier. However regional connectivity remains a paramount concern, and regulatory barriers to trade will remain a key concern in bilateral and regional discussions in the coming year.

Communicating the Importance of Ensuring Women’s Economic Empowerment through Trade and Investment Agreements in Central and South Asia

In 2017, the United States continued to work with partner governments in the region, the private sector, think tanks, the media, and U.S. Embassies to explain effectively the economic importance of empowering women entrepreneurs and business owners to better take advantage of trade and investment opportunities.

III. TRADE ENFORCEMENT ACTIVITIES

A. Overview

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

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

- Asserting U.S. rights through the World Trade Organization (WTO), and the WTO bodies and committees charged with monitoring implementation and surveillance of agreements and disciplines;
- Vigorously monitoring and enforcing bilateral and plurilateral agreements;
- Invoking U.S. trade laws in conjunction with bilateral, plurilateral, and WTO mechanisms to promote compliance;
- Providing technical assistance to trading partners, especially to developing countries, to ensure that key agreements such as the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and,
- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and use or threat of use of dispute settlement mechanisms, including with respect to labor and environmental obligations.

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

Favorable Resolutions or Settlements

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

The United States has been able to achieve this preferred result in 34 disputes concluded so far, involving: Argentina's protection and enforcement of patents; Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's automotive investment measures; Brazil's patent law; Canada's antidumping and countervailing duty investigation on corn; China's value-added tax exemptions for certain domestically produced aircraft; China's Demonstration Base / Common Service Platform export subsidy program; China's Automobile and Automobile Parts Export Bases prohibited subsidy program; China's value-added tax on integrated circuits; China's use of prohibited subsidies for green technologies; China's treatment of foreign financial information suppliers; China's subsidies for so called Famous Brands; China's support for wind power equipment; Denmark's civil procedures for intellectual property enforcement; Egypt's apparel tariffs; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; India's compliance regarding its patent protection; Indonesia's barriers to the importation of horticultural products (two disputes); Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf life standards for beef and pork; Mexico's restrictions on hog imports; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' automotive regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box office taxes on motion pictures.

Litigation Successes

When U.S. trading partners have not been willing to negotiate settlements, the United States has pursued its cases to conclusion, prevailing in 48 cases to date. In 2017, the United States prevailed in a dispute challenging Indonesia's barriers on the importation of horticultural products, beef, poultry, and animals. The United States also prevailed in three proceedings in WTO disputes brought against U.S. measures: a compliance challenge by the European Union on alleged U.S. subsidies for large civil aircraft (on appeal by the European Union); a dispute by the European Union challenging alleged Washington State export subsidies; and a dispute brought by Indonesia challenging U.S. countervailing duties on coated paper.

In prior years, the United States prevailed in complaints involving: Argentina's import licensing restrictions and other trade-related requirements; Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; China's charges on imported automobile parts; China's measures restricting trading rights and distribution services for certain publications and audiovisual entertainment products; China's enforcement and protection of intellectual property rights; China's measures related to the exportation of raw materials; China's countervailing and antidumping duties on grain oriented flat-rolled electrical steel from the United States; China's claim of compliance in the dispute involving China's countervailing and antidumping duties on grain oriented flat-rolled electrical steel from the United States; China's measures affecting electronic payment services; China's countervailing and antidumping duties on broiler parts from the United States; China's countervailing and antidumping duties on automobiles from the United States; China's export restrictions on rare earths and other materials; the EU's subsidies to Airbus for large civil aircraft; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; the EU's moratorium on biotechnology products; the EU's non-uniform classification of LCD monitors; the EU's tariff treatment of certain information technology products; India's ban on poultry meat and various other U.S. agricultural products allegedly to protect against avian influenza; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's discriminatory local content requirements for solar cells and modules under its National Solar Mission (two merged complaints); India's and Indonesia's discriminatory measures on imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's restrictions on beef imports; Mexico's antidumping duties on high fructose corn syrup; Mexico's telecommunications barriers;

Mexico's antidumping duties on rice; Mexico's discriminatory soft drink tax; the Philippines' discriminatory taxation of imported distilled spirits; and Turkey's measures affecting the importation of rice.

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

ICTIME

On February 28, 2012, Executive Order 13601 established the Interagency Trade Enforcement Center, or ITEC, to bring additional approaches to addressing unfair trade practices and foreign trade barriers, and to significantly enhance the U.S. Government's capabilities to challenge such barriers and practices around the world. ITEC increased the efforts devoted to trade enforcement, as well as leveraged existing analytical resources more efficiently across the U.S. Government in support of trade enforcement efforts.

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law. Section 604 of the law established ICTIME in USTR to support the activities of USTR in investigating potential disputes under the WTO and bilateral and regional trade agreements; monitoring and enforcing trade agreements to which the United States is a party; and monitoring implementation by foreign parties to trade agreements. The statute expressly provides that federal agencies may detail employees to ICTIME to support its functions. To transition ICTIME from a primarily detailee-supported entity to one staffed significantly by USTR employees, ICTIME undertook extensive efforts to develop a hiring plan, specify needed skills, announce new positions, review and interview candidates, and train new hires to support its expanded mission within the new management structure.

In 2017, ICTIME continued its work. ICTIME has played a role in providing research and analysis in support of multiple USTR enforcement actions on WTO matters, including Argentina's compliance with WTO findings on its import licensing restrictions and other trade-related requirements; China's subsidies to its aluminum industry; Indonesia's restrictive import licensing; India's local content restrictions on certain solar energy products; China's domestic support for corn, wheat, and rice production; and China's administration of tariff rate quotas for corn, wheat, and rice. In addition, ICTIME has provided research and analysis to assist in defending disputes brought against the United States at the WTO and acquired translations of hundreds of foreign laws, regulations, and other measures related to trading partners' adherence to international trade obligations.

ICTIME has provided an important monitoring and analysis function to support USTR's evaluation of various countries' compliance with WTO findings in disputes brought by the United States. ICTIME analysts provided extensive research and analysis to document China's policies and actions regarding intellectual property and technology transfer as part of a wide-ranging Section 301 investigation. ICTIME also provided significant research to support USTR's filing of a WTO counter-notification regarding various Chinese export subsidies and another regarding Vietnamese state trading enterprises that both countries should have notified.

In coordination with other offices at USTR and other agencies, ICTIME has identified priority projects for research and analysis regarding a number of countries and issues. ICTIME staff are researching those

projects intensively and these efforts are being supplemented by research conducted by other agencies in coordination with ICTIME.

1. WTO Dispute Settlement

In November 2017, the United States prevailed in a challenge (also resolving two previous complaints) to Indonesia's import barriers against U.S. agricultural products from beef to fruits and vegetables to poultry. The Appellate Body agreed Indonesia's import restrictions and prohibitions breach WTO rules. Those import barriers cost U.S. farmers and ranchers millions of dollars per year in lost export opportunities in Indonesia.

The United States launched three WTO disputes and pursued actions in three other proceedings in 2017. USTR requested WTO consultations with Canada on British Columbia's regulations regarding the sale of wine in grocery stores. Canada's regulations discriminate against the sale of U.S. wine. USTR also requested WTO consultations with Canada regarding British Columbia's additional and revised measures regarding the sale of wine in grocery stores. These measures discriminate against U.S. wine by allowing only British Columbia wine to be sold on regular grocery store shelves while imported wine may be sold in grocery stores only through a so-called "store within a store." In January 2017, the United States requested WTO consultations with China on certain subsidies to specific producers of primary aluminum. The United States had WTO panels established to examine a U.S. complaint that China is exceeding its agricultural domestic support commitments and a U.S. complaint that China is administering its tariff-rate quotas for wheat, rice, and corn in a non-transparent, unpredictable, and unreasonable manner. The United States also proceeded with an arbitration to determine the level of countermeasures against India in relation to its restrictions on imported U.S. poultry and other products allegedly due to avian influenza.

The cases described in Chapter V.H of this report provide further detail about U.S. involvement in the WTO dispute settlement process. Further information on WTO disputes to which the United States is a party is available on the USTR website: <https://ustr.gov/issue-areas/enforcement/overview-dispute-settlement-matters>.

2. Section 301

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

Operation of the Statute

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

In each investigation, USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the acts, policies, or practices are determined to violate a trade agreement or to be unjustifiable, USTR must take action. If they are determined to be unreasonable or

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

Actions that USTR may take under Section 301 include to: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations. After a Section 301 investigation is concluded, USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or USTR considers that the country fails to implement a WTO dispute panel recommendation, USTR must determine what further action to take under Section 301.

Developments during 2017

China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

On August 14, 2017, the President issued a Memorandum (82 FR 39007) to the U.S. Trade Representative instructing USTR to determine, consistent with section 302(b) of the Trade Act of 1974 (19 U.S.C. 2412(b)), whether to investigate any of China's laws, policies, practices, or actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development.

Pursuant to the President's Memorandum, on August 18, 2017, USTR initiated an investigation under section 302(b) of the Trade Act (19 U.S.C. 2412(b)) to determine whether acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory and burden or restrict U.S. commerce.

The acts, policies, and practices of the government of China directed at the transfer of U.S. and other foreign technologies and intellectual property are an important element of China's strategy to become a leader in a number of industries, including advanced technology industries, as reflected in numerous industrial policy initiatives, including, China's "Made in China 2025" industrial plan. The Chinese government's acts, policies, and practices take many forms. The investigation initially will consider the following specific types of conduct:

First, the Chinese government reportedly uses a variety of tools, including opaque and discretionary administrative approval processes, joint venture requirements, foreign equity limitations, procurements, and other mechanisms to regulate or intervene in U.S. companies' operations in China, in order to require or pressure the transfer of technologies and intellectual property to Chinese companies. Moreover, many U.S. companies report facing vague and unwritten rules, as well as local rules that diverge from national ones, which are applied in a selective and nontransparent manner by Chinese government officials to pressure technology transfer.

Second, the Chinese government's acts, policies, and practices reportedly deprive U.S. companies of the ability to set market based terms in licensing and other technology-related negotiations with Chinese companies and undermine U.S. companies' control over their technology in China. For example, the Regulations on Technology Import and Export Administration mandate particular terms for indemnities and ownership of technology improvements for imported technology, and other measures also impose non-market terms in licensing and technology contracts.

Third, the Chinese government reportedly directs or unfairly facilitates the systematic investment in, or acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and

intellectual property and generate large-scale technology transfer in industries deemed important by Chinese government industrial plans.

Fourth, the investigation will consider whether the Chinese government is conducting or supporting unauthorized intrusions into U.S. commercial computer networks or cyber-enabled theft of intellectual property, trade secrets, or confidential business information, and whether this conduct harms U.S. companies or provides competitive advantages to Chinese companies or commercial sectors.

In addition to these four types of conduct, USTR also will consider information on other acts, policies, and practices of China relating to technology transfer, intellectual property, and innovation described in the President's Memorandum that might be included in the investigation or might be addressed through other applicable mechanisms.

Pursuant to section 302(b)(1)(B) of the Trade Act (19 U.S.C. 2412(b)(1)(B)), USTR consulted with appropriate advisory committees. USTR also consulted with members of the interagency Section 301 Committee. On the date of initiation, USTR requested consultations with the government of China concerning the issues under investigation, pursuant to section 303(a)(1) of the Trade Act (19 U.S.C. 2413(a)(1)).

USTR held a public hearing on October 10, 2017, and two rounds of public written comment periods. USTR received approximately 70 written submissions from academics, think tanks, law firms, trade associations, and companies.

Under section 304(a)(2)(B) of the Trade Act (19 U.S.C. 2414(a)(2)(B)), the U.S. Trade Representative must make a determination within 12 months from the date of the initiation whether any act, policy, or practice described in section 301 of the Trade Act exists and, if that determination is affirmative, what action, if any, to take.

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

The European Union (EU) prohibits imports into the EU of animals and meat from animals to which certain hormones have been administered (the "hormone ban"). In 1996, the United States initiated a WTO dispute with respect to the hormone ban. A WTO panel and the Appellate Body found that the measure was inconsistent with WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the European Communities, the predecessor to the EU, was to come into compliance with its obligations by May 13, 1999, but it failed to do so. Accordingly, in May 1999, the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT 1994. The EC did not contest that it had failed to comply with its WTO obligations, but it objected to the level of suspension proposed by the United States.

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

In February 2005, a WTO panel was established to consider the EU's claims that it had brought its hormone ban into compliance with its WTO obligations and that the increased duties imposed by the United States

were no longer authorized by the DSB. In 2008, the panel and Appellate Body confirmed that the July 1999 DSB authorization remained in effect.

In January 2009, USTR: (1) removed certain products from the 1999 list of products subject to 100 percent *ad valorem* duties; (2) imposed 100 percent *ad valorem* duties on some new products from certain EU Member States; (3) modified the coverage with respect to particular EU Member States; and (4) raised the level of duties on one product. The trade value of the products subject to the modified list did not exceed the \$116.8 million per year authorized by the WTO.

In March 2009, USTR delayed the effective date of the additional duties (items two through four above) imposed under the January 2009 modifications in order to allow additional time for reaching an agreement with the EU. The effective date of the removal of duties under the January modifications remained March 23, 2009. Accordingly, subsequent to March 23, 2009, the additional duties put in place in July 1999 remained applicable to a reduced list of products.

In May 2009, the United States and the EU concluded a MOU which, under the first phase of the MOU scheduled to conclude in August 2012, obligated the EU to open a new duty-free tariff rate quota (TRQ) for beef not produced with certain growth promoting hormones. The United States in turn agreed not to impose duties above those in effect as of March 23, 2009.

On August 3, 2012, the United States and the EU, by mutual agreement, entered into a second phase of the MOU, to expire in one year. Under phase two, USTR terminated the remaining additional duties, and the EU expanded the TRQ from 20,000 to 45,000 metric tons.

In August 2013, the United States and the EU extended phase two for an additional two years, until August 2015. USTR has continuously monitored the operation of the TRQ.

On December 9, 2016, representatives of the U.S. beef industry requested that USTR reinstate trade action against the EU because the TRQ is not providing benefits sufficient to compensate for the harm caused by the EU's hormone ban. On December 28, 2016, USTR published a *Federal Register* notice seeking public comments on specific EU products, in order to consider possible reinstatement of duties. USTR held a public hearing on February 15, 2017. USTR is engaged in discussions with the European Commission on possible modifications to the operation of the TRQ in order to address U.S. industry concerns.

3. Other Monitoring and Enforcement Activities

Subsidies Enforcement

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

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) and other authorities set out the responsibilities of USTR and the U.S. Department of Commerce (Commerce) in enforcing U.S. rights in

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

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

During 2017, USTR and E&C staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by E&C officers stationed overseas (*e.g.*, in China), who help gather, clarify, and check the accuracy of information concerning foreign subsidy practices. U.S. Government officers stationed at posts where E&C staff are not present have also handled such inquiries.

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

Monitoring and Challenging Foreign Antidumping, Countervailing Duty, and Safeguard Actions

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

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

Further, E&C tracks foreign AD and CVD actions, as well as safeguard actions involving U.S. exporters, enabling U.S. companies and U.S. Government agencies to monitor other WTO Members' administration

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

During the past year, over 100 trade remedy actions involving exports from the United States were closely monitored, notable examples of which include: 1) (Antidumping) Australia's investigation of cooling tower water treatment controllers, El Salvador's investigation of latex paint, and China's separate investigations of halogenated butyl rubber, styrene monomer, hydriodic acid, and ethanalomines; 2) (Countervailing Duty) Peru's investigation of ethanol; and 3) (Safeguards) The Gulf Cooperation Council's investigation of chemical plasticizers, India's investigation of solar cells, Turkey's investigation of pneumatic tires, and Vietnam's investigation of fertilizer.

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

Disputes under Free Trade Agreements

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

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

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

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

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

On September 19, 2014, after having concluded that Guatemala had not achieved sufficient progress in realizing the commitments and aims of the Enforcement Plan, the United States proceeded with the dispute settlement proceedings. Both disputing Parties presented a series of written submissions to the Panel in accordance with the Rules of Procedure for Chapter 20 (Dispute Settlement) of the CAFTA-DR. Eight non-governmental entities also submitted written views to the Panel as provided under the CAFTA-DR.

The Panel held a hearing in Guatemala City on June 2, 2015. On November 4, 2015, the proceedings were temporarily suspended after Mr. Fuentes Destarac resigned from the Panel for reasons of availability. The Panel resumed work on November 27, 2015, when Mr. Ricardo Ramírez Hernández accepted his nomination to serve as a member of the Panel.

The Panel's final report in the proceedings was released on June 26, 2017. In its final report, the Panel agreed with the United States that Guatemala had failed to effectively enforce its labor laws by failing to secure compliance with court orders with respect to 74 workers at eight worksites (claim 1), and Guatemala had also failed to impose sanctions or other actions after a company obstructed labor inspections (claim 2). However, the Panel ultimately rejected the U.S. claims that these failures resulted in a breach of the CAFTA-DR because it concluded that the United States had failed to demonstrate that Guatemala's enforcement failures constituted a sustained or recurring course of action or inaction, or that the failures occurred in a manner affecting trade. The Panel found a third claim to be outside its terms of reference and therefore declined to make findings upon it.

CAFTA-DR: United States – Dehydrated Ethyl Alcohol

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

NAFTA: United States – Textiles

On September 27, 2016, Canada requested NAFTA Chapter Twenty consultations with respect to an ongoing U.S. Customs enforcement action against a Canadian company (Tricots Liesse) that had made numerous false claims that certain textiles met NAFTA rules of origin. The United States and Canada held consultations on November 10, 2016, in Washington, DC.

4. Monitoring Foreign Standards-related Measures and SPS Barriers

The Trump Administration commits significant resources to identify and confront unjustified barriers stemming from sanitary and phytosanitary (SPS) measures as well as from technical regulations, standards, and conformity assessment procedures (standards-related measures) that restrict U.S. exports of safe, high-quality products. SPS measures, technical regulations, and standards serve a vital role in safeguarding countries and their people, including health protection, safety, and the environment. Conformity assessment procedures are procedures such as testing and certification requirements used to determine if products comply with underlying standards and technical requirements.

U.S. trade agreements provide that SPS and standards-related measures enacted by U.S. trading partners to meet legitimate objectives, such as the protection of health and safety as well as the environment, must not

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

USTR uses tools, including its Annual Report and the National Trade Estimate Report (NTE), to bring greater attention and focus to addressing SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports. These reports describe the actions that USTR and other agencies have taken to address the specific trade concerns identified, as well as ongoing processes for monitoring SPS and standards-related actions that affect trade. USTR's activities in the WTO SPS Committee and the WTO TBT Committee are at the forefront of these efforts (*for additional information, see Chapter V.E.3 and Chapter V.E.8.*). USTR also engages on these issues with U.S. trading partners through mechanisms established by free trade agreements, such as the CAFTA-DR, and through regional and multilateral organizations, such as the APEC and the OECD.

In 2018, USTR will continue to deploy significant resources to identify and confront unjustified SPS and standards-related barriers. The NTE Report will continue to highlight the increasingly critical nature of these issues to U.S. trade policy, to identify and call attention to problems resolved during the past year, in part as models for resolving ongoing issues, and to signal new or existing areas in which more progress needs to be made.

5. Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, the Uruguay Round Agreements Act (enacted in 1994), and the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. § 2242), USTR must identify those countries that deny adequate and effective protection for intellectual property (IP) rights or deny fair and equitable market access for persons that rely on IP protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as “Priority Foreign Countries” (PFC), unless those countries are entering into good faith negotiations or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IP.

In addition, USTR has created a Special 301 “Priority Watch List” (PWL) and “Watch List” (WL). Placement of a trading partner on the PWL or WL indicates that particular problems exist in that country with respect to IP protection, enforcement, or market access for persons relying on IP. Countries placed on the PWL receive increased attention in bilateral discussions with the United States concerning the identified problem areas. USTR develops an action plan for each foreign country identified on the PWL for at least one year.

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

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

2017 Special 301 Review Results

On April 27, 2017, USTR announced the results of the 2017 Special 301 Review. The 2017 Special 301 Report was the result of stakeholder input and interagency consultation.

In 2017, USTR requested written submissions from the public through a notice published in the *Federal Register* on December 28, 2016 (<https://www.regulations.gov>, Docket Number USTR-2016-0026). In addition, on March 8, 2017, USTR conducted a public hearing that provided the opportunity for interested persons to testify before the interagency Special 301 Subcommittee about issues relevant to the review. The hearing featured testimony from representatives of foreign governments, industry groups, academics, and nongovernmental organizations. USTR posted on its website the transcript of the Special 301 public hearing, and also offered a post-hearing comment period during which hearing participants could submit additional written comments in support of, or in response to, hearing testimony. The *Federal Register* notice for the 2017 review cycle – and post hearing comment period – drew submissions from 57 interested parties, including 16 trading partner governments. The submissions that USTR received were available to the public online at <https://www.regulations.gov>.

For more than 25 years, the Special 301 Report has identified positive advances as well as areas of continued concern. The Report has reflected changing technologies, promoted best practices, and situated these critical issues in their policy context, underscoring the importance of IP protection and enforcement to the United States and our trading partners.

During this period, there has been significant progress in a variety of countries. The Special 301 Report has reflected important advances in many other markets over the past 27 years, including in Australia, Israel, Italy, Japan, Korea, Philippines, Qatar, Spain, Taiwan, the United Arab Emirates, and Uruguay.

Still, considerable concerns remain. In 2017, USTR received stakeholder input on more than 100 trading partners, but focused the review on the nominations contained in submissions that complied with the requirement in the *Federal Register* notice to identify whether a particular trading partner should be designated as PFC, or placed on the PWL or WL, or not listed in the Report, and that were filed by the deadlines provided in the notice. Following extensive research and analysis, USTR listed 11 countries on the Priority Watch List and 23 countries on the Watch List. Several countries, including Chile, China, India, Indonesia, Thailand, and Turkey, have been listed every year since the Report's inception. The 2017 listings were as follows:

Priority Watch List: Algeria; Argentina; Chile; China; India; Indonesia; Kuwait; Russia; Thailand; Ukraine; and Venezuela.

Watch List: Barbados; Bolivia; Brazil; Bulgaria; Canada; Colombia; Costa Rica; Dominican Republic; Ecuador; Egypt; Greece; Guatemala; Jamaica; Lebanon; Mexico; Pakistan; Peru; Romania; Switzerland; Turkey; Turkmenistan; Uzbekistan; and Vietnam.

When appropriate, USTR may conduct an Out-of-Cycle Review (OCR) to encourage progress on IP issues of concern. OCRs provide an opportunity for heightened engagement with trading partners and others to address and remedy such issues. In the case of a country-specific OCR, successful resolution of identified IP concerns can lead to a change in a trading partner's status on the Special 301 list outside of the typical time frame for the annual Special 301 Report. In some cases, USTR calls for the OCR; in others, the trading partner governments can request an OCR based on projections for improvements in IP protection and enforcement. In the 2017 report, USTR announced it would conduct OCRs of Priority Watch List country Kuwait and Watch List country Colombia, as well as of Tajikistan, which was not listed. USTR also initiated an OCR in September 2017 of Thailand. As a result of this OCR, USTR moved Thailand from

the PWL to the WL in December 2017 in consideration of the progress Thailand made to improve IP protection and enforcement, including in the areas of patents and pharmaceuticals, trademarks, and copyright.

USTR also conducts an OCR focused on online and physical marketplaces that are reportedly engaged in piracy and counterfeiting and have been the subject of enforcement action or that may merit further investigation for possible IP infringements. USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin to publish the Notorious Markets List (NML) separately from the Special 301 Report, as an “Out-of-Cycle Review of Notorious Markets,” in order to increase public awareness and guide related enforcement efforts. The results of the 2017 Notorious Markets OCR were published on January 12, 2018, and highlight developments since the issuance of the previous Notorious Markets OCR in December 2016. The 2017 List highlights 25 online markets and 18 physical markets around the world that are reported to be engaging in and facilitating substantial copyright piracy and trademark counterfeiting. The List highlights illicit streaming devices as an emerging piracy model of growing concern. The report also calls on several e-commerce platforms to improve takedown procedures, proactive measures, and cooperation with right holders—particularly small and medium-sized businesses—to decrease the volume and prevalence of counterfeit and pirated goods on their platforms. Since publication of the first Notorious Markets List, several online markets closed or saw their business models disrupted as a result of enforcement efforts. In some instances, in an effort to legitimize their overall business, companies made the decision to close down problematic aspects of their operations; others cooperated with authorities to address unauthorized conduct on their sites. Notwithstanding the progress that has occurred, online piracy and counterfeiting continue to grow, requiring robust, sustained, and coordinated responses by governments, private sector stakeholders, and consumers.

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

6. Section 1377 Review of Telecommunications Agreements

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

In its 2017 Section 1377 Review, USTR focused on issues related to: cross-border data flows; independent and effective regulators; limits on foreign investment; barriers to competition; international termination rates; satellite services; telecommunications equipment trade; and local content requirements. USTR described these issues in its annual National Trade Estimate Report. This approach allowed USTR to describe, in one comprehensive report, all of the overlapping barriers concerning telecommunications services and goods, along with related digital trade issues.

7. Antidumping Actions

Under the U.S. antidumping law, duties are imposed on imported merchandise when the U.S. Department of Commerce determines that the merchandise is being dumped (sold at “less than fair value”) and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, “by reason of” those imports. The antidumping law’s provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, the Trade and Competiveness Act of 1988, and the 1994 Uruguay Round Agreements Act.

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

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

If the U.S. Department of Commerce’s final determination regarding dumping is negative, the investigation is terminated and no duties are imposed. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry’s establishment, “by reason of” the dumped imports, the U.S. Department of Commerce (Commerce) will issue an antidumping order and direct CBP to assess, upon further instruction by Commerce, antidumping duties and require cash deposits on imported goods. If the USITC’s final injury determination is negative, the investigation is terminated and the cash deposits are refunded.

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

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

The United States initiated 54 antidumping investigations in 2017 and imposed 32 antidumping orders.

8. Countervailing Duty Actions

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

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

The United States initiated 25 CVD investigations and imposed 11 new CVD orders in 2017.

9. Other Import Practices

Section 337

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

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

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

During 2017, the USITC instituted 59 new Section 337 investigations and commenced 14 ancillary proceedings, of which 7 were based on requests for modification or rescission of outstanding Commission remedial orders. The USITC also issued, in calendar year 2017, remedial orders in sixteen investigations (including one consolidated investigation), as follows: *Certain Electric Skincare Devices*, 337-TA-959; *Certain Table Saws Incorporating Active Injury Mitigation Technology*, 337-TA-965; *Certain Woven Textile Fabrics*, 337-TA-976; *Certain Arrowheads*, 337-TA-977; *Certain Pumping Bras*, 337-TA-988; *Certain Network Devices*, 337-TA-945; *Certain Air Mattress Systems*, 337-TA-971; *Certain Automatic Teller Machines (I)*, 337-TA-972; *Certain Medical Training Devices*, 337-TA-1008; *Certain Automatic Teller Machines (II)*, 337-TA-989; *Certain Intravascular Administration Sets*, 337-TA-1048; *Certain Liquid Crystal eWriters*, 337-TA-1035; *Certain Hand Dryers*, 337-TA-1015; *Certain Digital Video Receivers*, 337-TA-1001; *Certain Personal Transporters*, 337-TA-1021/1007; *Certain L-Tryptophan*, 337-TA-1005. Presidential review of the last two investigations (*Personal Transporters* and *L-Tryptophan*) are ongoing; all other determinations and orders became final after presidential review.

Section 201

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

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

As of January 1, 2018, the United States had no measures in place under Section 201. The United States did not impose any Section 201 measures during 2017. The USITC instituted two Section 201 investigations in 2017: (1) crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) on May 23, 2017; and (2) large residential washers on June 5, 2017. The ITC reached affirmative determinations of serious injury or threat of serious injury in both proceedings, and delivered its reports to the President on November 13, 2017, and December 4, 2017, respectively.

10. Trade Adjustment Assistance

Overview and Assistance for Workers

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

The Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015), Title IV of the Trade Preferences Extension Act of 2015 (Public Law 114-27), was signed into law on June 29, 2015. The TAA Program offers trade-affected workers an opportunity to retrain and retool for new jobs.

The TAA Program currently offers the following services to eligible workers: rapid response, employment and case management services, tailored training, out of area job search and relocation allowances, weekly income support through Trade Readjustment Allowances (TRA), ATAA/RTAA wage supplements for older workers, and a health coverage tax credit for eligible TAA recipients.

In FY 2017, \$716,364,000 was allocated to State Governments to fund aspects of the TAA program. This included \$391,419,000 for “Training and Other Activities,” which includes funds for training, job search allowances, relocation allowances, employment and case management services, and related state administration; \$293,705,000 for TRA benefits; and \$31,240,000 for ATAA/RTAA benefits.

For a worker to be eligible to apply for TAA, the worker must be part of a group of workers that is the subject of a petition filed with the U.S. Department of Labor (DOL). Three workers of a company, a company official, a union or a duly authorized representative, or the American Job Center operator or partner may file a petition with the DOL. In response to the filing, the DOL conducts an investigation to determine whether foreign trade was an important cause of the workers’ job loss or threat of job loss. If the DOL determines that the workers meet the statutory criteria for group certification of eligibility for the workers in the firm to apply for TAA, the DOL will issue a certification. In FY 2017, an estimated 94,017 workers became eligible for the program.

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

Trade Adjustment Assistance for Farmers

On January 6, 2015, the Congress passed the Trade Preferences Extension Act of 2015, which reauthorized the TAA for Farmers Program for FY 2015 through 2021. However, the Congress did not appropriate funding for new participants for FY 2017. As a result, the U.S. Department of Agriculture did not accept any new petitions or applications for benefits in FY 2017.

Assistance for Firms and Industries

The U.S. Economic Development Administration's (EDA) Trade Adjustment Assistance for Firms Program (the TAAF Program) is authorized by Chapters 3 and 5 of Title II of the Trade Act of 1974, as amended (19 U.S.C. § 2341 et seq.) (Trade Act). Public Law 93-618, as amended, provides for trade adjustment assistance for firms and industries (19 USC §§2341-2355; 2391). The Trade Preferences Extension Act (P.L. 114-27), Title IV of the Act, entitled the "Trade Adjustment Assistance Reauthorization Act of 2015," authorizes the TAAF Program through June 30, 2022.

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

In FY 2016, EDA awarded a total of \$20 million in TAAF Program funds to its national network of 11 Trade Adjustment Assistance Centers, each of which is assigned a different geographic service area. During FY 2016, EDA certified 67 petitions for eligibility and approved 78 adjustment proposals.

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

11. United States Preference Programs

Overview

The United States has four "preference" programs designed to encourage economic growth in developing countries by offering access to the U.S. market in the form of preferential duty reduction or duty elimination for eligible imports, for countries meeting eligibility criteria defined by Congress. These programs are: the African Growth and Opportunity Act (AGOA), the Generalized System of Preferences (GSP), the Caribbean Basin Initiative (CBI)/Caribbean Basin Trade Partnership Agreement (CBTPA), and the Nepal Trade Preference Program (NTPP). Individual countries may be covered by more than one program. In such countries, importers of eligible goods may choose among programs when purchasing these goods from beneficiary countries.

U.S. imports benefiting from preferential access under these programs totaled \$34.7 billion during 2017, up 18.5 percent from 2016. This compares to an overall 7.2 percent increase in total U.S. goods imports for consumption from the world over the same period. The increase was largely due to a 32.4 percent

increase (\$3.1 billion) in the value of U.S. imports under AGOA (excluding GSP) due to a rebound in U.S. mineral fuel imports (mostly oil) and a \$2.3 billion increase in GSP due to increases in various products including chemicals, plastics, and jewelry. Imports from CBI/CBTPA also rebounded from 2016.

As a share of total U.S. goods imports for consumption, imports under the U.S. preference programs increased from 1.3 percent in 2016 to 1.5 percent in 2017. Each program's respective share of total U.S. preferential imports in 2017 was as follows: GSP, 61.2 percent; AGOA (excluding GSP), 36.1 percent; and, CBI/CBTPA, 2.7 percent. The Nepal Trade Preference Program was implemented in December 2016, and oversaw roughly \$2 million in imports or 0.01 percent of preference imports in 2017. See the sections below for more information on developments related to specific preference programs.

Generalized System of Preferences

History and Purposes

The U.S. Generalized System of Preferences (GSP) program was initially authorized by the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.) for a ten-year period, beginning on January 1, 1976. Congress has extended the program 13 times, most recently in June 2015, continuing through December 31, 2017. GSP lapsed again on December 31, 2017.

An underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and an important means of sustaining momentum for economic reform and liberalization in beneficiary countries. Through various mechanisms, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to U.S. exports in goods, services, and investment; (2) take steps to afford workers' internationally recognized worker rights; and (3) provide adequate and effective intellectual property rights protection and enforcement.

U.S. industry has noted that a country's participation in the GSP program helps to promote a business and investment environment that benefits U.S. investors as well as the beneficiary countries. The GSP program also helps to lower the cost of imported goods for U.S. consumers and businesses, including inputs used to manufacture goods in the United States. In addition, a new emphasis on enforcement of the GSP eligibility criteria provides a valuable new trade policy tool to assist the United States in reaching trade policy goals to benefit U.S. producers, farmers, ranchers, and workers.

Beneficiaries

As of January 1, 2018, there were 121 designated GSP beneficiary developing countries (BDCs) and territories, including Argentina, which was reinstated to GSP on that day. Forty-four countries and territories are designated least-developed beneficiary developing countries (LDBDCs) under GSP and are eligible for a broader range of duty-free benefits.

Enforcement of GSP Eligibility Criteria

On October 24, 2017, the Trump Administration announced in a press release (<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/october/ustr-announces-new-enforcement>) its intention to heighten its focus on enforcing the GSP eligibility criteria and ensure that all countries receiving trade benefits are meeting the criteria established by Congress. This policy ensures that all GSP beneficiaries will be subject to periodic assessment of their compliance with all GSP eligibility criteria. This new effort includes a heightened focus on concluding outstanding GSP cases and a new interagency process to assess beneficiary country eligibility. This interagency process complements the current petition and public input

process for country practice reviews, which will remain unchanged. The Administration is already implementing this new enforcement policy through actions with beneficiary countries around the world.

First, the new additional process will involve a triennial assessment by USTR and other relevant agencies of each GSP beneficiary country's compliance with the statutory eligibility criteria. If the assessment of a beneficiary country raises concerns regarding the country's compliance with an eligibility criterion, the Administration may self-initiate a full country practice review of that country's continued eligibility for GSP. The first assessment period will focus on GSP beneficiary countries in Asia, including Central Asian, South Asian, and East Asian GSP beneficiaries.

Second, in June 2017, the Administration announced in a press release (<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/june/ustr-announces-new-trade-preference>) the first self-initiated GSP review in over two decades. This self-initiated review focuses on Bolivia's compliance with the GSP eligibility criteria related to child labor and worker rights. In December 2017, President Trump announced the suspension of a portion of Ukraine's duty-free access under GSP for failing to meet the GSP eligibility criteria related to adequate and effective protection of intellectual property rights. The President set the effective date of this partial suspension 120 days after publication of the proclamation to provide the Ukraine government an adequate opportunity to improve its protection of intellectual property rights.

Third, USTR intensified action to press for countries with outstanding country practice petitions to meet the 15 mandatory and discretionary GSP eligibility criteria or face a potential loss of their duty-free access to the U.S. market under GSP. Open GSP country practice cases include petitions on Indonesia and Uzbekistan regarding IPR protection; petitions on Georgia, Iraq, Thailand and Uzbekistan regarding worker rights or child labor concerns; and, a petition on Ecuador regarding arbitral awards. An application for new GSP benefits for Laos remained outstanding at the end of 2017 pending improvements to worker rights in that country. A complete list of the country practice and country eligibility petitions that remained under review as of December 2017 is available on the USTR website: <https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp/current-review-0>.

USTR emphasized in a large number of bilateral engagements with GSP eligible countries the need to meet all GSP eligibility criteria. At the Trade and Investment Framework Agreement (TIFA) and other bilateral meetings with Algeria, Argentina, Cambodia, Georgia, India, Indonesia, Moldova, Pakistan, the Philippines, Thailand, Tunisia, Ukraine, and Central Asia, USTR emphasized the need for countries to comply with all of the GSP criteria.

The President restored Argentina's GSP eligibility status, effective January 1, 2018, following resolution of certain arbitral disputes with U.S. companies, new commitments by the Argentine government to improve market access for U.S. agricultural products, and improved protection and enforcement of IPR. Due to certain remaining intellectual property rights concerns, the restoration of GSP benefits for Argentina will not apply to all eligible products.

Eligible Products

At the end of 2017, approximately 3,500 non-import sensitive products (as defined at the HS-8 tariff level) were eligible for duty-free treatment under GSP, with an additional 1,500 products reserved for eligibility from LDBDCs only. The list of GSP-eligible products from all beneficiaries includes certain manufactured goods and semi-manufactured goods; selected agricultural and fishery products; and many types of chemicals, minerals, and building materials that are not otherwise duty free. The GSP statute precludes certain import-sensitive articles from receiving GSP treatment, including most textiles and apparel, watches, most footwear, certain glassware, and some gloves and leather products. Additionally, USTR conducts an annual review process, during which U.S. producers can petition for the removal of certain

products from GSP if they are negatively affected by those duty-free imports. This review also allows for the addition of products to the program if such products are not import sensitive.

The products that receive preferential market access only when imported from LDBDCs include crude petroleum, certain refined petroleum products, certain chemicals, plastics, animal and plant products, prepared foods, beverages, and rum, as well as many other products. On June 30, 2016, coverage was expanded to include “travel goods” (handbags, luggage, backpacks and goods found in pockets (such as wallets and eyeglass cases) whose addition to GSP had been authorized by the Trade Preference Extension Act of 2015 for LDBDCs and AGOA beneficiaries. On July 1, 2017, President Trump extended GSP duty-free treatment for these products for all other GSP beneficiaries, recognizing that this would help shift production of these products away from non-GSP countries with massive trade surpluses with the United States, such as China, to GSP beneficiaries.

In addition to the expansion of eligibility for travel goods referenced above, five other non-import sensitive products (flaked quinoa, certain acyclic acids, lemon oil, certain finishing agents, and nitrocellulose) were added to GSP eligibility for all GSP beneficiaries. Glycine was removed from GSP coverage for all GSP beneficiaries at the request of a U.S. firm. In addition, a Competitive Need Limitation (CNL) waiver was granted for a coniferous wood product from Brazil whose exports to the United States were just 0.3 percent above the CNL level. USTR removed two other products (certain pesticides from India, and certain natural stone products from Turkey) from GSP eligibility as a result of imports of these goods exceeding CNL.

Value of Trade Entering the United States under the GSP program

The value of U.S. imports claimed under the GSP program for 2017 was \$21.2 billion, an 11.9 percent increase over the same period in 2016. This increase represented roughly 0.9 percent of all U.S. goods imports: 9.9 percent of goods imports from beneficiary countries; and 19.3 percent of goods imports from the beneficiary countries that would otherwise be subject to tariffs. Total U.S. imports of all products (both GSP eligible and non-eligible products) from GSP beneficiary countries increased by 12.2 percent, by value, over the same period. Top U.S. imports under the GSP program in 2017, by trade value, were motor vehicle parts, ferroalloys, jewelry of precious metal, worked monumental or building stone, rubber tires, travel goods, flavored waters including mineral and aerated waters, polyacetals/polyethers/polyesters, electric motors and generators, and insulated cables and wires.

In 2017, based on trade value, the top five GSP BDC suppliers were, in order: India, Thailand, Brazil, Indonesia, and Turkey. Least-developed country beneficiaries accounted for an estimated \$587 million in GSP imports, led by Cambodia, Burma, Congo (DROC), Nepal, Mozambique, Malawi, and Ethiopia. This was the largest level of imports from LBDCs recorded to date, accounting for 2.8 percent of all GSP imports.

The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), enacted in 2000, provides eligible sub-Saharan African countries with duty-free access to the U.S. market for over 1,800 products beyond those eligible for duty-free access under the GSP program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2017, 38 sub-Saharan African countries were eligible for AGOA benefits. As a result of the 2017 annual AGOA eligibility review, 40 sub-Saharan African countries are eligible for AGOA benefits in 2018, following the reinstatement of The Gambia and Swaziland’s AGOA eligibility, effective January 1, 2018.

AGOA Eligibility Review

AGOA requires the President to determine annually which of the sub-Saharan African countries listed in the Act are eligible to receive benefits under the legislation. These decisions are supported by an annual interagency review, chaired by USTR, that examines whether each country already eligible for AGOA has continued to meet the eligibility criteria and whether circumstances in ineligible countries have improved sufficiently to warrant their designation as an AGOA beneficiary country. The AGOA eligibility criteria include, establishing or making continual progress in establishing a market-based economy, rule of law, poverty-reduction policies, a system to combat corruption and bribery, and protection of internationally recognized workers' rights. AGOA also requires that eligible countries do not engage in activities that undermine U.S. national security or foreign policy interests, or engage in gross violations of internationally recognized human rights. The annual review takes into account information drawn from U.S. Government agencies, the private sector, civil society, African governments, and other interested stakeholders. Through the AGOA eligibility review process, the annual AGOA Forum meeting (*see below*), and ongoing dialogue with AGOA partners, AGOA provides incentives to promote economic and political reform as well as trade expansion in AGOA-eligible countries in support of broad-based economic development. The annual review conducted in 2017 resulted in the reinstatement of The Gambia and Swaziland's AGOA eligibility, both effective January 1, 2018. The government of The Gambia has undertaken steps to meet the eligibility criteria related to rule of law and political pluralism, while the government of Swaziland has undertaken steps to meet the eligibility criteria related to internationally recognized worker rights.

An out-of-cycle review of Rwanda, Tanzania, and Uganda's AGOA eligibility was initiated on June 20, 2017 in response to a petition filed by the Secondary Materials and Recycled Textiles Association (SMART). The SMART petition asserts that a March 2016 decision by the East Africa Community (EAC), which includes Kenya, Rwanda, Tanzania, and Uganda, to phase in a ban on imports of used clothing and footwear is imposing significant economic hardship on the U.S. used clothing industry, and is in violation of the AGOA statutory eligibility criteria to make continual progress toward establishing a market based economy and eliminating barriers to U.S. trade and investment. USTR determined that an out-of-cycle review of Kenya's AGOA eligibility was not warranted at that time, due to actions Kenya took, including reversing tariff increases, effective July 1, 2017, and committing not to ban imports of used clothing through policy measures that are more trade-restrictive than necessary to protect human health. As of the end of 2017, the OCR review was ongoing.

AGOA Forum

The annual United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as the "AGOA Forum," is a Ministerial level meeting that brings together senior U.S. officials and their African counterparts to discuss ways to enhance trade and investment relations. On August 9-10, 2017, U.S. Trade Representative Lighthizer led the U.S. delegation to the 2017 AGOA Forum in Lomé, Togo. The U.S. delegation included senior government officials, a Congressional delegation, and private sector and civil society representatives. Included on the African side were trade and commerce ministers from the AGOA-eligible countries, heads of prominent African regional economic organizations, and private sector and civil society representatives. The Forum provided an opportunity for the Administration to lay the foundation for its trade policy approach to the sub-Saharan African region. With a theme of "The United States and Africa Partnering for Prosperity through Trade," the Forum highlighted the role of the private sector in expanding trade to support economic growth and poverty reduction. Through a number of the sessions, Forum participants discussed policies and measures that can help African countries to maximize the benefits of AGOA. Ambassador Lighthizer stressed in his opening remarks that "the United States is committed to Africa" and welcomed the opportunity for dialogue on ways to reduce impediments to U.S. trade and investment with the Continent. Noting both the history of U.S. bipartisan support for AGOA and the evolving landscape of global trade relationships, Ambassador Lighthizer called for renewed efforts to

expand trade and investment under AGOA coupled with dialogue towards developing more reciprocal trade relations in the future.

Total AGOA (including GSP) imports rose to \$13.8 billion in 2017 compared to \$10.6 billion in 2016, mostly due to an increase in AGOA imports of oil (up 47.4 percent) to \$9.5 billion in 2017 compared to \$6.5 billion in 2016. AGOA non-oil trade rose 2.9 percent to \$4.3 billion in 2017 from \$4.2 billion in 2016. There was a 19.7 percent decrease in transportation equipment imports under AGOA from \$1.6 billion in 2016 to \$1.3 billion in 2017. There was a 2.0 percent increase in AGOA apparel trade (\$1.03 billion compared to \$1.01 billion in 2016), with larger percentage increases in agriculture trade (\$552 million compared to \$486 million in 2016), miscellaneous manufactures (\$143 million compared to \$115 million in 2016), and footwear trade (\$30 million compared to \$24 million in 2016). AGOA minerals and metals trade rebounded after a 2016 decline to (\$826 million in 2017 compared to \$546 million in 2016), as did chemicals and related products (\$320 million \$277 million in 2016). Machinery trade declined very slightly (\$18.2 million vs. \$18.5 million in 2016) as did electronic products (\$23.6 million vs. \$23.8 million in 2016).

Top U.S. imports under the AGOA program in 2017, by trade value, were mineral fuels, motor vehicles and parts, woven apparel, ferroalloys, and knit apparel. In 2017, based on trade value, the top five AGOA suppliers were, in order, Nigeria, Angola, South Africa, Chad, and Kenya.

Caribbean Basin Initiative

The Caribbean Basin Initiative (CBI) is comprised of legislation that offers duty relief for Caribbean imports into the United States, providing Caribbean products with a tariff advantage over other competing producers from developed countries with which the United States does not have such tariff preference programs. The trade benefits of the CBI have helped beneficiary countries to diversify their exports and contributed to their economic growth.

The CBI's central legislation is the Caribbean Basin Economic Recovery Act (CBERA), enacted in 1983. In 2017, 17 countries and territories received benefits under the program: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Curaçao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Countries that enter bilateral trade agreements with the United States cease to be eligible for CBI benefits under the CBERA or CBTPA; Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, and Panama are in this category. The United States-Caribbean Basin Trade Partnership Act (CBTPA), enacted in 2000, expanded the preferences, particularly for apparel; eight CBI beneficiaries currently qualify: Barbados, Belize, Curaçao, Guyana, Haiti, Jamaica, St. Lucia, and Trinidad and Tobago.

CBI benefits were further expanded with the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE Act), the HOPE II Act of 2008 (HOPE II Act), and the Haitian Economic Lift Program Act of 2010 (HELP Act), which provided Haiti preferential treatment for its textile and apparel products. The U.S. Government works closely with the Haiti government and other national and international stakeholders to promote the viability of Haiti's apparel sector, to facilitate producer compliance with labor eligibility criteria, and to ensure full implementation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation requirements (<https://ustr.gov/sites/default/files/Final%20Report%20Haiti%20HOPE%20II%202015.pdf>) in accordance with the provisions of the HOPE II Act. In June 2015, the Trade Preferences Extension Act of 2015 (TPEA) extended trade benefits provided to Haiti in the HOPE Act, HOPE II Act, and the HELP Act until September 30, 2025. The TPEA also extended the value-added rule for apparel articles wholly assembled or knit-to-shape in Haiti until December 19, 2025.

In December 2017, USTR submitted its most recent biennial report (<https://ustr.gov/sites/default/files/assets/reports/2017%20CBI%20Report.pdf>) to the U.S. Congress on the operation of the CBERA and its companion programs under the CBI.

Program Results

- The total value of U.S. imports for consumption from beneficiary countries in 2017 was \$5.9 billion, an increase of 9.9 percent from 2016. U.S. imports under the CBERA program were \$961 million in 2017, up from \$871 million in 2016.
- The value of U.S. domestic goods exports to the CBI countries in 2017 was \$12.2 billion, an increase of 16.2 percent from 2016. U.S. exports to CBI countries account for 0.9 percent of total U.S. exports in 2017.
- The U.S. goods trade surplus with the CBI countries was \$7.2 billion in 2017, an 18.8 percent increase from 2016.

Nepal Trade Preference Program (NTPP)

The Trade Facilitation and Trade Enforcement Act of 2015 (“TFTEA”) was signed into law on February 24, 2016. Section 915 of the TFTEA directed the President to establish a new country-specific preference program to grant Nepal duty-free treatment for products covered by 66 eight digit tariff lines in the Harmonized Tariff Schedule (HTS). The program was implemented by Presidential Proclamation on December 15, 2016 and provides non-reciprocal preferential trade benefits to Nepal through December 31, 2025. These preferences were provided to assist Nepal in its recovery from the devastating April 2015 earthquake and subsequent aftershocks. Due to changes in the U.S. Harmonized Tariff System, the number of tariff lines for which Nepal is exempt from customs duties increased in July 2016 to 77 eight digit tariff lines. Of the 77 NTPP tariff lines, 31 are also duty free under the GSP scheme. The rest of these products were not GSP-eligible at the time. TFTEA was passed in 2015, but products became duty-free for Nepal in June 2016. In 2017, the first full year the NTPP had been in place, total imports under the program were \$2 million and accounted for 2.5 percent of total U.S. imports from Nepal. The largest import categories were hats and headgear (\$778,000) and shawls and scarves (\$453,000).

IV. OTHER TRADE ACTIVITIES

A. Manufacturing and Trade

Manufacturing Is a Key Driver of U.S. Economic Growth and U.S. Exports

Manufacturing is a vital sector of the overall U.S. economy, with a gross domestic product (GDP) of \$2.2 trillion in 2016, comprising 11.7 percent of U.S. GDP. If the United States manufacturing sector were a country, it would be the seventh largest country in the world (excluding the United States). U.S. manufacturing real GDP and U.S. manufacturing industrial production are both at record or near record levels. The manufacturing sector added 189,000 jobs in 2017 (December 2016 to December 2017), for an average monthly change of nearly 16,000 jobs. These changes reflect a turnaround from manufacturing employment losses of 9,000 jobs in 2016. Accordingly, the unemployment rate for manufacturing workers was under 4.0 percent for most of 2017, with a record low of 2.6 percent in November 2017 (records kept since 2000). Average hourly earnings of production and nonsupervisory manufacturing employees were \$26.59 in 2017.

Manufacturing is a key driver of U.S. exports. U.S. manufacturing exports totaled \$1.3 trillion in 2017, and accounted for 85 percent of total U.S. goods exports to the world. The United States is the second largest country exporter of manufactured goods. U.S. manufactured goods exports have increased by 44 percent since the trough of the recession in 2009.

Pursuing Fair and Reciprocal Trade

The Administration is actively using a broad range of available trade policy tools to leverage more open markets and level the playing field for U.S. manufactured goods exports in countries around the globe. A key overarching objective guiding this work is to improve the U.S. bilateral trade balance for manufactured goods through fair and reciprocal trade.

In 2017, USTR advanced American manufactured goods trade interests through active engagement in an array of trade policy initiatives and activities. Key activities to expand U.S. manufactured goods exports included actions in each of the following issue areas.

NAFTA

USTR is renegotiating the North American Free Trade Agreement (NAFTA) to update its provisions to reflect 21st century standards and rebalance the benefits of the deal. As these negotiations continue into 2018, USTR also is working to expand market access opportunities for U.S. manufactured goods and strengthen disciplines to address non-tariff barriers that constrain U.S. exports to NAFTA countries. USTR also is working to update and strengthen rules of origin, as necessary, to ensure that the benefits of NAFTA go to products genuinely made in the United States and North America, and to ensure that the rules of origin incentivize production in North America as well as specifically in the United States. In addition, USTR is pursuing greater regulatory compatibility in key manufactured goods sectors, including autos, pharmaceuticals, medical devices, and chemicals to reduce burdens associated with unnecessary differences in regulation between NAFTA partners.

KORUS

USTR is working to modify and amend our existing free trade agreement with the Republic of Korea to rebalance and reduce the large trade deficit in manufactured goods, including autos and auto parts. In addition, USTR is engaged in efforts to resolve implementation concerns with the agreement that have hindered U.S. goods export growth and opportunities in Korea.

Bilateral Market Access Barriers

Over the past year, USTR sought to address a broad range of manufactured goods market access barriers and non-tariff barriers through extensive engagement with our trade partners, including through formal Trade and Investment Framework Agreement (TIFA) meetings, FTA meetings, and various bilateral trade policy initiatives and activities. Among such activities in 2017 were efforts to address: Indian barriers to U.S. manufactured goods exports, including medical devices and high-technology products through the Trade Policy Forum (TPF); Vietnamese barriers to U.S. autos exports; and a range of China's industrial policies, such as Made in China 2025, designed to create or accelerate artificially China's ability to become a manufacturing leader in several high technology, high value-added industries, including information technology, aviation, electric vehicles, and medical devices. USTR is utilizing the full range of U.S. trade tools to address China's strategic plans.

Excess Capacity in Key Industrial Sectors

Industrial policies in some trading partners, particularly China, have led to growth in select industry sectors, including steel and aluminum that is far out of line with market realities. These policies have adversely affected U.S. industry and workers as well as global trade. USTR is working with like-minded trading partners to build international consensus on excess capacity by negotiating commitments in the Global Forum on Steel Excess Capacity (GFSEC), OECD Steel Committee, and the North American Steel Trade Committee. The Administration also is working to address the root causes of this problem through mechanisms under U.S. law.

Strong Enforcement

Throughout all these policy activities relating to manufacturing and trade, the Trump Administration is already aggressively standing up for American interests and protecting American economic security by taking tough enforcement action against countries that break the rules, and applying the full range of tools, including WTO rules, negotiations, litigation, and other mechanisms under U.S. law. (*See, Chapter III: Trade Enforcement Activities.*)

B. Protecting Intellectual Property

One of the top trade priorities for the Trump Administration is to use all possible sources of leverage to encourage other countries to open their markets to U.S. exports of goods and services, and provide adequate and effective protection and enforcement of U.S. intellectual property (IP) rights. Toward this end, a key objective for the Administration's trade policy is ensuring that U.S. owners of IP have a full and fair opportunity to use and profit from their IP around the globe. IP rights include copyrights, patents, trademarks, and trade secrets. IP-intensive industries directly or indirectly account for 45.5 million jobs in the United States, nearly one third of all U.S. employment, in 2014.

To protect U.S. innovation and employment, the Administration is prepared to call to account foreign countries and expose the laws, policies, and practices that fail to provide adequate and effective IP

protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers. Challenges include copyright piracy, which threatens U.S. exports in media and other creative content. U.S. innovators, including pharmaceutical manufacturers, face unbalanced patent systems and other unfair market access barriers. Counterfeit products undermine U.S. trademark rights and can also pose serious threats to consumer health and safety. According the OECD, data on customs seizures indicates that the country whose goods are most counterfeited and pirated is the United States (almost 20 percent of total seizures around the world are of pirated and counterfeit goods whose rightholders originate in the United States). Inappropriate protection of geographical indications, including the lack of transparency and due process in some systems, limit the scope of trademarks and other IP rights held by U.S. producers and imposes barriers on market access for U.S.-made goods and services that rely on the use of common names, such as “feta” cheese. In addition, the theft of trade secrets—often among a company’s core business assets and key to a company’s competitiveness—hurts American businesses, including SMEs, and the reach of trade secret theft into critical commercial and defense technologies poses threats to U.S. national security interests as well.

USTR deploys a wide range of bilateral and multilateral trade tools to promote strong IP laws and effective enforcement worldwide, reflecting the importance of IP and innovation to the future growth of the U.S. economy. USTR seeks strong protection and enforcement for IP rights during the negotiation, implementation, and monitoring of IP provisions of trade agreements. USTR also presses trading partners on innovation and IP issues through bilateral engagement and other means, including with Algeria, Argentina, Chile, China, Colombia, the Dominican Republic, India, Indonesia, Thailand, Ukraine, and Vietnam. USTR also engages bilaterally and regionally with other countries through the annual “Special 301” review and Notorious Markets report (*for additional information, see Chapter III.A.5*).

To elaborate on endemic concerns in just one of these countries, China is home to widespread infringing activity, including trade secret theft, rampant online piracy and counterfeiting, and high levels of physical pirated and counterfeit exports to markets around the globe. Combined, shipments/goods coming from or through China and Hong Kong in Fiscal Year 2016 accounted for the overwhelming majority (88 percent) of all U.S. Customs border seizures of IPR infringing merchandise. China also requires that U.S. firms localize research and development activities. Structural impediments to civil and criminal IPR enforcement are also problematic, as are impediments to pharmaceutical innovation.

Finally, USTR leads multilateral engagement on IP issues in the World Trade Organization (WTO) through the TRIPS Council. As discussed in greater detail in Chapter V.B.6, the U.S. Government and a number of other countries maintain common positions on the subject of geographical indications—positions that help ensure that overseas markets remain open to a wide array of U.S. agricultural exports. Furthermore, the United States has helped explain the positive contributions of IP to innovation under the 2017 WTO TRIPS Council’s theme of Inclusive Innovation and Micro-, Small-, and Medium-Sized Enterprises (MSMEs) covering key issues over the course of successive meetings of the TRIPS Council. Businesses using IP rights in innovative and creative industries tend to perform better, and MSMEs owning IP rights have often higher revenue per employee than MSMEs that do not. In many cases, they also expand their workforce faster and pay higher salaries. Intellectual property can therefore be considered a key component for smart and sustainable growth for MSMEs, which account for more than 90% of business in most economies around the world.

Special 301

For a discussion of Special 301, see Chapter III.A.5.

C. Promoting Digital Trade and e-Commerce

The Internet and other digital technologies play a crucial role in strengthening and supporting firms in every sector of the U.S. economy. In 2017, USTR advanced U.S. interests in robust digital trade and electronic commerce across a range of fora, and worked to combat a rising tide of barriers to digital trade around the world. USTR highlighted some of those barriers in a Digital Trade Fact Sheet released in March 2017, concurrent with the release of the annual National Trade Estimate.

In the ongoing renegotiation of the North American Free Trade Agreement (NAFTA), USTR has advanced high-standard digital trade rules that will make this agreement a model moving forward. For example, USTR is working to ensure that data can flow freely across borders without onerous and expensive localization requirements; to guarantee that digital products receive duty-free, non-discriminatory treatment; and to prevent foreign governments from requiring U.S. firms to disclose proprietary source code and algorithms.

At the World Trade Organization's 11th Ministerial Conference in December 2017, the United States was joined by 69 other Members in announcing a commitment to initiate exploratory work on negotiations on electronic commerce. As these discussions begin in early 2018, USTR will work to ensure that they become a productive forum to advance a liberal global environment for digital trade and electronic commerce. The United States also joined a consensus among WTO Members to maintain a moratorium on duties on electronic transmissions and to continue the longstanding Work Program on Electronic Commerce.

USTR raised digital trade issues in many bilateral engagements throughout 2017, including in consultations with FTA partners, in formal Trade and Investment Framework Agreement (TIFA) meetings, and other bilateral engagements. For example, in the 2017 United States-India Bilateral Trade Policy Forum, USTR raised concerns with India's longstanding data localization requirements, and expressed interest in working with the Indian government as it crafts a new data protection law to ensure that the law does not have negative impacts on digital trade. USTR continues to work with the Indian government to encourage more robust bilateral digital trade. The United States also engaged with Colombia in 2017 during that government's implementation of its Data Protection Law to ensure that it was done in a constructive manner that did not have negative impacts on the transfer of data between Colombia and the United States.

Similarly, USTR took the unprecedented step in October 2017, in coordination with several other WTO Members, of using the WTO's Council on Trade in Services to lay out concerns and call for changes to numerous burdensome and discriminatory elements of China's Cybersecurity Law and related implementing measures. These measures severely restrict the ability of foreign firms to offer data-intensive services or integrate data-enabled functionality into goods or production processes.

USTR continued to advocate for U.S. digital trade interests in international fora such as the G20 and the OECD. The OECD increased its focus on digital issues in 2017, and USTR remained engaged in a broad range of discussions in that forum. A 2017 declaration agreed to by G20 digital ministers included an annex dedicated to digital trade priorities. USTR used this opportunity to bring attention to harmful barriers to digital trade, and joined a call for improved measurement of the impact of digital trade on the world economy.

D. Trade and the Environment

Over the course of 2017, the United States made significant progress on a range of trade and environment matters in multiple fora, including through multilateral, regional, and bilateral trade initiatives.

In August 2017, the United States formally launched the renegotiation of the NAFTA in Washington D.C. As part of that effort, the United States is seeking to modernize the existing environmental framework under the North American Agreement on Environmental Cooperation (NAAEC) by bringing the environmental obligations into the core of the Agreement, rather than in a side agreement; updating and streamlining the current institutional structure; and, addressing key environmental challenges such as fisheries subsidies that lead to overfishing and overcapacity, illegal, unreported, and unregulated (IUU) fishing, and trafficking in wildlife, timber, and fishing, and conservation of natural resources. These upgrades will not only benefit the environment, but also help to level the playing field for American workers and industries.

In the WTO, the United States worked to advance negotiations on an agreement to prohibit harmful fisheries subsidies, such as those that contribute to overfishing and overcapacity or which support illegal fishing activities, and advocated for enhanced transparency and reporting regarding existing fisheries support programs.

The United States also continued to prioritize implementation of the free trade agreements (FTAs) currently in force. In particular, in October 2017, the United States took an unprecedented enforcement action pursuant to the Annex on Forest Sector Governance of the United States-Peru Trade Promotion Agreement (PTPA) and blocked future timber imports from a Peruvian exporter based on illegally harvested timber found in its supply chain. In 2017, the United States also met with officials from Central America and the Dominican Republic, Colombia, Korea, Panama, and Singapore to discuss implementation of and monitor progress under the environment chapters of our FTAs.

In 2017, the United States and Trade and Investment Framework Agreement (TIFA) partners, notably Malaysia and Vietnam, consulted on a wide range of issues related to trade and investment, including trade-related environmental issues such as wildlife trafficking and IUU fishing. The United States and Malaysia agreed to continue a dialogue on environmental issues and to launch an environment working group focused on bilateral trade-related environmental issues.

1. Multilateral and Regional Fora

Regional Engagement

In APEC, the United States worked with other Asia-Pacific economies through the Experts Group on Illegal Logging and Associated Trade to improve the capacity of APEC customs officials to combat illegal logging and associated trade, including by hosting a customs officials workshop held in Ho Chi Minh City, Vietnam on August 18-19, 2017. The United States also led the development of a Customs Best Practices Resource Tool designed to assist APEC customs officials in identifying illegal timber shipments and taking appropriate action. As part of this work, USTR strengthened partnerships with international organizations, such as Interpol and The Nature Conservancy, who play an important role in combating illegal logging and associated trade globally. The United States also concluded an initiative to facilitate trade and investment in sustainable materials management (SMM) solutions under APEC's Regulatory Cooperation Advancement Mechanism in 2017.

WTO and Other Multilateral Engagement

As described in more detail in Chapter V of this report, the United States has continued to explore and advance fresh and innovative approaches to all aspects of the WTO's trade and environment work.

Regarding fisheries subsidies, the United States worked with other like-minded WTO Members to advocate for strong disciplines on harmful fisheries subsidies, such as those that contribute to overfishing and overcapacity or that support IUU fishing activities. The United States also proposed stronger rules to enhance the transparency and reporting of Members' existing subsidy programs. A draft compilation text was developed based on the various text proposals that WTO Members submitted to the WTO's Rules Negotiating Group, and formed the basis of intense negotiations in the second half of 2017. However, consensus could not be reached on even the most basic elements of these text proposals. At the WTO's Ministerial Conference in December 2017, Ministers issued a Ministerial Decision in which Members committed to "continue to engage constructively in the fisheries subsidies negotiations, with a view to adopting, by the Ministerial Conference in 2019, an agreement on comprehensive and effective disciplines that prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU-fishing."

In 2017, USTR participated in the implementation of a number of multilateral environmental agreements to ensure consistency with international trade obligations, including: the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Strategic Approach to International Chemicals Management, the Stockholm Convention on Persistent Organic Pollutants, the Minamata Convention on Mercury, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. USTR is also engaged in and contributes expertise to U.S. fisheries policy development, regional fisheries management organizations, and the International Tropical Timber Organization.

2. Bilateral and Regional Activities

As described below and in Chapter II of this report, USTR secured concrete achievements supporting the Administration's trade and environment objectives during 2017. USTR continued to convene meetings of the TPSC Subcommittee on FTA Environment Chapter Monitoring and Implementation to monitor actions taken by U.S. FTA partners, in accordance with the Subcommittee's plan for monitoring implementation of FTA environment chapter obligations. The monitoring plan forms part of USTR's ongoing efforts to ensure that U.S. trading partners comply with their FTA environmental obligations and to monitor progress achieved.

NAFTA Renegotiation

As part of the NAFTA renegotiation, the United States is seeking to modernize the existing framework under the North American Agreement on Environmental Cooperation (NAAEC) by bringing the environmental obligations into the core of the Agreement, rather than in a side agreement. The United States is also seeking strong and enforceable environmental obligations that are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement. In addition, the United States is seeking to address specific environmental challenges through obligations to prohibit harmful fisheries subsidies, conserve wild fauna and flora, and combat wildlife trafficking, illegal logging, and IUU fishing.

The NAFTA renegotiation is also an opportunity to modernize and streamline the Commission for Environmental Cooperation (CEC) established under the NAAEC. The current CEC provides for a Council, a Secretariat, and a Joint Public Advisory Committee. The Council, comprised of the environmental ministers from the United States, Canada and Mexico, met on June 27-28, 2017, in Prince Edward Island, Canada. The Council approved the Operational Plan 2017-18 and outlined a new trilateral work program focused on strengthening the nexus between trade and environment, such as through projects

related to supporting the legal and sustainable trade in select North American species and improving industrial energy efficiency. The NAAEC also established a process for nongovernmental individuals or entities residing or established in the United States, Canada, or Mexico to file a public submission asserting that a Party is failing to effectively enforce its environmental law, and the Parties continued to review actions taken on such public submissions concluded over the previous year.

Bahrain Free Trade Agreement

In 2017, U.S. Government officials and experts continued to engage with officials from Bahrain's Supreme Council for Environment to monitor implementation of the FTA Environment Chapter and to develop a revised Plan of Action, pursuant to the United States-Bahrain Memorandum of Understanding on Environmental Cooperation accompanying and supporting implementation of the Environment Chapter under the FTA. The Plan of Action identifies goals and cooperation activities to help Bahrain strengthen its capacity to protect the environment while promoting sustainable development in concert with the trade relationship established under the FTA. The Plan of Action was finalized and approved by the Bahraini cabinet in August 2017. The United States and Bahrain plan to convene an environmental cooperation and implementation meeting in 2018, which is expected to identify priority projects in areas such as air quality, coastal environmental zones and endangered species.

CAFTA-DR

The United States and other Parties to the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) continued efforts to strengthen environmental protection and implement the commitments of the CAFTA-DR Environment Chapter. The officials responsible for trade and environment under CAFTA-DR met twice in 2017 to discuss priorities for environmental cooperation funding, monitoring and implementation of Environment Chapter obligations, and the preparation for senior-level meetings of the Environmental Affairs Council (Council). The Council met on June 21-22 in San Jose, Costa Rica and discussed challenges and progress in implementing the Environment Chapter obligations over the past year with a particular focus on environmental impact assessments and monitoring and enforcement challenges and best practices related to air quality and waste management laws. The Council also exchanged views on potential legislative, institutional, or procedural reforms that can help improve enforcement and promote high levels of environmental protection.

The Council also received an update from the independent Secretariat for Environmental Matters (Secretariat), which has received 38 submissions regarding effective enforcement of environmental laws since its inception in 2007. The Secretariat reported on its fourth factual record, related to the construction of a hydroelectric project in Honduras and the representative from Honduras highlighted steps they are taking to address issues raised in the submission. The Secretariat also presented case studies from past submissions, which provided concrete examples of the results of the submission process, including enhanced public access to environmental information, a 99 percent reduction in the production of endangered sea turtle products in the Dominican Republic, and the issuance of regulations to improve environmental protection in Guatemala.

The United States continued to provide capacity-building support to CAFTA-DR partners. In 2017, the U.S. Department of Interior launched the Vida Silvestre app to raise public awareness and serve as an enforcement tool for CAFTA-DR governments to combat wildlife trafficking. U.S. Government funding also supported 25 binational and national operations on wildlife trafficking resulting in 60 arrests in 2017. Through a small grants program, local NGOs in six CAFTA-DR countries trained 36,802 people and promoted best practices on solid waste management, public participation mechanisms, and the enforcement of environmental laws. The World Conservation Society worked with local partners in the Dominican Republic and Guatemala to improve the land management and protection of national parks. The Council

agreed to focus future efforts on combating trafficking in timber, wildlife, and marine resources, promoting public participation, and reiterating the importance of ensuring high levels of environmental protection and effective enforcement of environmental laws.

The Council also hosted a public session in San Jose, Costa Rica on June 22, which provided the opportunity for an interactive exchange of views between government representatives, environmental groups, academia, and private sector representatives on monitoring and implementation of the chapter and environmental cooperation programs. Non-governmental organizations benefitting from CAFTA-DR environmental cooperation joined the session via video conference from the Dominican Republic, El Salvador, and Nicaragua to share their experiences and participate in the public forum.

Chile Free Trade Agreement

The United States and Chile continued efforts to strengthen environmental protection and implement the commitments of the bilateral FTA Environment Chapter. In 2017, environmental cooperation programs resulted in training of more than 600 people in natural resource management, biodiversity conservation, improved commercial and extracting activities, and environmental enforcement. Our partnership has helped to bring over one million hectares of land and sea under improved natural resource management, including supporting the implementation of five sister site agreements between Chilean and U.S. parks as well as protected area networks, like those between Rapa Nui and Hawaii. The United States also supported environmental education through co-sponsorship of the second Our Ocean Marine Science Camp, which brought together 100 students and high school teachers from across Chile to learn about Ocean Health.

Environmental cooperation also helped to combat wildlife trafficking. In 2017, the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) concluded that Chile's new wildlife law fully satisfies Chile's CITES implementation commitments. The United States has long encouraged Chile's efforts to strengthen its CITES implementing legislation as part of our ongoing efforts to promote environmental protection under the bilateral FTA and the environmental cooperation program under the Joint Commission for Environmental Cooperation. The United States also supported a workshop in Chile on best practices for developing and implementing a national strategy to combat wildlife trafficking. Additionally, U.S. support led to a report that identified IUU fishing in the Chilean Hake Fishery, and supported work with artisanal fishers to develop a hake fishery management and recovery plan that will help fishing communities while allowing this fish stock to recover to sustainable levels.

Finally, U.S.-Chile environmental cooperation supports environmental enforcement networks and cooperation between Chile and its neighboring countries to share best practices related to enforcement, air quality management, water resource management, public participation, and protected area management. For example, the United States helped to support a regional criminal investigations course for the Chilean RedSuFiCA environmental enforcement network. Under the scope of protected area management, the U.S. Forest Service (USFS) collaborates with the Chilean National Protected Areas System (SNASPE) to strengthen biodiversity monitoring of key species in protected areas by examining current practices, challenges, and techniques to bolster monitoring in Chilean and U.S. systems. U.S. assistance also advanced the shared goals of the Megacities Partnership for the Santiago Metropolitan Region to enhance, adapt and share air quality management tools in order to improve air quality and provide important public health benefits.

Colombia Trade Promotion Agreement

A U.S. Government interagency delegation traveled to Colombia in December 2017 to engage with representatives from the Colombian government, private sector, and environmental organizations to review implementation of environmental commitments under the United States-Colombia Trade Promotion

Agreement (CTPA) and to discuss the development of a new Environmental Cooperation Work Program. The United States provided capacity building assistance under the United States-Colombia Environmental Cooperation Work Program 2014-2017 in support of Colombia's implementation of its environmental obligations under the CTPA. The U.S. Agency for International Development (USAID) supports the bulk of this environmental cooperation and in 2017 invested more than \$14 million in a broad portfolio of environmental programs throughout Colombia. Activities included support for biodiversity conservation in the Amazon, Orinoquia and Caribbean regions, and sharing of U.S. experience with integrating large-scale private investment in wind and solar energy into the U.S. electrical system. This work was done in close partnership with relevant Colombian government entities, the private sector, and civil society. The State Department's Bureau of International Narcotics and Law Enforcement Affairs also provided over \$1 million in programs to improve the Colombian government's law enforcement capacity to counter illegal mining, wildlife trafficking, and other environmental crimes perpetrated by organized criminal groups.

Jordan Free Trade Agreement

In 2017, USTR officials and other experts continued to engage with officials from Jordan to monitor implementation of the FTA Environment Chapter and, in accordance with the United States-Jordan FTA and the United States-Jordan Joint Statement on Environmental Technical Cooperation, the two governments worked closely together on a range of environmental matters under the 2014-2017 Work Program for Environmental Cooperation, including: institutional strengthening; effective enforcement of environmental laws; conservation; cleaner production processes; and increased public participation and transparency in environmental decision making and enforcement. In 2017, the U.S. Forest Service (USFS) continued to support improved natural resource management, including watershed restoration with native seedlings and tree nursery management for increased seedling survival rates through partnership with Jordan's Ministry of Agriculture-National Center for Agriculture Research and Extension, the International Center for Agricultural Research in Dry Areas, and local communities. Also in 2017, the Environmental Protection Agency (EPA) worked with Jordan's Ministry of Environment, Jordan Valley Authority, and local municipal officials to enhance capacity for integrated solid waste management through training on public participation and management of solid waste including the development of municipal solid waste management strategies and plans for the Jordan Valley. Finally, in 2017 the United States and Jordan began work on preparing a new Work Program for 2018-2021.

Korea Free Trade Agreement

The United States and Korea continued efforts to strengthen environmental protection and review implementation of the KORUS Environment Chapter. In accordance with the United States-Republic of Korea FTA and the United States-Republic of Korea Environmental Cooperation Agreement, the United States and South Korea have worked closely together on a range of environmental matters under the 2016-2018 Work Program, which includes cooperation on strengthening implementation and enforcement of environmental laws, protecting wildlife and sustainably managing ecosystems and natural resources, promoting sustainable cities, and sharing best practices on the development and application of cleaner sources of energy and the use of innovative environmental technology. In 2017, the United States also reviewed and provided input on the implementation of amendments to Korea's Act on the Sustainable Use of Timber, which includes provisions to prevent the import of illegally logged timber products.

In May 2017, the National Oceanic and Atmospheric Administration's (NOAA) Office of Law Enforcement held a workshop and peer exchange for personnel from South Korea's Ministry of Oceans and Fisheries, Coast Guard, and National Police, and the nongovernmental organization Environmental Justice Foundation at the NOAA Western Regional Center in Seattle, Washington on effective means to combat IUU fishing using monitoring, control, and surveillance tools or technologies. The U.S. Fish and Wildlife Service, Washington State Department of Fish and Wildlife, and the U.S. Coast Guard were also in attendance.

In July 2017, the Korean National Institute of Environmental Research (NIER) and the U.S. National Aeronautics and Space Administration presented the preliminary scientific results of a joint study on air quality based on data collected during a six-week field study during the summer of 2016. The study included air quality testing, ground aerial observation, air quality modeling, and satellite data analysis, and the joint study identified strategies for South Korea to reduce ozone and particulate matter levels in the Seoul metropolitan area and rural sections of the country. NIER and South Korea's Ministry of Environment expect that the information derived from the joint research will help South Korea to improve its air pollution analysis and policy formulation.

Morocco Free Trade Agreement

The United States and Morocco met under the Joint Cooperation Committee under the FTA to discuss a range of issues, including environment, signaling a mutual interest in continuing to enhance bilateral environmental cooperation and affirm a commitment to environmental protection through free and fair trade. The United States and Morocco are planning a meeting of the Subcommittee on Environmental Affairs, chaired by USTR, to review implementation of the FTA environment chapter, and of the Working Group on Environmental Cooperation, chaired by the U.S. Department of State, in early 2018. The United States and Morocco have begun working on preparation of a new Plan of Action for 2018-2021, which will be reviewed in early 2018.

In accordance with the United States-Morocco FTA and the United States-Morocco Joint Statement on Environmental Cooperation, the United States and Morocco worked closely together in 2017 on a range of environmental matters under the 2014-2017 Plan of Action. A key accomplishment in 2017 under the U.S. – Morocco Joint Statement on Environmental Cooperation was the establishment of protocols for implementing Morocco's new legislation to support CITES. The CITES Secretariat concluded that the new law fully satisfies Morocco's CITES implementation commitments.

The USFS continued to work with the High Commission for Water and Forests and the Fight Against Desertification (HCEFLCD) to provide technical assistance and training on improved fire management coordination and response. The USFS assisted in establishing a national fire training center in Rabat to provide training on incident command systems. The USFS also provided technical support to the High Commission on tree nursery management and training for High Commission experts on forest landscape restoration and disaster management.

Also in 2017, the U.S. EPA worked with the Moroccan Ministry of Energy, Mines, Water and Environment and the Ministry of Interior to improve solid waste management through capacity building on municipal solid waste management planning, public participation, and crisis communication. In addition, the NOAA worked with the Moroccan National Agency for Development of Aquaculture (ANDA) in 2017 to review the aquaculture siting guidelines, environmental models, and monitoring standards that were prepared through support and training to a Moroccan expert. NOAA also provided technical assistance to ANDA and aquaculture cooperative members on the operation of the mussel longline demonstration farms.

Oman Free Trade Agreement

USTR has continued to review implementation of the U.S.-Oman FTA Environment Chapter, and in accordance with the FTA and the United States-Oman Memorandum of Understanding (MOU) on Environmental Cooperation, the United States and Oman have worked closely together on a range of environmental matters, such as the priority areas for cooperation identified in the 2014-2017 Plan of Action. As a part of this effort, the U.S. Department of Interior provided training and technical assistance to build capacity in the Oman Ministry of Climate Affairs (MECA) on protected area management, understanding

and implementation of the CITES, and wildlife protection through a sea turtle population monitoring program with the goal of increasing endangered species awareness and improving conservation efforts. Finally, in 2017, the United States and Oman began preparing a new Plan of Action for 2018-2021.

Panama Trade Promotion Agreement

The United States and Panama continued efforts to strengthen environmental protection and review implementation of the TPA Environment Chapter. During 2017, the United States and Panama made further progress in implementing an independent secretariat for environmental matters, which is intended to promote public participation in the identification and resolution of environmental enforcement issues and receive and consider submissions from the public on matters regarding enforcement of environmental laws. The Secretariat is housed in the Water Center for the Humid Tropics of Latin America and the Caribbean, an international environmental organization for the region located in Panama City, Panama. In 2017, the Council hired an Executive Director and agreed on an outreach plan for the Secretariat.

The Department of State continued to support EPA-led environmental cooperation focused on Environmental Law implementation and enforcement in Panama. Current focus areas include: environmental inspections, judicial training, and wastewater regulation implementation. Additionally, EPA helped facilitate Panama's membership in the Latin America Enforcement and Compliance Network, which shares environmental enforcement and compliance best practices across the region. EPA also led a Trash Free Waters workshop in Panama City focused on marine litter prevention and reduction.

Peru Trade Promotion Agreement

The United States and Peru held multiple meetings to discuss and monitor implementation of obligations under the PTPA's Environment Chapter and Forest Annex, with broad participation from a range of bilateral government agencies and stakeholders. This regular engagement provided important opportunities to monitor implementation and gather information about new laws, regulations, and policies that Peru is implementing, particularly in the forestry sector, and gain a better understanding of their environmental and trade impacts.

While the Forest Annex has catalyzed significant reforms in Peru's forest sector, Peru continues to face serious challenges in combating illegal logging. Throughout 2017, the United States monitored Peru's implementation of a set of reform actions that Peru agreed to take to address on-going challenges to illegal logging in response to the results of the 2016 timber verification exercise, which revealed significant levels of illegally harvested timber in an earlier timber shipment from Peru to the United States. Such reform actions include amending Peru's export documentation to improve traceability throughout the supply chain, risk-based measures to improve timely detection of illegally harvested timber, and steps to improve the accuracy of Peru's annual timber harvest plans.

In 2017, the Interagency Committee on Trade in Timber Products from Peru (Timber Committee) determined that Peru had made insufficient progress in implementing these agreed upon and necessary reforms, and on October 10, 2017, USTR took unprecedented action on behalf of the Timber Committee by instructing the U.S. Customs and Border Protection (CBP) to deny entry of future timber shipments from the exporter subject to the 2016 verification request, Inversiones Oroza, for a period of three years, or until the Timber Committee determines that Oroza has complied with all applicable laws, regulations, and other measures of Peru governing the harvest of and trade in timber products, whichever is shorter.

Despite these setbacks, the United States and Peru continued to make progress implementing the Environmental Cooperation Agreement Work Program (2015-2018), including through the signing and implementation of a Memorandum of Understanding between the U.S. EPA and the Peruvian Organization

of Evaluation and Environmental Inspection (OEFA) to support Peru's efforts to strengthen enforcement of and compliance with Peruvian environmental laws. EPA conducted trainings on environmental compliance inspections, environmental case adjudication, and mercury management and storage, among other activities. The United States, through USAID, also continued to support the implementation of an electronic system to verify and track the legal origin and proper chain of custody of timber (MC-SNIFFS) including a pilot launch in March 2017. USAID supported the training of regional authorities in using the system and uploading more than 130 forestry concessions in the timber corridor. USAID and USFS completed land use and mapping information for natural resource management and land use decision-making and the analysis and publication of near real time deforestation information, including detection of illegal logging activities. USAID and USFS also assisted with the training and certification of Forest Regents, who will serve as one of the first points of control in the development of forest management plans, and supported sustainable forest management for local communities. To support improved prosecution of environmental cases, USAID and USFS helped develop a public investment project for environmental prosecutors to provide long-term resources for the satellite monitoring units, which will allow prosecutors to build stronger cases against illegal logging. The U.N. Office of Drugs and Crime, the U.S. Department of Justice, and the USFS also delivered a workshop in Puerto Maldonado, Peru to train regional prosecutors and investigators in combating illegal logging and timber crimes.

The United States and Peru are planning to hold the next senior level Environmental Affairs Council meeting to review implementation of the PTPA Environment Chapter in Lima, Peru in 2018.

Singapore Free Trade Agreement

In October 2017, USTR and Singaporean counterparts met in Singapore to review the implementation of the Environment chapter of the United States-Singapore FTA. This senior-level bilateral meeting served as an important opportunity to enhance and continue the robust and longstanding bilateral relationship and strategic partnership between the United States and Singapore, and highlighted a shared commitment to environmental protection through free and fair trade. The co-chairs provided overviews of progress since their last meeting in 2015 and outlined their respective priorities and future plans. Discussions focused primarily on enforcement of environmental laws, particularly to combat wildlife and timber trafficking in the region, recognizing Singapore's efforts in combating the illegal trade in wildlife. Both sides affirmed a commitment to fostering close bilateral and international cooperation on enforcement efforts. Additionally, the parties discussed issues such as those related to conservation and CITES enforcement, as well as exchanging views on environmental laws and utilizing environmental technology. Both sides affirmed their common interests in advancing trade and environmental priorities under the United States-Singapore FTA, APEC, and the WTO. A public session with the environmental and business communities also was held to exchange views related to the implementation of the Environment chapter.

In accordance with the United States-Singapore FTA and the United States-Singapore Memorandum of Intent on Cooperation in Environmental Matters, the United States and Singapore have worked closely together on a range of environmental matters under the 2016-2017 Plan of Action for Environmental Cooperation. Notable achievements in 2017 include cooperative investigations with Singapore authorities and U.S. Immigration and Customs Enforcement and Homeland Security Investigations to help facilitate Singapore's interdiction of illegal wildlife products, as well as cooperation with the U.S. Fish and Wildlife Service to analyze seized samples. In July 2017, the Agri-Food and Veterinary Authority of Singapore was awarded the CITES Secretary-General's Certificate of Commendation in recognition of its enforcement actions in securing convictions for the illegal import of a shipment of 3,235 metric tons of CITES-listed rosewood logs in March 2014.

E. Trade and Labor

In 2017, the U.S. Government engaged with trade partners on labor rights through the formal mechanisms of trade agreements and trade preference programs, as well as through country-specific initiatives, capacity building, and technical assistance. Throughout the year, labor issues were an aspect of trade and investment negotiations and dialogue with Asia-Pacific, Central Asia Latin American, and European countries, including through Labor Affairs Council or labor affairs subcommittee meetings under existing trade agreements, Trade and Investment Framework Agreements (TIFAs), and multilateral fora, such as the International Labor Organization (ILO), the Asia Pacific Economic Cooperation (APEC), and the Organization for Economic Co-operation and Development (OECD).

The United States has used available trade policy tools to improve labor rights in trading partners, including by restoring trade benefits for Swaziland after that country completed specific labor reforms, placing a labor expert full-time in Colombia, and working closely with the governments of Mexico and Honduras regarding extensive legislative reform initiatives in those countries to improve respect for labor rights.

The Administration also has supported the Trade Adjustment Assistance (TAA) program, which assists American workers adversely affected by global competition and helps to ensure that they are given the best opportunity to acquire skills and credentials to get good jobs, as an essential component of trade policy (*for additional information, see Chapter III.A.10*).

1. Bilateral Agreements and Preference Programs

FTAs

Since 2007, U.S. trade agreements have included obligations to ensure the consistency of each party's labor laws with fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*. These agreements include obligations not to fail to effectively enforce each party's labor laws and not to waive or derogate from those laws in a manner affecting trade or investment. The agreements also provide for the receipt and consideration of submissions from the public on matters related their labor chapters, which can be submitted through the Department of Labor's (DOL) Bureau of International Labor Affairs (*for additional information on public submissions and the process for filing, visit <https://www.dol.gov/agencies/ilab/our-work/trade/fta-submissions>*).

As part of the ongoing effort to monitor and implement existing U.S. trade agreements, the United States has worked with trading partners to advance labor rights through technical cooperation and other efforts, including in the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) countries, Morocco, Jordan, Peru, Korea, Mexico, and Colombia (*for additional information, see Chapter II.B*). In 2017, consultations continued with Bahrain under the Labor Chapter of the United States-Bahrain Free Trade Agreement on concerns about freedom of association and employment discrimination. In 2017, USTR officials met with government officials and stakeholders to follow up on the labor commitments under the United States-Korea (KORUS) Free Trade Agreement. In particular, discussions were held with respect to Korea's commitments to adopt and maintain the rights to freedom of association and collective bargaining, and the elimination of discrimination in employment (*for additional information see Chapter II.A.2*).

NAFTA Renegotiation

As part of the Administration's effort to renegotiate NAFTA, USTR, the DOL and the Department of State (State) have worked closely with Mexican trade and labor officials to ensure effective implementation of a landmark constitutional reform initiative that the government of Mexico introduced in 2016 to mandate the creation of new labor courts as part of a complete overhaul of Mexico's system of labor justice administration. In February 2017, Mexico's Congress enacted the constitutional reforms after the legislation was approved by a majority of Mexican states. In December, Mexico introduced a comprehensive package of legislation that would implement the constitutional reforms by a target date of November 2018, and includes detailed provisions intended to address longstanding concerns regarding the registration of collective bargaining agreements, as well as the voting process to decide union representation challenges. The Administration will continue to work to ensure that Mexico strengthens its labor standards by monitoring the reform effort and negotiating strong labor obligations in the new NAFTA, so that American workers and businesses truly benefit from a modernized NAFTA agreement (*for additional information, see Chapter II.A.1*).

CAFTA-DR

In 2017, the United States continued to monitor and assess progress towards addressing the labor concerns identified in a 2013 public report issued by the DOL. These concerns were initially raised in a public submission received in 2011 concerning labor rights in the Dominican Republic. The United States has engaged with the government of the Dominican Republic as well as with the sugar industry and civil society on the concerns identified in this report, including through seven visits to the Dominican Republic, most recently in December 2017. In October 2016, the DOL, in consultation with USTR and State, issued a public update on its findings, noting a number of positive steps taken by the government and by industry designed to address the labor issues identified in the 2013 report and pointing to areas of potential collaboration. The United States continues to discuss areas for implementing the 2013 report's recommendations for improving labor inspections with the Ministry of Labor of the Dominican Republic (*for additional information, see Chapter II.B.3*). In March 2017, a DOL staff member concluded a six-month detail to the Guatemala's Ministry of Labor, where he provided advice on Ministry of Labor initiatives, including on draft legislation that restored sanction authority to the Ministry and new inspection protocols.

In February 2015, the DOL released a report on labor issues in Honduras based on a 2012 submission by the American Federation of Labor and Congress of Industrial Organizations and 26 Honduran labor unions, pursuant to the CAFTA-DR Labor Chapter. The report addressed allegations that the government of Honduras (GOH) failed to effectively enforce its labor laws, and included recommendations for actions by the GOH to improve enforcement efforts in the agriculture, manufacturing, and port sectors. Pursuant to the report's recommendations, in December 2015, the United States and Honduras signed a labor Monitoring and Action Plan (MAP) that includes comprehensive commitments by Honduras to address legal and regulatory frameworks for labor rights, undertake institutional improvements, intensify targeted enforcement, and improve transparency. The GOH took important steps to implement the MAP in 2017, including by passing a comprehensive new inspection law in January 2017 and convening three tripartite meetings with private sector and labor stakeholders to discuss progress under the MAP (*for additional information, see Chapter II.B.3*).

Colombia Trade Promotion Agreement

In 2017, the United States worked closely with Colombia to follow up on DOL's report on a public submission under the Labor Chapter of the United States-Colombia Trade Promotion Agreement and to continue implementation of the Colombian Action Plan Related to Labor Rights (Action Plan), which

focuses on improving protection of labor rights, preventing violence against trade unionists, and prosecuting perpetrators of such violence. The submission, filed in 2016, alleged that the government of Colombia failed to effectively enforce its labor laws and to adopt and maintain laws that protect fundamental labor rights. The DOL issued a public report based on its review in January 2017, which recommended undertaking consultations between the contact points designated under the Labor Chapter to address concerns raised in the report, including with respect to labor inspections and improving labor law enforcement. The Colombian government continued to take steps to improve labor law enforcement and address areas of concern in both the submission report and the 2011 Action Plan. The Ministry of Labor levied large fines against various employers found to have violated laws against illegal subcontracting, and the Prosecutor General's Office (Fiscalía) successfully completed numerous conciliations in criminal cases of employers infringing on certain workers' rights. The DOL and USTR held three consultations of the contact points during the year: a videoconference in April, a meeting in Washington, DC in July, and a meeting in Bogotá in September. During the September trip to Colombia, USTR met with the Minister of Labor, as well as other high-level government officials and various stakeholders. Officials from USTR and the DOL also met with the Deputy Attorney General and her team to discuss ongoing initiatives to prosecute perpetrators of violence against trade unionists (*for additional information, see Chapter II.B.5*).

Morocco Free Trade Agreement

Labor officials from the United States and Morocco continued to strengthen areas of cooperation under the United States-Morocco Free Trade Agreement. The DOL continued to oversee two technical assistance projects during the year designed to address child labor and gender equity, and to explore areas of continued cooperation. In response to concerns raised by the United States, the government of Morocco passed a domestic worker law, which took effect in August 2017, that extends protections and benefits to domestic workers by setting a minimum wage, establishing a minimum age for employment, limiting weekly hours of work, and providing such workers with a day of rest (*for additional information, see Chapter II.B.7*).

Peru Trade Promotion Agreement

USTR and the DOL continued to engage with the government of Peru on concerns that were raised in a 2016 DOL public submission report under the United States-Peru Trade Promotion Agreement. The DOL's report on the Peru submission recommended that the government of Peru take steps to address problems with temporary contracts in special export regimes, primarily textiles and agriculture, where there were ongoing concerns that employers use these arrangements to undermine the free exercise of labor rights. In 2017, USTR and DOL officials traveled to Peru and held three videoconferences with trade and labor officials to discuss Peru's efforts to increase resources for labor inspections and enforcement initiatives in special export sectors and throughout the country (*for additional information, see Chapter II.B.10*).

Other Bilateral Agreements and Preference Programs

U.S. trade preference programs, including the Africa Growth and Opportunity Act (AGOA), the Caribbean Basin Trade Partnership Act, trade preferences for Haiti and Nepal, and the Generalized System of Preferences (GSP), require beneficiaries to meet statutory eligibility criteria pertaining to worker rights and child labor. During 2017, USTR renewed its engagement with governments and stakeholders involved in ongoing GSP worker rights reviews of Georgia, Iraq, Thailand, and Uzbekistan. USTR also announced a self-initiated review of worker rights for Bolivia based on child labor laws and received a new petition relating to worker rights in Kazakhstan. The U.S. Government has provided technical assistance to a number of countries to help them address the concerns raised under GSP worker rights reviews. For example, the DOL provided technical assistance to Georgia during the year to help re-establish a labor inspectorate in that country and funded a labor rights program in Uzbekistan to help address forced and child labor in the cotton sector. During the year, USTR engaged closely with both countries, noting some

progress in the effort to re-establish a labor inspectorate in Georgia, and noting significant advances in the government of Uzbekistan's effort to eradicate forced child labor and combat forced adult labor in the fall cotton harvest. Near the end of 2017, the government of Thailand expressed that it planned to pass reforms to its labor law that could help address certain concerns identified in the GSP review. In October, the AFL-CIO submitted a petition for USTR to review the eligibility criteria of Kazakhstan, alleging violations of fundamental trade union rights and the harassment and arrest of independent trade union leaders. An assessment of whether to accept the Kazakhstan petition for review is currently under way (*for additional information, see Chapter III.A.11*).

The United States continued to engage with African countries on AGOA worker rights criteria through the AGOA annual eligibility review and bilateral and multilateral fora. In addition, a labor breakout session on integrating labor standards into trade and investment policies, was part of the annual AGOA Forum held in Lomé, Togo in August 2017. At the close of the year, USTR also announced the restoration of AGOA benefits for Swaziland. The United States previously withdrew benefits under the preference program from Swaziland based on a failure to meet AGOA eligibility criteria with respect to worker rights. During the year, the government of Swaziland completed a number of important reforms in law and practice that had been identified by USTR as necessary to regaining trade benefits. Following a review of those reforms and consultations with stakeholders, USTR determined that Government had successfully completed the identified benchmarks and announced the restoration of benefits at the end of the year. USTR also received, in June, a public comment from the AFL-CIO urging a review of labor rights in Mauritania, alleging violations of AGOA eligibility criteria with respect to forced labor (*for additional information, see Chapter III.A.11*).

Pursuant to requirements of the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II), producers eligible for duty-free treatment under HOPE II must comply with core labor standards. The DOL, in consultation with USTR, is charged with publically identifying noncompliant producers on a biennial basis and providing assistance to such producers to come into compliance. In addition, the DOL provides support to at-risk producers to help ensure that they do not fall out of compliance. A new biennial reporting period started in 2016, during which the DOL continued to provide support to at-risk producers. During 2016 and 2017, the DOL worked with several producers to address concerns related to industrial relations and sexual harassment in order to ensure continued compliance with HOPE II labor requirements. USTR and the DOL also continued to work closely with the government of Haiti, the ILO, and other U.S. Government agencies on implementation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program to monitor factories' compliance with core labor standards (*for additional information, view the 2016 USTR Annual Report on the Implementation of the TAICNAR program at: <https://ustr.gov/sites/default/files/assets/reports/USTR-Report-Haiti-HOPE-II-2017-%28final%29.pdf>*).

U.S. engagement with Bangladesh, which was suspended from GSP eligibility in June 2013 based on worker rights concerns, continued under Bangladesh's GSP Action Plan as well as through the Sustainability Compact for continuous improvements in labor rights and factor safety. At the time of Bangladesh's GSP suspension, USTR provided Bangladesh with an Action Plan which, if implemented, could provide a basis for the restoration of benefits. In July 2013, the United States also joined the Sustainability Compact, a public declaration of commitments that now includes the governments of Bangladesh, the European Union, the United States, Canada, and the ILO, that was substantially similar to the GSP Action Plan. In May 2017, USTR led an interagency delegation to Bangladesh as part of bilateral trade discussions and the multi-party Sustainability Compact. Both discussions were used to assess progress towards the goals of the Sustainability Compact and GSP Action Plan and to reiterate the expectations of international partners. In June 2017, the government of Bangladesh made specific and public commitments to afford greater rights of association in the country's export processing zones and to better provide internationally recognized worker rights. However, at the end of the year, the government

of Bangladesh had not advanced any legislative reforms. USAID continued to support multiple initiatives designed to strengthen workers' ability to organize and register unions under the current legal framework, and in 2017 several new unions were able to register with the government, while the ILO and other donors continued to work to strengthen government capacity to handle registrations. USTR also continued to coordinate with the two private sector safety initiatives, the Alliance and the Accord, in their efforts to ensure worker safety and factory remediation. During 2017, both initiatives made significant progress ensuring the safety of factories in their supply chains. Both also continued to work with the government of Bangladesh and stakeholders to ensure that private sector efforts could continue and become sustainable when the initial five year commitment of both initiatives sunsets in 2018 (*for additional information, see Chapter III.A.11*).

The United States and China committed to a dialogue on labor and employment issues in 2009 during the first United States-China Strategic and Economic Dialogue. In October 2017, the DOL and the China Ministry of Human Resources and Social Security (MOHRSS) held this annual dialogue, and discussed topics such as labor and employment challenges at the national level, vocational training and apprenticeships, job creation, youth employment, protection of non-standard and other vulnerable categories of workers and strategic enforcement of labor laws.

The fifteenth meeting of the United States-Vietnam Labor Dialogue took place in December 2017 in Washington, at which the DOL and Vietnam's Ministry of Labor, Invalids, and Social Affairs (MOLISA) discussed DOL's list of goods produced by child labor, ways to cooperate in the future to monitor and enforce laws prohibiting child labor in Vietnam, and ways to enhance U.S. technical assistance to strengthen prohibitions against child labor in Vietnam. Officials also discussed continuation of other U.S. technical assistance projects for Vietnam to address consistency with international labor standards within its system of industrial relations more broadly.

USTR also engaged with several countries in 2017 on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. For example, in June 2017, USTR officials met with the government of Vietnam in Hanoi during the United States-Vietnam TIFA to discuss posted labor reforms and consult on future cooperation. In July, USTR officials requested updates on labor law reforms during the United States-Malaysia TIFA in Kuala Lumpur. During the August 2017 United States-Cambodia TIFA in Washington, DC, USTR officials highlighted concerns with several pieces of draft labor legislation and apparent restrictions on trade union registration. TIFA discussions with the Philippines (July and November 2017), and Thailand (April and June 2017), further highlighted the importance of ensuring that labor laws are compliant with internationally recognized workers' rights and that government agencies have the capacity to enforce domestic labor laws. USTR also led bilateral discussions on labor rights concerns with Uzbekistan and Kazakhstan on the margins of the December 2017 U.S.-Central Asia TIFA Council meeting.

In 2017, USTR continued to coordinate U.S. Government engagement around the *Initiative to Promote Fundamental Labor Rights and Practices in Myanmar*, including through organization of the third multi-stakeholder meeting in Burma. The *Initiative*, an innovative multi-stakeholder effort launched by the government of Burma and USTR in 2014, aims to improve the respect for and protection of labor rights in Burma, with development assistance and advice from interested governments, worker organizations, business interests and civil society. In support of the *Initiative*, the DOL and the Department of State continued to implement technical assistance programs in 2017 aimed at assisting Burma's own comprehensive labor reforms and efforts to establish productive and cooperative industrial relations among social stakeholders.

2. International Organizations

In 2017, the United States furthered its efforts to broaden international consensus on the relationship between trade and labor and the benefit of ensuring protection of labor provisions as part of trade policy. In the Ministerial Declaration adopted during the World Trade Organization (WTO) Ministerial Conference in Singapore (1996) and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), WTO Members renewed their commitment to observe internationally recognized core labor standards and took note of collaboration between the WTO and the International Labor Organization (ILO) Secretariats. USTR officials attended the ILO's International Labor Conference in June 2017, where various trade-partner governments were called before the ILO to address gaps in implementing labor standards. Following the ILO's revision of its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, USTR officials met with the responsible ILO officials in May 2017 to discuss the impact of the Declaration on trade and on U.S. enterprises.

The United States also continued to promote labor rights as one of the topics relevant to the effort to strengthen economic integration and to build high quality trade agreements in the Asia-Pacific region. In APEC, the United States has continued to support inclusion by APEC economies of labor and social issues in next generation of trade agreements. In ASEAN, USTR has engaged member states and stakeholders to promote future activities to strengthen prohibitions against human trafficking in the Southeast Asian fishing industry. USAID has invested in significant efforts to address human trafficking in the illegal, unregulated and unreported (IUU) fishing industry, in the context of work with ASEAN governments, industry and other stakeholders. In March 2017, USTR officials participated in the meeting of the Human Resources Development Working Group to support new APEC initiatives to examine the link between trade and workers' rights. In August 2017, USTR officials participated in the APEC Economic Committee to provide concrete feedback concerning the APEC Economic Policy Report on Structural Reform and Human Capital Development, which is anticipated for finalization in 2018. USTR officials also have engaged member states and stakeholders within ASEAN to promote future activities to strengthen prohibitions against human trafficking in the Southeast Asian fishing industry.

F. Small and Medium Size Business Initiative

USTR has implemented a Small Business Initiative to increase export opportunities for U.S. small and medium sized enterprises (SMEs), and has expanded efforts to address the specific export challenges and priorities of SMEs and their workers in our trade policy and enforcement activities. In 2017, USTR continued to engage with its interagency partners and with trading partners to develop and implement new and continuing initiatives that support small business exports.

U.S. small businesses are key engines for our economic growth, jobs, and innovation. USTR is focused on making trade work for the benefit of American SMEs, helping them increase their sales to customers abroad, access and participate in global supply chains, and support jobs at home. USTR seeks to level the playing field for American businesses by negotiating with foreign governments to open their markets and by enforcing our existing trade agreements to ensure a level playing field for U.S. workers and businesses of all sizes. USTR is working to better integrate specific SME issues and priorities into trade policy development, increase outreach to SMEs around the country, and expand collaboration and coordination with our interagency colleagues.

USTR is supporting efforts to help more American companies—especially SMEs—reach overseas markets by improving data, leveraging new technology applications, and empowering local export efforts. USTR works closely with the U.S. Small Business Administration (SBA), the U.S. Department of Commerce, U.S. Department of Agriculture, and other agencies to help provide U.S. SMEs information, assistance, and

counselling on specific export opportunities. In 2017, USTR undertook significant actions in support of our SME objectives.

USTR SME-Related Trade Policy Activities

Tariff barriers, burdensome customs procedures, discriminatory or arbitrary standards, lack of transparency relating to relevant regulations, and insufficient IPR protection in foreign markets present particular challenges for our SMEs in selling abroad. Under the SME Initiative, USTR's small business office, regional offices, and functional offices are pursuing initiatives and advancing efforts to address these issues.

U.S. trade agreements, as well as other trade dialogues and fora, provide a critical opportunity to address specific concerns of U.S. SMEs and facilitate their participation in export markets. For example:

- The Administration is renegotiating NAFTA to get a better deal for American workers, farmers, ranchers, and businesses, including America's small businesses. U.S. objectives for the renegotiation include priorities identified by small business stakeholders, such as *de minimis* shipment value in Canadian and Mexican law comparable to the U.S. *de minimis* shipment value, and eliminating non-tariff barriers that can especially burden small firms. USTR is renegotiating NAFTA to include a small and medium enterprise chapter for the first time, to help ensure that small businesses have the online information tools and resources they need to navigate the Canadian and Mexican markets and to ensure that the NAFTA is working for small business as the Agreement is implemented.
- The United States-UK Trade and Investment Working Group, launched in 2017 to explore ways to strengthen trade and investment ties and provide commercial continuity for U.S. and UK businesses, workers, and consumers as the UK leaves the EU, covers a range of topics including SMEs. Given the significance of small businesses to both economies, the U.S. and UK agreed to establish a U.S.-UK Small and Medium-sized Enterprise Dialogue, to promote closer collaboration and the sharing of best practices on policies and programs to support SME businesses and export opportunities in each country's market. USTR and UK counterparts also are collaborating to develop joint intellectual property rights toolkits to assist small businesses.
- The United States and EU continue to collaborate on small business issues in the Transatlantic Economic Council (TEC). In October 2017, the United States hosted the eighth United States-EU Small and Medium Enterprise Workshop in Wichita, Kansas at Wichita State University Innovation campus, the first time the United States has hosted the SME workshop outside of Washington, DC. The SME Workshop was convened by USTR, the U.S. Department of Commerce, and SBA and the EU's Directorate General for Trade and Directorate General for Internal Market, Industry, Entrepreneurship and SMEs (DG-GROW), and was hosted with the Chair of the Industry Trade Advisory Committee for Small and Minority Business (ITAC-11). Over 100 SME stakeholders on both sides of the Atlantic attended, with discussions focusing on manufacturing SMEs in transatlantic trade; SMEs startups, innovation and competitiveness; transatlantic skills development for SMEs and best practices in apprenticeships and vocational training; transatlantic FDI in manufacturing; SME export promotion resources; and an update on the U.S. Department of Commerce and EU DG GROW-SME Cooperation Arrangement. The United States had the opportunity to highlight small business advanced manufacturing in the heartland, including U.S. SME aerospace suppliers, robotics and virtual reality engineering and design.
- In the Asia-Pacific Economic Cooperation (APEC) forum, APEC economies continue to advance initiatives to facilitate SME access to global markets, including the U.S.-led Digital Economy

Action Plan for MSMEs. The Action Plan aims to facilitate SMEs access to international markets, as well as enhance the understanding of policy makers on how issues such as the impact of forced localization requirements and blocking cross-border data flows impact SMEs in the digital economy. The United States, through the APEC Alliance for Supply Chain Connectivity (A2C2), continued capacity building activities closely linked to the WTO's Trade Facilitation Agreement, including assistance for economies to further simplify customs procedures and document requirements that will in turn benefit SMEs that often lack the resources necessary to navigate overly complex requirements to deliver their goods to overseas markets in the region. Economies also continue to update the APEC Trade Repository (APECTR) at <http://tr.apec.org> to help SMEs seeking information on tariff rates, customs procedures, and other information for doing business in APEC markets.

- With the Association of Southeast Asian Nations (ASEAN) countries, USTR participated in the United States-ASEAN Third Country Training Program to apprise ASEAN SME ministry officials and trade officials of potential barriers to digital trade which harm SMEs and best practices to facilitate SME participation in digital trade and e-commerce. Best practices include tariff-free digital trade; promoting the free flow of information; preventing costly computer infrastructure requirements; electronic signatures and online payment methods; electronic customs forms and faster customs procedures; high customs *de minimis* to facilitate SME trade; and protection of intellectual property rights.
- In the WTO context, USTR is exploring the development of further work with other WTO members on issues of interest to SME stakeholders, such as transparency of regulatory processes and implementation of trade facilitation measures.

USTR Interagency SME Activities

USTR participates in the Trade Promotion Coordinating Committee's (TPCC) Small Business Working Group, collaborating with agencies including the U.S. Department of Commerce, SBA, the U.S. Department of State, U.S. Export-Import Bank, the U.S. Department of Agriculture, and others across the U.S. Government to promote small business exports. The TPCC Small Business Working Group connects SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements. USTR is participating in the newly established TPCC Small Business Working Group's Digital Client Engagement (DCE) Task Force to improve interagency collaboration on digital outreach and engage more potential small business exporters with online tools. USTR also is participating in SBA's Small Business Exporting Listening Tour organized in conjunction with local Small Business Development Centers to hear firsthand from small businesses about the opportunities and challenges they face in foreign markets. Additionally, the DCE Task Force worked to eliminate registration costs for USA Trade Online, a data tool provided by the U.S. Census Bureau that gives users access to current and cumulative U.S. export and import data. Users can create customized reports and charts detailing international trade data at different levels, which can be especially helpful for small businesses.

USTR's SME Outreach and Consultations

In 2017, USTR participated in engagements around the country to hear from local stakeholders about the trade opportunities and challenges they face. On an interagency basis, USTR is working with the TPCC to improve trade information relevant for SMEs and highlight interagency programs to assist SMEs with their individual export needs.

USTR staff regularly consult with ITAC 11 to seek its advice and input on U.S. trade policy negotiations and initiatives, and meets frequently with individual SMEs and associations representing SME members

on specific issues. USTR spoke at several SME events around the country and abroad in 2017 regarding the U.S. trade agenda, including at the Massachusetts Annual Export Expo in Boston, Massachusetts; the annual Americas Small Business Development Center conference in Nashville, Tennessee; the eighth US-EU SME Workshop in Wichita, Kansas; the National District Export Council meeting in Washington, D.C.; the SBA Advocacy Interagency Working Group NAFTA outreach meeting with SMEs convened in Washington, D.C.; the Bradley University Small Business Development Center SME trade roundtables in Peoria, Illinois; and, other events aimed at apprising small businesses of the Administration's trade agenda and encouraging them to begin or expand their exports.

G. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is a grouping of economically significant countries and serves as a policy forum covering a broad spectrum of economic, social, environmental, and scientific areas, from macroeconomic analysis to education to biotechnology. Thirty-five democracies in Europe, the Americas, the Middle East, and the Pacific Rim comprise the OECD, established in 1961 and headquartered in Paris. The OECD helps countries, both OECD Members and non-Members, reap the benefits and confront the challenges of a global economy by promoting economic growth and the efficient use of global resources. A committee of Member government officials, supported by Secretariat staff, covers each substantive area. The emphasis is on discussion and peer review rather than negotiation. However, some OECD instruments, such as the Anti-Bribery Convention, are legally binding. Most OECD decisions require consensus among Member governments. The like-mindedness of the OECD's membership on the core values of democratic institutions, the rule of law, and open markets uniquely positions the OECD to serve as a valuable policy forum to address real world issues. In the past, analysis of issues in the OECD has often been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the WTO.

The United States has a longstanding interest in trade issues studied by the OECD. On trade and trade policy, the OECD engages in meaningful research, and provides a forum in which OECD Members can discuss complex and sometimes difficult issues. The OECD is also active in studying the balance between domestic objectives and international trade.

1. Trade Committee Work Program

In 2017, the OECD Trade Committee, its subsidiary Working Party, and its joint working parties on environment and agriculture, continued to address a number of significant issues impacting trade. The Trade Committee met in April and November 2017, and its Working Party met in March, June, October, and December. The Trade Committee and its subsidiary groups paid significant attention to trade facilitation, global value chains and trade in value-added, services trade, digital trade, data localization, local content policies, state-owned enterprises, government procurement, and international regulatory cooperation. The trade page on the OECD website (<http://www.oecd.org/trade>) contains up-to-date information on published analytical work and other trade-related activities.

The Trade Committee continued its analysis and work surrounding barriers affecting trade in services, including an update to the OECD's Services Trade Restrictiveness Index (STRI) and release of an STRI app for iOS and Android. In 2017, the Committee continued two horizontal themes; work on trade policy-making in the digital economy, which dovetailed with the OECD-wide horizontal project on Digital Policy, and work on trade and investment, which included collaboration and coordination with the Investment Committee; the Committee on Industry, Innovation and Entrepreneurship; and the Statistics Directorate. The OECD Trade Facilitation Indicators were updated in 2017 and are being used to support ongoing trade

facilitation efforts in cooperation with the WTO. Looking ahead, the Trade Committee will continue its work on participation in global value chains, trade facilitation, trade in services, digital trade, export credits, barriers to trade, and trade-related international regulatory cooperation, among other areas. The Committee also aims to strengthen its collaboration with the Committee on Agriculture to address issues pertaining to food and agriculture trade, markets and policies.

The OECD Ministerial Council Meeting took place in June 2017 in Paris. USTR participated in the Trade Session, which focused on international trade and investment. As part of this session, ministers recognized the importance of trade as an engine for economic growth, the importance of international investment and free flow of capital, and the need to stimulate trade by focusing on reducing trade barriers and costs without lowering international standards. Ministers welcomed the entry into force of the WTO Trade Facilitation Agreement in February 2017 and called for its full implementation. They also welcomed the establishment of the Global Forum on Steel Excess Capacity and called for urgent, collective and effective action to address overcapacity across all affected sectors. Ministers encouraged the OECD to continue analysis of how the benefits of trade can be increased and spread more widely, and to develop more effective ways of communicating the benefits of trade and open markets.

2. Trade Committee Dialogue with Non-OECD Members

The OECD conducts wide ranging activities to reach out to non-Member countries, business, and civil society, in particular through its series of workshops and “Global Forum” events held around the world each year. Non-Members may participate as committee observers when Members believe that participation will be mutually beneficial. Key partners—Brazil, China, India, Indonesia, and South Africa—participate to varying degrees in OECD activities through the Enhanced Engagement program, which seeks to establish a more structured and coherent partnership, based on mutual interest, between these five major economies and OECD Members. Argentina, Brazil, and Hong Kong (China) are regular invitees to the Trade Committee and its Working Party, with the Russian Federation invited on an *ad hoc* basis. The OECD also carries out a number of regional and bilateral cooperation programs with non-Members.

The OECD Trade Committee continued its contacts with non-Member countries in 2017. The Committee has embarked on an active outreach effort with G20 countries as well as major economies in Southeast Asia. Contributing to trade-related discussions at the G20 and other relevant international fora (G7, APEC, ASEAN, etc.), through the timely use of the Committee’s evidence-based analysis and policy insights, remains a high priority.

In 2017, the OECD undertook a Strategic Reflection on membership that resulted in the OECD Framework for the Consideration of Prospective Members, a set of objective criteria that Members will use as a basis for deciding whether or not to open accession discussions with a prospective Member. It was adopted by the OECD Council on June 2, 2017 and presented to the 2017 Ministerial Council Meeting. Also in 2017, the Trade Committee continued discussions on the draft Market Openness Review of Colombia, which was finalized in July 2017. At the November 2017 Trade Committee meeting, Members considered a draft Formal Opinion on Colombia. The Formal Opinion of the Trade Committee on the Accession of Costa Rica was adopted on January 18, 2017.

At the 2013 Ministerial Council Meeting, OECD Ministers called for the establishment of a comprehensive OECD Southeast Asia Regional Programme, the main objective of which is to strengthen engagement between the OECD and Southeast Asian countries with a view to supporting regional integration and national reform priorities. The 2017 OECD Southeast Asia Regional Forum and the Steering Group Meeting of the OECD Southeast Asia Regional Programme took place in Bangkok, Thailand on August

24-25, 2017. The forum focused on the opportunities and policy challenges of digital transformation in Southeast Asia.

The Trade Committee also continued its dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including Members of the OECD's Business and Industry Advisory Council and Trade Union Advisory Council.

3. Other OECD Work Related to Trade

Representatives of the OECD Member countries meet in specialized committees to advance ideas and review progress in specific policy areas, such as economics, trade, science, employment, education, and financial markets. There are about 200 committees, working groups, and expert groups at the OECD.

V. THE WORLD TRADE ORGANIZATION

A. Introduction

This chapter outlines the work of the World Trade Organization (WTO) in 2017 – particularly relating to implementing the results of the Ninth Ministerial Conference in Bali and Tenth Ministerial Conference in Nairobi and preparations for the Eleventh WTO Ministerial Conference in Buenos Aires, Argentina in December 2017. This chapter also details work of WTO Standing Committees and their subsidiary bodies, provides an overview of the implementation and enforcement of the WTO Agreement, and discusses accessions of new Members to this rules-based organization.

The WTO provides a forum for enforcing U.S. rights under the various WTO agreements to ensure that the United States receives the full benefits of WTO membership. On a day-to-day basis, the WTO operates through its more than 20 standing committees (not including numerous additional working groups, working parties, and negotiating bodies). These groups meet regularly to permit WTO Members to exchange views, work to resolve questions of Members' compliance with commitments, and develop initiatives aimed at systemic improvements. They are also supposed to promote transparency in WTO Members' trade policies, and they provide a fora for monitoring and resisting market-distorting pressures. Through discussions in these fora, Members sought detailed information on individual Members' trade policy actions and collectively considered them in light of WTO rules and their impact on individual Members and the trading system as a whole. The discussions enabled Members to assess their trade-related actions and policies in light of concerns that other Members raised and to consider and address those concerns in domestic policymaking. The United States also took advantage of opportunities in standing committees to consider how implementation of existing WTO provisions can be enhanced and to discuss areas that may hold potential for developing future rules.

In terms of WTO negotiations, at the WTO's Eleventh Ministerial Conference in Buenos Aires in December 2017, Members agreed to several important outcomes, including a Ministerial decision on fisheries subsidies; a work program on electronic commerce, including an extension of the moratorium on customs duties on electronic transmissions; and the creation of a working party on accession for South Sudan, among others. At the end of the conference, the United States and all Members, except India, were prepared to sign a short Ministerial Declaration reaffirming the principles and objectives set out in the Marrakesh Agreement establishing the WTO. India blocked consensus due to its demands for text to be included in the Declaration regarding special and differential treatment and the conclusion of the Doha Development Agenda (DDA). The United States and others have clearly stated that Members must rethink how development is approached at the WTO, and that it is time to move beyond the outdated, failed framework of the DDA.

If the WTO is to reclaim its credibility as a vibrant negotiating and implementing forum, Members must take advantage of every opportunity to advance work and seize results as they present themselves. In looking ahead to the period before the Twelfth Ministerial Conference in 2019, the United States believes that Members should begin the process of identifying opportunities to achieve accomplishments, even if incremental ones, and avoid buying into the predictable, and often risky, formula of leaving everything to a package of results for Ministerial action. Whether the issue is agriculture or digital economy, the WTO will impress capitals and stakeholders most by simply doing rather than posturing for the next Ministerial Conference.

Further, while “least developed countries” (LDCs) are defined in the WTO using the United Nations criteria, there are no WTO criteria for what designates a “developing country.” Any country may “self-declare” itself as a developing country, thus entitling it to all “special and differential” treatment afforded to developing countries under the WTO Agreements, as well as any new flexibilities afforded to developing countries under current or forthcoming negotiations. In practice, this means that more advanced developing countries like Brazil, China, India, and South Africa receive the same flexibilities as Sub-Saharan African and South Asian non-LDCs, despite their very significant impact in the global economy. It is a challenge to find balance in the application of existing obligations and the development of new commitments when countries that some institutions categorize as high- or high-middle-income countries expect to receive the same flexibilities as low- or low-middle income countries.

To remain a viable institution that can fulfill all facets of its work, the WTO must find a means of achieving trade liberalization between Ministerial Conferences, must adapt to address the challenges faced by traders today, and must ensure that the flexibilities a country may avail itself of are commensurate to that country’s role in the global economy.

B. WTO Negotiating Groups

1. Committee on Agriculture, Special Session

Status

WTO Members agreed to initiate negotiations for continuing the agricultural trade reform process one year before the end of the Uruguay Round implementation period, *i.e.*, by the end of 1999. Talks in the Special Session of the Committee on Agriculture began in early 2000 under the original mandate of Article 20 of the Agreement on Agriculture (Agriculture Agreement). At the Fourth WTO Ministerial Conference in Doha, Qatar in November 2001, the agriculture negotiations became part of the single undertaking, and negotiations in the Special Session of the Committee on Agriculture were conducted under the mandate agreed upon at Doha, which called for: “substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” This mandate, which called for ambitious results in three areas (so called “pillars”), was augmented with specific provisions for agriculture in the framework agreed by the General Council on August 1, 2004, and at the Hong Kong Ministerial Conference in December 2005. However, at the WTO’s Tenth Ministerial Conference in Nairobi, Kenya in December 2015, Members acknowledged in the Ministerial Declaration that there was no consensus to reaffirm Doha mandates. Since then, Members have been reflecting on what is next for the agriculture negotiations in the WTO. The Nairobi Ministerial package included a new decision adopted by WTO Ministers related to export competition, in which Members agreed to the elimination of all forms of export subsidies, as well as new disciplines on export financing and international food aid. At the WTO’s Eleventh Ministerial Conference (MC11), Members did not agree to a Ministerial Declaration or any decision on agriculture due to Members’ divergent views.

Major Issues in 2017

In 2017, the United States focused agriculture negotiations efforts on improving transparency, particularly with respect to the fulfillment of notification requirements. The Chair of the Agriculture Negotiations held negotiations in formal and informal settings to assess Members’ views on substantive issues on the agriculture negotiations. Other Members submitted a variety of proposals, particularly in the area of domestic support and public stockholding for food security. The United States continued to urge Members to approach the overall agriculture negotiations based on the need to identify current, systemic issues that impact global production, subsidization, and trade in agriculture over the past 15 years. At the November

General Council Meeting, the United States put forward a proposal on transparency to strengthen the effectiveness of the review process of commitments under the Agreement on Agriculture but Members were not ready to reaffirm their commitment to enhance transparency at MC11.

Prospects for 2018

A major focus in 2018 will be to enhance notifications and transparency to inform discussions about the problems that face agricultural trade today and consideration of new ways forward in negotiations on agriculture. The United States expects future negotiations to be comprehensive, recognizing the political balances that Members need but with a focus to support the objective of Article 20 of the Agreement on Agriculture: substantial progressive reductions in agriculture support and protection.

2. Council for Trade in Services, Special Session

Status

The Special Session of the Council for Trade in Services (CTS-SS) was formed in 2000 pursuant to the Uruguay Round mandate of the General Agreement on Trade in Services (GATS) to undertake new multi-sectoral services negotiations. The Doha Declaration of November 2001 recognized the work already undertaken in the services negotiations and set deadlines for initial market access requests and offers. The services negotiations thus became one of the core market access pillars of the Doha Round, along with agriculture and nonagricultural goods. However, at the WTO's Tenth Ministerial Conference in Nairobi, Kenya in December 2015, Members acknowledged in the Ministerial Declaration that there was no consensus to reaffirm Doha mandates. Since then, Members have been reflecting on what is next for the services negotiations in the WTO.

Major Issues in 2017

The CTS-SS met on a few occasions during 2017 to consider possibilities for advancing negotiations on services. No viable options were identified.

Prospects for 2018

The United States will continue to pursue new ideas and approaches to promote free and fair trade in services.

3. Negotiating Group on Non-Agricultural Market Access

Status

The U.S. Government's longstanding objective in WTO Non-Agricultural Market Access (NAMA) negotiations – which cover manufactures, mining, fuels, and fish products – has been to obtain a balanced market access package that provides new export opportunities for U.S. businesses through the liberalization of global tariffs and non-tariff barriers. Trade in industrial goods accounts for more than 90 percent of world merchandise trade⁴⁷ and more than 90 percent of total U.S. goods exports. Meanwhile, 52 percent of developing economies countries' merchandise exports went to other “developing economies” in 2016 - up from 41 percent in 2005. Since developing economies now buy the majority of developing economy

⁴⁷ WTO World Trade Statistical Review 2017

exports,⁴⁸ there is substantial interest in improving market access conditions among developing countries, which would also result in greater market access for U.S. manufacturers and exporters. Yet, many emerging economies still charge very high tariffs on imported industrial goods, with ceiling tariff rates exceeding 150 percent in some cases.

The NAMA negotiations have remained at an impasse since the WTO's Eighth Ministerial Conference in Geneva in 2011. Without significant market-opening commitments from advanced developing economies, it is clear that there is little prospect for achieving robust trade liberalization for industrial goods on a multilateral basis. This reality contributed to the result at the WTO's Tenth Ministerial Conference in Nairobi, Kenya in December 2015, when Members acknowledged in the Ministerial Declaration that there was no consensus to reaffirm the Doha mandates.

Major Issues in 2017

There were a few informal meetings of the Negotiating Group on Market Access in 2017 but no new substantive discussions occurred related to either the tariff or nontariff elements of the NAMA negotiations.

Prospects for 2018

In 2018 the United States, jointly with other like-minded WTO Members, will seek to pursue credible approaches to broad and meaningful trade liberalization for industrial goods.

4. Negotiating Group on Rules

Status

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

The Negotiating Group on Rules (the Rules Group) has based its work primarily on written submissions from Members, organizing its work in the following categories: (1) the antidumping remedy, often including procedural and domestic industry injury issues potentially applicable to the countervailing duty remedy; (2) subsidies and the countervailing duty remedy, including fisheries subsidies; and (3) regional trade agreements (RTAs). Over the past years, Members have considered draft texts for antidumping, subsidies, including disciplines on fisheries subsidies, and countervailing measures, yet no consensus was reached. The most recent Chairman's report was issued in 2011.⁴⁹

The Doha Declaration also directed the Rules Group to clarify and improve disciplines and procedures governing RTAs under the existing WTO provisions. To that end, the General Council in December 2006 adopted a decision for the provisional application of the "Transparency Mechanism for Regional Trade Agreements" to improve the transparency of RTAs. A total of 238 RTAs have been considered under the Transparency Mechanism since then. Pursuant to its mandate, in the past, the Rules Group has explored

⁴⁸ WTO World Trade Statistical Review 2017

⁴⁹ TN/RL/W/252, TN/RL/253, TN/RL/W/254, all dated April 21, 2011.

the establishment of further standards governing the relationship of RTAs to the global trading system. However, such discussions failed to produce common ground on how to clarify or improve existing RTA rules and have not been further pursued in the Rules Group.

Major Issues in 2017

The Rules Group met a number of times in 2017 regarding antidumping and horizontal subsidies. These meetings focused on a Chinese proposal and sub-proposals on antidumping and countervailing duty proceedings, and a proposal on horizontal subsidies from the European Union. WTO Members were split with respect to whether these proposals could serve as the basis for work on these issues, and no progress was made on either issue.

Regarding fisheries subsidies, the Rules Group also met on multiple occasions in 2017. Over the course of the year, several Members submitted text proposals focused on disciplines for fisheries subsidies that contribute to illegal, unreported and unregulated (IUU) fishing, overfishing, and overcapacity, and that would enhance transparency and reporting requirements for fisheries subsidies programs. A draft compilation text was developed based on the various text proposals and formed the basis of intense negotiations in the second half of 2017. However, consensus could not be reached on even the most basic elements of these text proposals. At MC11, Ministers issued a Ministerial Decision in which Members committed to “continue to engage constructively in the fisheries subsidies negotiations, with a view to adopting, by the Ministerial Conference in 2019, an agreement on comprehensive and effective disciplines that prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU-fishing.”

Prospects for 2018

In 2018, the United States will continue to focus on preserving the effectiveness of trade remedy rules, and strengthening existing subsidies rules in a post-Doha environment. In addition, the United States will continue to support stronger disciplines and greater transparency in the WTO with respect to fisheries subsidies.

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

5. Dispute Settlement Body, Special Session

Status

Following the Doha Ministerial Conference in 2001, the Trade Negotiations Committee (TNC) established the Special Session of the Dispute Settlement Body (DSB-SS) to fulfill the Ministerial mandate found in paragraph 30 of the Doha Declaration, which provides: “We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far, as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.” In July 2003, the General Council decided that: (1) the timeframe for conclusion of the negotiations on clarifications and improvements of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) be extended by one year (*i.e.*, to aim to conclude the work by May 2004 at the latest); (2) this continued work will build on the work done to date, and take into account proposals put forward by Members as well as the text put forward by the Chair of the DSB-

SS; and (3) the first meeting of the DSB-SS when it resumed its work be devoted to a discussion of conceptual ideas. Due to complexities in negotiations, deadlines were not met. In August 2004, the General Council decided that Members should continue work toward clarification and improvement of the DSU, without establishing a deadline, and these negotiations have continued since.

Major Issues in 2017

The DSB-SS met fifteen times during 2017. In previous phases of the review of the DSU, Members had engaged in a general discussion of the issues. Following that general discussion, Members tabled proposals to clarify or improve the DSU. Members then reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals. The Chair of the review issued a Chair's text in July 2008 "to take stock of" the work to date and to provide a basis for its continuation. In 2017, delegations continued to engage on the basis of the comments received in the previous phase, seeking to advance the work on their proposals.

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

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

Prospects for 2018

In 2018, Members will continue to work to complete the review of the DSU. Members will be meeting a number of times over the course of 2018.

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

Status

The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) Special Session met briefly in 2017 with the purpose of permitting delegations to put on record their views regarding the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits ahead of the 11th WTO Ministerial Conference (MC11). The status had not changed since the previous year's reporting: there was no consensus among Members to continue

engaging in this negotiation until progress was first made in other areas. Ultimately, Members did not reach consensus and there was no Ministerial outcome reflecting TRIPS Council Special Session at MC11.

Major Issues in 2017

In 2017, the United States and a group of other Members continued to maintain their position that the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits must: be voluntary; have no legal effects for non-participating members; be simple and transparent; respect different systems of protection of geographical indications (GIs); respect the principle of territoriality; preserve the balance of the Uruguay Round; and, consistent with the mandate, be limited to the protection of wines and spirits. The United States and this group of Members (the Joint Proposal group) continued to maintain that the mandate of the TRIPS Council Special Session is clearly limited to the establishment of a system of notification and registration of GIs for wines and spirits and that discussions cannot move forward on any other basis. The United States, together with Argentina, Australia, Canada, Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Israel, Japan, Korea, Mexico, New Zealand, Nicaragua, Paraguay, South Africa, and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu support the Joint Proposal under which Members would voluntarily notify the WTO of their GIs for wines and spirits for incorporation into a registration system. During 2011, Israel formally became a cosponsor of the Joint Proposal.

The EU, together with a number of other Members, continued to support their alternative proposal for a binding, multilateral system for the notification and registration of GIs for all products, not only wines and spirits, which all Members would be required to use. The effect of this proposal would be to expand the scope of the negotiations to all GI products and to propose that any GI notified to the EU's proposed register would benefit from a presumption of eligibility for protection as a GI in other WTO Members. Although a third proposal, from Hong Kong, China remains on the table, this proposal has received little support.

The major issue raised in 2017 concerned whether or not the TRIPS Council Special Session could achieve consensus to propose text for an outcome that could be announced at MC11 and how to take forward work following MC11. The United States and many other Members recognized that the lack of consensus among Members forestalled the possibility of a deliverable at MC11. Some Members reiterated their positions on the negotiations. The United States noted the longstanding divergence of views, reminded parties that the mandate of the Special Session is limited to a GI Register for wines and spirits, and noted that the United States did not support intensification of work on GIs in the Special Session. Members belonging to the W/52 coalition continued to advocate for parallel work to be conducted on the three issues of the GI register, TRIPS/Convention on Biological Diversity disclosure, and GI extension.

Prospects for 2018

If discussions resume, Members will discuss whether negotiations are limited to GIs for wines and spirits (the position of the Joint Proposal proponents, based on the unambiguous text of Article 23.4 of the TRIPS Agreement) or whether these negotiations should be extended to cover GIs for goods other than wines and spirits (the position of the EU and certain other WTO members). The United States will continue to aggressively oppose expanding negotiations, will continue to pursue additional support for the Joint Proposal in the coming year, and will seek a more flexible and pragmatic approach from supporters of the EU proposal.

7. Committee on Trade and Development, Special Session

Status

The Special Session of the Committee on Trade and Development (CTD-SS) was established by the TNC in February 2002 to review all WTO special and differential treatments (S&D) with a view to improving them. Under existing S&D provisions, Members provide developing country Members with technical assistance and transitional arrangements toward implementation of WTO agreements. S&D provisions also enable Members to provide developing country Members with better-than-MFN access to markets.

As part of the S&D review, developing country Members submitted 88 Agreement-Specific Proposals (ASPs). Thirty-eight of these proposals were referred to other negotiating groups and WTO bodies for consideration (Category II proposals). Members reached an “in principle” agreement on draft decisions for 28 of the remaining 50 proposals at the 2003 Cancun Ministerial Conference (Cancun 28). While these proposals were supposed to be a part of a larger package of agreements, they were never adopted due to the breakdown of the ministerial negotiations.

At the 2005 Hong Kong Ministerial Conference, Members reached agreement on five ASPs: access to WTO waivers; coherence; duty-free and quota-free treatment (DFQF) for LDC Members; Trade-Related Investment Measures (TRIMS); and flexibility for LDC Members that have difficulty implementing their WTO obligations. The decisions on these proposals are contained in Annex F of the Hong Kong Ministerial Declaration. Ministers at Hong Kong also instructed the CTD-SS to expeditiously complete the review of the outstanding ASPs and report to the General Council, with clear recommendations for a decision. With respect to the 38 Category II proposals, Ministers instructed the CTD-SS to continue to coordinate its efforts with relevant bodies to ensure that work was concluded and recommendations for a decision made to the General Council. Ministers also mandated the CTD-SS to resume work on all outstanding issues, including a proposal submitted in 2002 by the African Group to negotiate a Monitoring Mechanism for effective monitoring of S&D provisions.

Following the Hong Kong Ministerial, the CTD-SS conducted a thorough “accounting” of the remaining ASPs, working in conjunction with the relevant Chairs of the negotiating groups and Committees to which they had been referred, but consensus could not be reached on any of them. However, discussions continued on certain proposals that were revised and some of the Chairs of the negotiating bodies indicated that a number of the issues raised in the proposals formed an integral part of the ongoing negotiations.

At the Eighth Ministerial Conference in December 2011, Ministers agreed to expedite work to finalize the Monitoring Mechanism and to take stock of the Cancun 28 proposals. Members reached agreement on the establishment of the Monitoring Mechanism and adopted the corresponding text at the Ninth Ministerial in December 2013. As a result, regular meetings of the newly established Monitoring Mechanisms now take place in dedicated sessions of the Committee on Trade and Development. By contrast, Members did not reach convergence on the Cancun 28 ASPs, despite intensive engagement in 2013.

In July 2015, the G90 submitted new textual proposals on 25 S&D provisions. The CTD-SS worked intensively on these proposals during the fall of 2015. After numerous Members expressed concerns about the proposals, the G90 tabled 16 revised proposals in the lead up to MC10 in Nairobi. However, Members were not able to reach convergence on the revised proposals, based in part on major disagreement over whether the proposals should apply to all developing countries.

In 2016, the Chair consulted Members on possible ways forward. The Chair subsequently reported there was a lack of support for resuming work on the 25 ASPs. The Chair also noted divergent views among

Members on whether to discuss differentiation and whether to utilize the Monitoring Mechanism. A short discussion among Members highlighted strong disagreements regarding prospects for work in the CTD-SS without a real change in approach.

Major Issues in 2017

In July, the G90 tabled 10 ASPs as a potential deliverable at MC11. Eight of the 10 proposals were essentially the same as ASPs that did not gain consensus at MC10. The Chair held nine meetings to examine the ASPs, during which several Members repeatedly raised serious systemic concerns with the proposals. None of the ASPs were acceptable to Members, and a negotiated outcome on them is not possible.

Prospects for 2018

In 2018, the G90 is expected to seek to bring back discussion on its 10 ASPs. However, discussions in the CTD-SS have revealed a profound and often contentious disagreement among Members about the relationship between trade rules and development. This disagreement is further complicated by Members' divergent views on differentiation among the developing country Members. While this disagreement will not be resolved in the CTD-SS, it is certain to impact any attempt to undertake work in this body.

Nonetheless, the United States continues to view the Committee on Trade and Development's Monitoring Mechanism as a potentially useful forum for Members to raise concerns with the implementation of existing S&D provisions, as well as successes. Further, the Mechanism is not precluded from making recommendations to relevant WTO bodies, including recommendations that propose the initiation of negotiations aimed at improving the S&D provision.

C. Work Programs Established in the Doha Development Agenda

1. Working Group on Trade, Debt, and Finance

Status

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

Major Issues in 2017

The WGTDF met twice in 2017, on July 18 and November 8. At the meeting on July 18, 2017, Members reviewed progress reported by the expert group on trade finance. The Chairman also indicated that the Director-General held a private, informal round table on trade finance with senior officials from multilateral development banks (MDBs), on the margins of the 6th Global Aid for Trade Review, which the Secretary reported on. At this roundtable, senior officials from MDBs and the Director-General shared the same diagnosis on trade finance gaps. Many international banks had pulled back from developing countries' markets, which resulted in less access to credit in those countries, especially for small and medium-sized

enterprises (SMEs). As a result, the trade finance gap was very high, with SMEs traders being disproportionately affected. Members reported that SMEs faced challenges similar to those described by the Secretariat. In response to these challenges, some Members had put in place plans to promote financial access for SMEs and improve compliance of international financial rules.

The meeting on November 8, 2017 also focused on recent developments regarding trade finance gaps. The Secretariat mentioned the 2017 survey by the Asian Development Bank and related institutions. The Secretariat described progress in the Director General's initiative, but noted that a regulatory dialogue had become necessary on so-called sanction regulations which had been hindering trade finance supply. There were several comments and questions from Members, such as Brazil, Canada, Colombia, Ecuador and India. The Director-General was working at establishing an improved dialogue with high-level representatives of international regulatory bodies such as the Financial Stability Board. Questions were asked on the scope and content of the Director-General's proposed dialogue. Comments were generally supportive of the Director-General's efforts.

On November 8, 2017, the Working Group adopted its annual report for submission to the General Council.

Prospects for 2018

WGTFD Members are expected to maintain a principal focus on the trade finance aspects of the group's mandate during the course of 2018. The particular relevance of trade finance to the integration of SMEs in global trade appears to be of ongoing interest to a broad range of Members.

2. Working Group on Trade and Transfer of Technology

Status

During the 2001 Doha Ministerial Conference, WTO Ministers agreed to an “examination . . . of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries.” To fulfill that mandate, the TNC established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, and tasked the WGTTT to report on its progress to the 2003 Ministerial Conference at Cancun. At that meeting, Ministers extended the time period for the WGTTT's examination. WTO Ministers further continued this work during the 2005 Hong Kong Ministerial Conference and the 2013 Ministerial Conference in Bali.

Major Issues in 2017

The WGTTT met in March, June, and October of 2017. WTO Members continued their consideration of the relationship between trade and transfer of technology. However, there was only a low level of engagement by Members on this issue.

Prospects for 2018

No WGTTT meetings have been scheduled yet for 2018, and the status and future focus of the working group is not clear at this time.

3. Work Program on Electronic Commerce

Status

Throughout 2017, Members engaged in vigorous discussions of e-commerce issues, both in the context of the Work Program and in other fora. At the 11th Ministerial Conference in Buenos Aires in December 2017, Ministers agreed to continue the Work Program and maintain the current practice of not imposing customs duties on electronic transmissions. In addition, 70 Members, including the United States, committed to begin work toward future WTO negotiations on trade-related aspects of electronic commerce.

Major Issues in 2017

A number of WTO Members submitted negotiating proposals and discussion papers addressing various issues related to electronic commerce, but no proposals were ready for multilateral agreement in time for the Ministerial Conference in December. In 2016, the United States contributed a paper offering a range of e-commerce proposals. This paper included proposals to ensure cross-border information flows and to prohibit data localization requirements. The 2016 paper continued to inform U.S. engagement in the Work Program in 2017.

Prospects for 2018

Interested WTO members will begin discussions about potential future negotiations on e-commerce early in 2018. The United States will use these discussions to advance a free and fair environment for electronic commerce. As in the past, the General Council will continue to assess the Work Program's progress and consider any recommendations, including with respect to the status of the customs duties moratorium on electronic transmissions.

D. General Council Activities

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

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

Four major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, the Council for Trade-Related Aspects of Intellectual Property Rights, and the Trade Negotiations Committee. In addition, the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trade Agreements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore in 1996 to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council, although these groups have been inactive since the Cancun Ministerial Conference in 2003. A number of subsidiary bodies report to the General Council through the Council for

Trade in Goods or the Council for Trade in Services. The Doha Ministerial Declaration approved a number of new work programs and working groups with mandates to report to the General Council, such as the Working Group on Trade, Debt, and Finance and the Working Group on Trade and Transfer of Technology.

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus building. Throughout 2017, the Chairman of the General Council, together with the WTO Director General, conducted informal consultations with large groupings comprising the Heads of Delegation of the entire WTO Membership and as well as a wide variety of smaller groupings of WTO Members at various levels. The Chairman and Director General convened these consultations with a view to resolving outstanding issues on the General Council's agenda.

Major Issues in 2017

Activities of the General Council in 2017 included the following.

Implementation of the Bali and Nairobi Outcomes: The General Council discussed the status of implementation in each area agreed at the Ninth and Tenth WTO Ministerial Conferences in Bali and Nairobi in December 2013 and 2015, respectively.

Preparation for the MC11: In the fall of 2017, the major focus of the General Council was to prepare for MC11 in Buenos Aires, which took place December 10-13, 2017. This included both practical considerations, as well as extensive discussions on the possible negotiated outcomes for MC11.

Work begun under the Doha Work Program: The General Council continued its discussions, first established under the Doha agenda, related to small economies, LDCs, Aid for Trade, and the development assistance aspects of cotton and e-commerce.

WTO Accessions: A new chairperson was named by the General Council to lead discussions on Bosnia and Herzegovina's accession to the WTO.

Waivers of Obligations: The General Council adopted decisions concerning the introduction of Harmonized System 2002, 2007, 2012 and 2017 nomenclature changes into WTO schedules of tariff concessions. The General Council also reviewed a number of previously agreed waivers, including the U.S. waiver related to the African Growth and Opportunity Act. Annex II of this report contains a detailed list of Article IX waivers currently in force.

Trade Restrictions: The United States raised the African Union levy proposal and the need for it to be implemented in a transparent and WTO consistent manner.

Prospects for 2018

In addition to its management of the WTO and oversight of implementation of the WTO Agreement, the General Council will have detailed discussions throughout the year to implement the decisions taken at MC11 in Buenos Aires.

E. Council for Trade in Goods

Status

The WTO Council for Trade in Goods (CTG) oversees the activities of 12 committees (Agriculture, Antidumping Practices, Customs Valuation, Import Licensing, Information Technology, Market Access, Rules of Origin, Safeguards, Sanitary and Phytosanitary Measures, Subsidies and Countervailing Measures, Technical Barriers to Trade, and Trade-Related Investment Measures) and the Working Party on State Trading Enterprises.

The CTG is the central oversight body in the WTO for all agreements related to trade in goods and the forum for discussing issues and decisions that may ultimately require the attention of the General Council for resolution or a higher-level discussion, and for putting issues in a broader context of the rules and disciplines that apply to trade in goods.

Major Issues in 2017

In 2017 the CTG held four formal meetings, in April, May, June, and November. The CTG devoted its attention primarily to providing formal approval of decisions and recommendations proposed by its subsidiary bodies. The CTG also served as a forum for raising concerns regarding actions that individual Members had taken with respect to the operation of goods-related WTO agreements. In 2017, this included extensive discussions initiated by the United States and other WTO Members on Indonesia's policies restricting imports and exports; the Russian Federation's trade restricting measures; Nigeria's import restrictions, bans, and local content requirements; China's trade distorting measures; and India's import restricting practices, among other serious market access issues. In addition, three other major issues were discussed in the CTG in 2017:

Waivers: In light of the introduction of Harmonized System (HS) 2002, 2007, 2012, and 2017 changes to the Schedules of Tariff Concessions, the CTG approved four collective requests for extensions of waivers related to the implementation of the Harmonized Tariff System. The CTG forwarded these approvals to the General Council for adoption.

EU Enlargement: In accordance with procedures under Article XXVIII:3 of the GATT 1994, the CTG considered and approved the EU's requests to extend the time period for the withdrawal of concessions regarding the 2013 enlargement to include Croatia.

EAEU Enlargement: In accordance with procedures under Article XXVIII:3 of the GATT 1994, the CTG considered and approved Armenia and the Kyrgyz Republic's requests to extend the time period for the withdrawal of concessions regarding their respective accessions to the Eurasian Economic Union (EAEU).

Prospects for 2018

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

1. Committee on Agriculture

Status

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

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

Major Issues in 2017

The Agriculture Committee held three formal meetings, in March, June, and October 2017, to review progress on the implementation of commitments negotiated in the Uruguay Round. At the meetings, Members undertook reviews based on notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments.

In total, 140 notifications were subject to review during 2017. The United States participated actively in the review process and raised specific issues concerning the operation of Members' agricultural policies. For example, the United States regularly raised points with respect to domestic support of many Members, including Argentina, Brazil, Canada, Chile, Costa Rica, the European Union, India, Israel, Panama, Peru, the Russian Federation, Japan, Turkey, Zambia, and the United Arab Emirates. The United States used the review process to question Canada's dairy and wine policies; India's price support policies; Brazil's Program for Product Flow (PEP – *Prêmio para Escoamento do Produto*) and Program for Producer-paid Equalization Subsidy (PEPRO – *Prêmio de Equalização pago ao Produtor*) for rice, wheat, and corn; Indonesia's dairy policies; Thailand's rice policies and feed wheat regulation; Russia's subsidy program; and the Philippines' rice waiver. The United States raised questions with respect to tariff-rate-quota fill issues with Norway and Iceland. Finally, the United States raised questions with South Africa's food aid notification to ensure it was consistent with WTO practices, and encouraged countries including India, Thailand, and Turkey to bring their notifications up to date.

During 2017, the Agriculture Committee addressed a number of other issues related to the implementation of the Agreement on Agriculture, including convening the fourth annual dedicated discussion on export competition, as follow-up to the Bali and Nairobi Ministerial outcomes. The United States used this process to question export credit programs of Argentina, Australia, Brazil, Canada, China, the EU, and India, and international food aid policies of Canada and the EU to ensure that Member's policies are aligned with the Bali and Nairobi export competition outcomes.

Prospects for 2018

The United States will continue to make full use of the Agriculture Committee to promote transparency through timely notification by Members and to enhance surveillance of Uruguay Round commitments as

they relate to export subsidies, market access, domestic support, and trade-distorting practices of WTO Members. The United States will also work with other Members as the Agriculture Committee continues to implement Bali and Nairobi Ministerial decisions. In addition, the United States will continue to work closely with the Agriculture Committee Chair and Secretariat to find ways to improve the timeliness and completeness of notifications and to increase the effectiveness of the Committee overall.

The Agriculture Committee will continue to monitor and analyze the impact of Measures Concerning the Possible Negative Effects of the Reform Program on LDCs and NFIDCs in accordance with the Agriculture Agreement. The Committee agreed to hold regular meetings in February, June, September, and November of 2018.

2. Committee on Market Access

Status

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

Major Issues in 2017

The MA Committee held two formal meetings, in May and September 2017, and four informal sessions or consultations, to discuss the following topics: (1) ongoing and future work on WTO Members' tariff schedules to reflect changes to the HS tariff nomenclature and any other tariff modifications; (2) the WTO Integrated Data Base (IDB) and Consolidated Tariff Schedules (CTS) database; (3) Member notifications of quantitative restrictions; and (4) other market access issues and specific trade concerns as raised by Members.

Updates to the HS nomenclature: The MA Committee examines issues related to the transposition and renegotiation of the schedules of Members that adopted the HS in the years following its introduction on January 1, 1988. Since then, the World Customs Organization has amended the HS tariff classification system relating to tariff nomenclature in 1996, 2002, 2007, 2012, and 2017. Using agreed examination procedures, WTO Members have the right to object to modifications in another Member's tariff schedule that result from changes in the HS nomenclature, if such modifications affect the Member's bound tariff commitments. Members may pursue unresolved objections under Article XXVIII of GATT 1994. Given the technical nature of this work, these reviews are often time-consuming, but this is an important aspect of enforcing WTO Members' trade commitments.

In 2017, the MA Committee continued its work concerning the introduction and verification of HS2002 changes to Members' WTO tariff schedules. Throughout the year, the United States worked closely with other Members and the WTO Secretariat to ensure that all Members' bound tariff commitments are properly reflected in their updated schedule. Following a review process that took many years, the Committee finally approved China's HS2002 bound—the first such update to its WTO schedule following China's Accession. China must still submit its approved schedule to the WTO for certification in early 2018. To date, there are only two HS2002 files outstanding—the Philippines and Venezuela.

Multilateral review of tariff schedules under the HS2007 procedures continued at informal Committee meetings throughout 2017. The multilateral verification process in the Committee will be ongoing through

2018. The U.S. 2007 transposition file was circulated for multilateral review and approved by the Committee during the first half of 2015.

In preparation for the HS2017 nomenclature changes, the Committee adopted a decision (G/MA/W/124, G/MA/W/124/CORR.1) regarding the introduction of HS2017 changes into Members' schedules of concessions. However, that work will not commence for some time in the Committee since the Committee is in the midst of updating Members' bound commitments into HS2007 nomenclature. This lag can create difficulties in determining whether Members' MFN duties – which were applied in HS2017 nomenclature beginning January 1, 2017 – are consistent with their WTO bound commitments. The United States submitted its tariff schedule in HS2017 nomenclature to the WTO Secretariat in September 2017.

Integrated Data Base (IDB): Members are required to notify information on annual tariffs and trade data, linked at the level of tariff lines, to the IDB as a result of a General Council Decision adopted in July 1997. On the tariff side, the IDB contains MFN current bound duties and MFN current applied duties. Additional information covering preferential duties is also included if provided by Members. On the trade side, it contains value and quantity data on imports by country of origin by tariff line. The WTO Secretariat periodically reports on the status of Member submissions to the IDB, the most recent of which can be found in WTO document G/MA/IDB/2/Rev.43 and 44. The United States notifies this data in a timely fashion every year. However, several other WTO Members are not up to date in their submissions. The public can access tariff and trade data notified to the IDB through the WTO's Tariff Online Analysis (TAO) facility at <https://tariffanalysis.wto.org>.

Consolidated Tariff Schedules (CTS) database: The MA Committee continued work on implementing an electronic structure for tariff and trade data. The CTS database includes tariff bindings for each WTO Member that reflect its Uruguay Round tariff concessions, HS 1996, 2002, and 2007 amendments to tariff nomenclature and bindings, and any other Member rectifications/modifications to its WTO schedule (*e.g.*, participation in the Information Technology Agreement). The database also includes agricultural support tables.

Notification Procedures for Quantitative Restrictions (QRs): On December 1, 1995, the Council for Trade in Goods adopted a revised Decision on Notification Procedures for Quantitative Restrictions. On 3 July 2012, the Council for Trade in Goods adopted a Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1), which provides that WTO Members should make complete notifications of the quantitative restrictions (QRs), which they maintain at two-year intervals thereafter, and shall notify changes to their QRs when these changes occur.

Under the revised notification procedures for quantitative restrictions, the Committee continued to examine the quantitative restrictions notifications submitted by Members (G/MA/QR/4). The United States most recently notified its quantitative restrictions for the 2016-2018 cycle. In 2017, the United States reiterated questions on Brazil's QR notification given the existence of non-notified measures that may qualify as quantitative restrictions. The United States also urged Members to comply with their QR notification commitments, as the absence of timely notifications by Members has become a concern. The Committee dedicated a session to discuss ways to improve the QR notifications process and to improve compliance with the notification obligations.

Other Market Access Issues: Working with other Members, the United States raised strong concerns in the Committee regarding India's decision to impose import tariffs on certain telecommunication products covered under the Information Technology Agreement (ITA), as well as India's tariff increases in a number of sectors that impact U.S. exports to India. The United States also raised concerns regarding Chinese duties on integrated circuits and an Argentinian law on auto parts.

Prospects for 2018

The ongoing work program of the MA Committee, while highly technical, aims to ensure that all WTO Members are honoring and implementing their WTO market access commitments, and that their schedules of tariff commitments are up to date and available in electronic spreadsheet format. The Committee will continue its work to finalize Members' amended schedules based on the HS2002 amendments, continue work on the transposition of Members' tariff schedules to HS2007 nomenclature, and begin work on 2012 and possibly 2017 schedules.

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

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

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

Major Issues in 2017

In 2017, the SPS Committee held meetings in March, July, and November. In these meetings, Members exchanged views regarding the implementation of key SPS Agreement provisions such as risk assessment, transparency, use of international standards, equivalence, and regionalization. Further, the United States, with a view to transparency, informed the SPS Committee of U.S. measures, both new and proposed.

The United States views these exchanges as useful, as they facilitate ongoing familiarity with the provisions of the SPS Agreement and increased recognition of the value of the SPS Committee as a forum for Members to discuss SPS-related trade issues. Many Members, including the United States, utilized these meetings to raise concerns regarding new and existing SPS measures of other Members. In 2017, the United States raised a number of trade concerns with existing or proposed measures of other Members, including proposed changes by China relating to official certification requirements for imported food, China's restrictions on U.S. poultry exports ostensibly related to Highly Pathogenic Avian Influenza (HPAI), India's methyl bromide fumigation requirements, France's ban on U.S. exports of cherries, and the EU's hazard-based pesticide policies, particularly its proposal to assess, classify and regulate chemicals classified as endocrine disruptors.

The United States continued to use the standing agenda item “Monitoring the Use of International Standards” to raise concerns with the trade consequences of the failure to use international standards. In 2017, the United States encouraged the use of the international standards to avoid burdensome requirements for official export certification imposing unjustified trade restrictions (e.g., those imposed for HPAI, Bovine Spongiform Encephalopathy (BSE), and the use of the herbicide Glyphosate.)

The SPS Committee also regularly holds thematic sessions and workshops on the margins of its formal meetings to afford the opportunity for Members to explore specific topics in-depth, including with national and international subject matter experts. In March 2017, the Committee held a thematic discussion on national experiences regarding implementation of the Committee’s 2008 recommendation on notification of “trade-facilitating measures” contained in G/SPS/7/Rev.3. In July 2017, the Committee held a thematic discussion on regionalization relating to animal diseases. In November 2017, the Committee held a workshop on transparency, including a focus on national mechanisms for public consultation.

Following the workshop on the trade impact of issues related to the establishment and use of maximum residue limits (MRLs) for pesticides held by the Committee on the margins of its October 2016 meeting, pesticide-related trade issues continued to feature prominently in the Committee’s discussions in 2017. These discussions centered on recommendations for voluntary actions to address missing and misaligned MRLs contained in the joint submission from the United States, Kenya and Uganda, G/SPS/W/292. Given the broad support for these recommendations in discussions at the March and July Committee meetings, in October 2017, the United States, Kenya and Uganda proposed to submit the recommendations to the Eleventh Ministerial Conference (MC11) for adoption as a decision (G/SPS/W/292/Rev.1). Despite strong support in the Committee for the proposed ministerial decision at its November meeting, consensus to forward the decision to MC11 was blocked by the European Union, India and the Russian Federation. Instead, 17 ministers issued a joint statement at MC11 in WT/MIN(17)/52. In the joint statement, these ministers noted that farmers’ access to tools and technologies should not be undermined by non-science based SPS measures and supported the MRL-related recommendations as put forward by Kenya, Uganda and the United States in G/SPS/W/292/Rev.1.

Following nearly four years of stalemate on recommendations relating the role of the SPS Committee with respect to private and commercial standards, the Committee finally concluded work in 2017 on its report of the SPS Committee’s fourth review of the implementation of the SPS Agreement. The United States facilitated the Committee’s conclusion and adoption of this report through a submission outlining various options in G/SPS/W/291.

Notifications: Because it is critical for trading partners to know and understand each other’s laws and regulations, the SPS notification process, with the Committee’s consistent encouragement, is a significant mechanism in the facilitation of international trade. The process also provides a means for Members to report on determinations of equivalence and S&D. The United States made 84 SPS notifications to the WTO Secretariat in 2017, and submitted comments on 128 SPS measures notified by other Members.

Prospects for 2018

The SPS Committee will hold three meetings in 2018 with informal sessions and thematic sessions anticipated to be held in advance of each meeting. The Committee has a standing agenda for meetings that can be amended to accommodate new or special issues. The SPS Committee will continue to monitor Members’ implementation activities, and the discussion of specific trade concerns will continue to be an important part of the Committee’s activities.

In 2018, the SPS Committee will also continue to monitor the use by Members, and development by Codex, the OIE, and the IPPC, of international standards, guidelines, and recommendations. We expect the Committee to continue its work on trade issues related to pesticide MRLs in 2018.

4. Committee on Trade-Related Investment Measures

Status

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

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

Major Issues in 2017

The TRIMS Committee held two formal meetings during 2017, in May and November, during which the United States and other Members continued to discuss particular local content measures of concern to the United States. The United States explored these concerns through questions to certain countries to seek a better understanding of a variety of potentially trade-distortive local content requirements.

The United States raised three new issues in the TRIMS Committee during 2017: Indonesia's apparent local content requirements related to the importation and distribution of dairy products; Nigeria's guidelines on local content for information and communications technology; and recent measures by Turkey apparently requiring localization in the pharmaceutical sector.

Other local content measures discussed by the Committee remain in place despite having been raised in the Committee for several years. For example, the United States, joined by Japan, the EU, and other Members, continued to raise longstanding concerns about possible local content requirements in Indonesia's measures pertaining to 4G LTE equipment, mineral and coal mining and oil and gas exploration, and the telecommunications sector. The United States also posed questions to the Russian Federation on programs related to SOE purchases generally, and to SOE purchases of agricultural equipment specifically, in order to determine whether these programs are conditioned on use of local content. Finally, the United States also raised concerns about a proposal by China that would appear to require acquisition of domestically produced technology and software by investors in the insurance sector.

Prospects for 2018

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

5. Committee on Subsidies and Countervailing Measures

Status

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

Major Issues in 2017

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two regular meetings and two special meetings in 2017, in April and October. The SCM Committee continued to review the consistency of Members’ domestic laws, regulations, and actions with the SCM Agreement’s requirements, as well as Members’ notifications of their subsidy programs to the SCM Committee. Other items addressed in the course of the year included: the fifth “counter notification” by the United States of unreported subsidy measures in China and questions to China on potential subsidies to its steel industry; examination of ways to improve the timeliness and completeness of subsidy notifications; the “export competitiveness” of India’s textile and apparel sector; “graduation” of certain developing countries from Annex VII(b) of the SCM Agreement; a second submission by the European Union, Japan, Mexico and the United States on contributing factors to overcapacity in a number of industrial sectors; a U.S. proposal to enhance the transparency of fisheries subsidies notifications; review of the export subsidy program extension mechanism for certain small economy developing country Members; and an opening on the five-member Permanent Group of Experts. Further information on these various activities is provided below.

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

In reviewing notified countervailing duty legislation and subsidies, SCM Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the SCM Agreement. As of October 2017, 110 WTO Members (counting the EU as a single Member) have notified their countervailing duty legislation or lack thereof, and 26 Members have so far failed to make a legislative notification.⁵⁰ In 2017, the SCM Committee reviewed notifications of new or amended countervailing duty laws and regulations from Armenia, Brazil, Cameroon, El Salvador, the European Union, India, Japan, Kyrgyz Republic, New Zealand, and the Russian Federation.

As for countervailing duty measures, 12 Members notified countervailing duty actions they took during the latter half of 2016, and 11 Members notified actions they took in the first half of 2017. The SCM Committee

⁵⁰ These notifications do not include notifications submitted by Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, and Slovenia before these Members acceded to the European Community.

reviewed actions taken by: Armenia, Australia, Brazil, Canada, China, Egypt, the European Union, Kazakhstan, Kyrgyz Republic, Pakistan, Peru, the Russian Federation, Turkey, and the United States.

In 2017, the SCM Committee examined dozens of new and full subsidy notifications covering various time periods. Unfortunately, numerous Members have not submitted a notification in many years or have yet to make even an initial subsidy notification to the WTO, although many of them are least-developed country Members.

Counter notifications and questions to China: Under Article 25.1 of the SCM Agreement, Members are obligated to regularly provide a subsidy notification to the SCM Committee. Prior to October 2011, China had only submitted a single subsidy notification, in 2006 (covering the years 2001 – 2004). The United States and other Members have repeatedly expressed deep concern about the notification record of China and India (among others). During the 2010 fall meeting of the SCM Committee, the United States foreshadowed potential resort to the counter notification mechanism under Article 25.10 of the SCM Agreement. This provision states that when a Member fails to notify a subsidy, any other Member may bring the matter to the attention of the Member failing to notify.

Pursuant to Article 25.10, the United States filed counter notifications in October 2011 with respect to over 200 unreported subsidy measures in China and 50 unreported subsidy measures in India – the first counter notifications ever filed by the United States. Although not required by the SCM Agreement, included as part of the counter notification of China was access to translations of each measure in the counter notifications. While China submitted its second subsidy notification (covering 2005 – 2008) shortly after the U.S. counter notification, it covered very few of the subsidy programs referenced in the U.S. counter notification.

In the fall of 2014, the United States submitted its second counter notification of subsidy measures in China. This counter notification was based on the Article 25.8 questions submitted to China in October 2012. Because China did not respond to these questions after two years, the United States was compelled to counter notify the measures at issue. This counter notification included 110 subsidy measures, covering, *inter alia*, steel, semiconductors, non-ferrous metals, textiles, fish, and various sector-specific stimulus initiatives. As part of this counter notification, the United States provided hyperlinks in its submission to complete translations of each measure counter notified.

In the fall of 2015, the United States submitted its third counter notification of subsidy measures in China. All of the measures in this counter notification pertain to China’s policy of promoting its “strategic, emerging industries” (SEI). This counter notification was based on the Article 25.8 questions submitted to China in the spring of 2014. Once again, because China did not respond to these questions, the United States was compelled to counter notify the measures at issue. Over 60 subsidy measures were included in the counter notification. The specific sectors China has selected as SEIs include the following: (1) new energy vehicles, (2) new materials (a category that includes textile products), (3) biotechnology, (4) high-end equipment manufacturing, (5) new energy, (6) next generation information technology, and (7) energy conservation and environmental protection. As with other industrial planning measures in China, sub-central governments appear to play an important role in implementing China’s SEI policy. While China submitted its third subsidy notification (covering 2009 – 2014) shortly after the third U.S. counter notification, it covered very few of the subsidy programs referenced in the U.S. counter notifications.⁵¹

⁵¹ In the summer of 2016, China submitted its first subsidy notification covering sub-central government subsidy programs since becoming a WTO Member in 2001. While this is a positive development, the number and range of programs covered appears to be a tiny fraction of the programs administered at the sub-central levels of government. Some subsidy programs in this notification were first raised in WTO dispute settlement cases brought by the United States, or one or more of the counter notifications submitted by the United States.

In the spring of 2016, the United States submitted its fourth counter notification of subsidy measures in China. All of the measures in this counter notification pertain to China's fisheries subsidies. This counter notification was based on Article 25.8 questions submitted to China in the spring of 2015. Once again, because China did not respond to these questions, the United States was compelled to counter notify the measures at issue. The measures counter notified included measures to support fishing vessel acquisition and renovation; a 100 percent corporate income tax exemption; grants for new fishing equipment; subsidies for insurance; subsidized loans for processing facilities; fuel subsidies; preferential provision of water, electricity, and land; grants to explore new offshore fishing grounds; grants for establishing famous brands; and special funds for strategic emerging industries in the marine economy. Over 40 subsidy measures were included in the counter notification. Full translations of each measure, though not required under the Subsidies Agreement, were included in the counter notification.

In April 2017, the United States submitted its fifth counter notification of subsidy measures in China pertaining to China's Internationally Well-Known Brand program. This program appears to be the successor program to China's Famous Export Brand program, which China effectively agreed to terminate in the context of a dispute brought by the United States alleging that the program provided export subsidies to large exporters. To provide a more comprehensive perspective of China's "brand" programs, and to establish the facts surrounding the successor program, the United States submitted its counter notification under Article 25.10 of the SCM Agreement. The submission contained eighty measures, including translations of all the implementing measures.

Taking all five counter notifications into account, the United States has now counter notified nearly 500 Chinese subsidy measures. As noted, China has included in its subsidy notifications only a small number of programs identified by the United States in its counter notifications, and has argued that other measures counter notified have, in fact, previously been notified or did not provide any financial support or have been terminated. However, China has refused to engage in bilateral technical discussions to address any of these issues.

Finally, in April 2017, the United States and the European Union jointly submitted Article 25.8 questions to China on potential subsidies provided to its steel industry. In prior meetings of the SCM Committee, China stated that it only provided subsidies to its steel companies under three broadly available (*i.e.*, non-specific) programs. In light of this statement, the United States, along with the European Union, requested information on nearly 160 apparent subsidy programs maintained by the government of China. All of these programs were listed in the annual reports of several steel companies and many appear to meet the notification requirements set forth under Article 25 of the Subsidies Agreement. Given the worldwide overcapacity in the steel industry, the United States believes that it is critical for China to respond to this request for information and appropriately notify all subsidies received by its steel industry in accordance with China's obligations.

Notification improvements: In March 2009, the Chairman of the Trade Policy Review Body, acting through the Chairman of the General Council, requested that all committees discuss "ways to improve the timeliness and completeness of notifications and other information flows on trade measures." The United States fully supported the continuation of this initiative in 2016 in light of Members' poor record in meeting their subsidy notification obligations. In 2010, the United States took the initiative under this agenda item to review the subsidy notification record of several large exporters in failing to provide complete and timely subsidy notifications. Of primary concern in this regard was China. As noted above, the United States continues to devote significant time and resources to researching, monitoring, and analyzing China's subsidy practices. The United States has also been working with several other larger exporting countries bilaterally to assist and encourage them to meet their subsidy notification obligations.

In 2011, the United States submitted a specific proposal under Article 25.8 of the SCM Agreement to strengthen and improve the notification procedures of the SCM Committee. As noted above, under Article 25.8, any Member may make a written request for information on the nature and extent of a subsidy subject to the requirement of notification. Unfortunately, many requests under Article 25.8 have not been answered or are only partially answered orally after significant delay. To address this problem, the United States proposed that the SCM Committee establish deadlines for the submission of written answers to Article 25.8 questions and include all unanswered Article 25.8 questions on the bi-annual agendas of the SCM Committee until the questions are answered.⁵² In 2016, the United States continued to advocate for a revised proposal, which sets out specific deadlines for responses to questions.⁵³ Many Members supported the proposal, while several other Members, such as China, India, South Africa, and Brazil, voiced concerns. In recognition of the concern raised by some developing country Members that strict deadlines for responding to 25.8 questions would be overly burdensome, in 2017, the United States submitted a revised proposal that would allow Members to mutually agree to an appropriate timeframe to respond to such questions.⁵⁴ Notably, far fewer Members raised concerns with the revised proposal than had previously done so, with only one Member expressing outright opposition.

The “export competitiveness” of India’s textile and apparel sector: Under the SCM Agreement, developing countries receive special and differential treatment with respect to certain subsidy disciplines under Article 27. For developing countries listed in Annex VII of the SCM Agreement, which includes India, the general prohibition on export subsidies does not apply until: (1) per capita GNP reaches a designated threshold of \$1,000 per annum, or (2) eight years after the country achieves “export competitiveness” for a particular product. Article 27.6 of the SCM Agreement defines export competitiveness as the point when an exported product reaches a share of 3.25 percent of world trade for two consecutive calendar years. Export competitiveness is determined to exist either via notification by the Annex VII developing country having reached export competitiveness or on the basis of a computation undertaken by the WTO SCM Committee Secretariat at the request of any Member.

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

“Graduation” from Annex VII (b) of the SCM Agreement: Annex VII of the SCM Agreement identifies certain lesser developed country Members that are eligible for particular special and differential treatment. Specifically, the export subsidies of these Members are not prohibited, and therefore, are not actionable as prohibited subsidies under the dispute settlement process. The Members identified in Annex VII include those WTO Members designated by the United Nations as “least-developed countries” (Annex VII(a)) as well as countries that had, at the time of the negotiation of the SCM Agreement, a per capita GNP under \$1,000 per annum and are specifically listed in Annex VII(b).⁵⁵ A country automatically “graduates” from

⁵² G/SCM/W/555; 21 October 2011.

⁵³ G/SCM/W/557/Rev.1; September 22, 2014.

⁵⁴ G/SCM/W/557/Rev.2; October 19, 2017.

⁵⁵ Members initially listed in Annex VII(b) were: Bolivia, Cameroon, Congo, Cote d’Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines,

Annex VII(b) status when its per capita GNP rises above the \$1,000 threshold. In 2001, at the WTO Fourth Ministerial Conference in Doha, decisions were made, which, *inter alia*, led to the adoption of an approach to calculate the \$1,000 threshold in constant 1990 dollars and to require that a Member be above this threshold for three consecutive years before graduation. The WTO Secretariat updated these calculations in 2017.⁵⁶ Importantly, these latest calculations show that India has now “graduated” from Annex VII(b) and should now terminate all of its export subsidies in all sectors (not just textiles and apparel, as discussed above).⁵⁷

Extension of the transition period for the phase out of export subsidies: Under the SCM Agreement, most developing country Members were obligated to eliminate their export subsidies by December 31, 2002. To address the concerns of certain small economies, a special procedure within the context of Article 27.4 of the SCM Agreement was adopted at the 2001 Doha Ministerial Conference to provide for facilitated annual extensions of the time available to eliminate certain notified export subsidies.⁵⁸ In 2007, the General Council, acting on an SCM Committee recommendation, decided to extend the application of the special procedure. An important outcome of these negotiations, upon which the United States and other developed and developing countries insisted, was that the beneficiaries must eliminate all export subsidy programs no later than 2015 and that they will have no recourse to further extensions beyond 2015. In 2017, the SCM Committee continued its efforts to ensure that all extension recipients either had terminated the programs at issue or were in the process of doing so. As agreed to by Members in 2016, the WTO Secretariat circulated a report indicating the current status of notifications and of actions reported by Members who were given extensions under Article 27.4.⁵⁹

Overcapacity submission: At the spring meeting of the SCM Committee, a follow-up paper on the problem of overcapacity in certain sectors (*e.g.*, steel and aluminum) was submitted by the European Union, Japan and the United States. This paper described in greater detail the role of subsidies in creating overcapacity and discussed options for addressing this issue in the SCM Committee and through possible amendments to the SCM Agreement. It also called upon Members to heed the call of world leaders in the G20 for transparency and collective action to tackle harmful subsidies that contribute to severe overcapacity experienced in several sectors today. Prior to the fall meeting of the SCM Committee, the United States and the EU organized a panel discussion on this topic, which included academics and international trade lawyers. The purpose of the seminar was to have experts address the relationship between subsidies and overcapacity from different perspectives and consider how the SCM Agreement could be strengthened and improved to address the problem.

Enhanced Fisheries Subsidies Notification: In light of the rapid depletion of global fisheries, the role of fishery subsidies in facilitating overfishing and overcapacity, and the difficulty of reaching agreement on stricter rules limiting fishery subsidies at the WTO, the United States has proposed as a realistic and practical first step that WTO Members consider providing additional information (*e.g.*, information beyond that required under the Subsidies Agreement) when notifying their fisheries subsidies. The United States has noted that additional information regarding, for example, the health of the relevant fish stocks and the applicable management regime, could be voluntarily included in a Member’s regular subsidy notification.

Senegal, Sri Lanka, and Zimbabwe. In recognition of the technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

⁵⁶ See G/SCM/110/Add.14.

⁵⁷ Excluding India, the other countries that have graduated from Annex VII(b) are: Dominican Republic, Egypt, Guatemala, Morocco, Philippines and Sri Lanka.

⁵⁸ Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Uruguay have made yearly requests since 2002 under these special procedures.

⁵⁹ RD/SCM/29/Rev.1, April 24, 2017.

Many Members spoke in favor of developing such an approach, while others, such as China and India expressed reservations.

Permanent Group of Experts: Article 24 of the SCM Agreement directs the SCM Committee to establish a Permanent Group of Experts (PGE), “composed of five independent persons, highly qualified in the fields of subsidies and trade relations” and that “[t]he experts will be elected by the Committee and one of them will be replaced every year.” The SCM Agreement articulates three possible roles for the PGE: (1) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy within the meaning of Article 3 of the SCM Agreement; (2) to provide, at the request of the SCM Committee, an advisory opinion on the existence and nature of any subsidy; and (3) to provide, at the request of a Member, a “confidential” advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. To date, the PGE has not yet been called upon to perform any of the aforementioned duties.

At the beginning of 2017, the members of the Permanent Group of Experts were: Mr. Welber Barral (Brazil), Mr. Chris Parlin (United States), Mr. Subash Pillai (Malaysia), Mr. Ichiro Araki (Japan), and Ms. Luz Elena Reyes de la Torre (Mexico). In the spring of 2017, the term of Mr. Barral expired. However, the SCM Committee was unable to agree on a replacement, so his position remained open. Therefore, at the end of 2016, the four members of the PGE were: Mr. Chris Parlin (until 2018), Mr. Subash Pillai (until 2019), Mr. Ichiro Araki (until 2020) and Ms. Luz Elena Reyes de la Torre (2021).

Prospects for 2018

In 2018, the United States will follow up on the questions submitted to China on possible subsidy programs to its steel industry that China has not notified; continue to analyze the latest subsidy notifications submitted by China, particularly China’s first sub-central notification; and examine new programs being implemented under the 13th Five Year Plan, especially those that may be prohibited under the SCM Agreement. The United States will also continue to engage India bilaterally to commit to the termination of all of its export subsidy programs as it is now obligated to do following its graduation from Annex VII(b). More generally, the SCM Committee will continue to work in 2018 to improve the timeliness and completeness of Members’ subsidy notifications and, in particular, will continue to discuss the proposal made by the United States to improve and strengthen the SCM Committee’s procedures under Article 25.8 of the SCM Agreement. As to the proposal to enhance the transparency of fisheries subsidies, the United States will work with like-minded Members to develop specific elements for inclusion in an enhanced fisheries subsidies notification. Finally, the subsidy notification of the United States, covering fiscal years 2014 and 2015, will be submitted in 2018.

6. Committee on Customs Valuation

Status

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

Major Issues in 2017

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2017. The Valuation Agreement also established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO), with a view to ensuring, at the technical level, uniformity in interpretation and application of the Valuation Agreement. The Technical Committee held two meetings in 2017.

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

No Members currently maintain the Special & Differential Treatment (S&D) reservation concerning the use of minimum values, which is a practice inconsistent with the obligations of the Valuation Agreement. However, there are still Members employing these practices, which continue to create concerns for traders.

The United States has used the Customs Valuation Committee to address concerns on behalf of U.S. exporters across all sectors – including agriculture, automotive, textile, steel, and information technology – that have experienced difficulties related to the conduct of customs valuation and preshipment inspection regimes.

Achieving universal acceptance of the Valuation Agreement was an objective of the United States in the Uruguay Round. The Valuation Agreement was initially negotiated in the Tokyo Round, but until entry into force of the WTO Agreement, adherence to it was voluntary. A proper valuation methodology, avoiding arbitrary determinations or officially established minimum import prices, is essential for the realization of market access commitments. Furthermore, the implementation of the Valuation Agreement often is an initial concrete and meaningful step by developing country Members toward reforming their customs administrations, diminishing corruption, and ultimately moving to a rules-based trade facilitation environment.

An important part of the Customs Valuation Committee's work is the examination of customs valuation legislation to implement Valuation Agreement commitments and individual Member practices. As of December 2017, 98 Members had notified their national legislation on customs valuation (these figures do not include the 28 individual EU Member States, which also are WTO Members). In addition, 67 Members have notified or updated its "Implementation and Administration of the Agreement on Customs Valuation" checklist of issues created by the Tokyo Round Committee on May 5, 1981. Thirty-five Members have not yet made any notification of their national legislation on customs valuation. At the Committee's May and November 2017 meetings, the Committee undertook its examination of the customs valuation legislation of: the Kingdom of Bahrain, Belize, the Gambia, Guinea, Honduras, Kazakhstan, Malawi, Nepal, Nigeria, Russian Federation, Rwanda, Solomon Islands, Sri Lanka, and Ukraine. In addition, the Committee concluded the review of the national legislation of Cabo Verde, Colombia, Montenegro, and Nicaragua. Where the Committee's examination of these Members' customs valuation legislation was not concluded because of outstanding responses, or Members have reverted in 2017, the examination will continue in 2018.

Working with information provided by U.S. exporters, the United States played a leading role in these examinations, submitting in some cases detailed questions as well as suggestions for improved implementation. In addition to its examination of Members' customs valuation legislation, the United States submitted and is still awaiting replies to questions to Indonesia and Egypt requesting notification of its preshipment inspection program to the Committee.

The Customs Valuation Committee's work throughout 2017 continued to reflect a cooperative focus among all Members to ensure implementation of the Valuation Agreement. The Committee also took note of technical assistance activities carried out by the Secretariat of the WCO and its Members related to customs valuation. The Committee also noted that technical assistance in the area of customs valuation is now incorporated into the WTO-wide technical assistance program, which encompasses regional activities on market access issues, including customs valuation.

Prospects for 2018

The Customs Valuation Committee's work in 2018 will include reviewing the relevant implementing legislation and regulations notified by Members, along with addressing any further requests by other Members concerning implementation deadlines. The Committee will monitor progress by Members with regard to their respective work programs that were included in the decisions granting transitional reservations or extensions of time for implementation. In this regard, the Committee will continue to provide a forum for sustained focus on issues arising from practices of Members with regard to their implementation of the Valuation Agreement, to ensure that Members' customs valuation regimes do not utilize arbitrary or fictitious values, such as through the use of minimum import prices. In addition, the United States will continue to showcase the benefits of advance rulings on valuation for traders and customs administrations, including by sharing best practices and experience. Further, the United States will continue to emphasize the synergy between the Customs Valuation Agreement and the TFA. In particular, as part of Technical Assistance discussions in the Customs Valuation Committee, the United States intends to continue exploring using TFA technical assistance capacity building to further Members' understanding and compliance with the Valuation Agreement in order to address technical assistance issues, which the Committee considers as a matter of high priority.

7. Committee on Rules of Origin

Status

The Agreement on Rules of Origin (ROO Agreement) provides for increased transparency, predictability, and consistency in both the preparation and application of rules of origin. The ROO Agreement provides important disciplines for conducting preferential and non-preferential origin regimes, such as the obligation on Members to provide, upon request of a trader, an assessment of the origin their authorities would accord to a good within 150 days of that request. In addition to setting forth disciplines related to the administration of rules of origin, the ROO Agreement provides for a work program to develop harmonized rules of origin for non-preferential trade. The Harmonization Work Program (HWP) has been more complex than initially envisioned under the ROO Agreement, which provided for the work to be completed within three years after its commencement in July 1995. The HWP continued throughout 2017 and will continue into 2018.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which held meetings in March and October of 2017. The Committee also serves as a forum to exchange views on notifications by Members concerning their national rules of origin along with relevant judicial decisions and administrative rulings of general application. The ROO Agreement also established a Technical Committee on Rules of Origin (Technical Committee) under the auspices of the World Customs Organization to assist in the HWP.

Major Issues in 2017

As of December 2017, 103 Members have notified the WTO concerning non-preferential rules of origin. In these notifications, 48 Members notified that they apply non-preferential rules of origin, and 55 Members notified that they did not have a non-preferential rule of origin regime. Thirty-three Members have not notified non-preferential rules of origin. All WTO Members have notified the WTO, either through the ROO Committee or other WTO bodies, that they apply at least one set of preferential rules of origin.

The ROO Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the ROO Committee has been active in its review of the ROO Agreement's implementation. Virtually all issues and concerns cited by U.S. exporters as arising under the origin regimes of U.S. trading partners arise from administrative practices that are not transparent, allow discrimination, and lack predictability. The ROO Committee has given substantial attention to the implementation of the ROO Agreement's disciplines related to transparency.

The ongoing HWP has attracted a great deal of attention and resources from WTO Members. Members working through the Technical Committee and the ROO Committee have made progress toward completion of this effort, despite the large volume and magnitude of complex issues, which must be addressed for hundreds of specific products.

U.S. proposals for the HWP have been developed based on a Section 332 study, which was conducted by the U.S. International Trade Commission (USITC) pursuant to a request by USTR. The U.S. proposals reflect input received from ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations in the ROO Committee. Representatives from several U.S. Government agencies continue to be involved in the HWP, including USTR, U.S. Customs and Border Protection, the U.S. Department of Commerce (Commerce), and the U.S. Department of Agriculture (USDA).

While the ROO Committee has made some progress towards fulfilling the mandate of the ROO Agreement to establish harmonized non-preferential rules of origin since the start of the HWP, a number of fundamental issues, including many with respect to product-specific rules for agricultural and industrial goods and the scope of the prospective obligation to apply the harmonized non-preferential rules of origin equally for all purposes, remain to be resolved.

Because of the impasse among Members on: (1) the product specific rules related to the 94 core policy issues identified by the HWP; (2) the absence of a common understanding of the scope of the prospective obligation to apply the harmonized non-preferential rules of origin equally for all purposes; and (3) the growing concern among Members that the final result of the HWP negotiations would not be consistent with the objectives of the HWP set forth in Article 9 of the ROO Agreement, the General Council recognized that its guidance was needed on how to resolve these issues. In 2007, the General Council endorsed the recommendation of the ROO Committee that substantive work on these issues be suspended until the ROO Committee receives the necessary guidance from the General Council on how to reconcile the differences among Members on the aforementioned issues.

In 2016, the ROO Committee initiated an educational exercise to exchange information about nonpreferential rules of origin and better understand the impact that existing rules have on international trade. In 2017, the ROO Committee organized one information session on nonpreferential rules of origin.

At both the April 2017 and the October 2017 meetings, the ROO Committee held dedicated discussions on preferential rules of origin for LDCs, in particular in light of the outcomes of the 2013 and 2015 Ministerial Decisions on this issue. In that context, the ROO Committee adopted a template for the notification of

preferential rules of origin, reviewed the implementation of the 2015 Nairobi Decision on Preferential Rules of Origin for Least Developed Countries, and adopted a methodology for the calculation of preferential utilization rates.

Prospects for 2018

The Committee will continue to discuss the future organization of the Committee's work and divergences in Members' views of how to continue the HWP. In accordance with the decision taken by the General Council in July 2007, and subject to future guidance from the General Council, the ROO Committee will continue to focus on technical issues, including the technical aspects of the overall architecture of the HWP product specific rules, through informal consultations. The ROO Committee will continue to report periodically to the General Council on its progress in resolving these issues. The Committee will also continue its review of Nairobi Decision on Preferential Rules of Origin for Least Developed Countries.

8. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (the TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary standards and mandatory technical regulations for products and the procedures (such as testing or certification) used to determine whether a particular product meets such voluntary standards or technical regulations (conformity assessment procedures). One of the main objectives of the TBT Agreement is to prevent the use of regulations as unnecessary barriers to trade while ensuring that Members retain the right to regulate, *inter alia*, for the protection of health, safety, or the environment, at the levels they consider appropriate.

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

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

Transparency: The TBT Agreement requires each Member to establish a central contact point, known as an inquiry point, which is responsible for responding to requests for information on its standards, technical requirements, and conformity assessment procedures, or making the appropriate referral. The TBT Agreement also requires Members to notify proposed technical regulations and conformity assessment procedures and to take comments received from other Members into account. These obligations provide a

key benefit to the public. Through the U.S. Government's implementation of these obligations, the public is able to obtain information on proposed technical regulations and conformity assessment procedures of other WTO Members and to provide written comments for consideration on those proposals before they are finalized.

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point for purposes of the TBT Agreement (NIST can be contacted via email at: usatbtep@nist.gov or notifyus@nist.gov or via the Internet at: <http://www.nist.gov/notifyus>). The inquiry point responds to requests for information concerning Federal and State standards, technical regulations, and conformity assessment procedures, as well as voluntary standards and conformity assessment procedures developed or adopted by nongovernmental bodies. Upon request, NIST will provide copies of notifications of proposed technical regulations and conformity assessment procedures that other Members have made under the TBT Agreement, as well as contact information for other Members' TBT inquiry points. NIST maintains the "Notify U.S. Service" through which U.S. entities receive, via e-mail, WTO notifications of proposed or revised domestic and foreign technical regulations and conformity assessment procedures for manufactured products. U.S. entities can access the services through the website: <https://www.nist.gov/notifyus>. NIST refers requests for information concerning SPS measures to USDA, which is the U.S. inquiry point pursuant to the SPS Agreement.

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

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

Article 15.4 of the TBT Agreement requires the Committee to review the operation and implementation of the TBT Agreement every three years. Seven such reviews have now been completed (G/TBT/5, G/TBT/9, G/TBT/13, G/TBT/19, G/TBT/26, and G/TBT/32), the most recent in 2012. From the U.S. perspective, a key benefit of these reviews is that they prompt WTO Members to review and discuss all of the provisions of the TBT Agreement, which facilitates a common understanding of Members' rights and obligations. The reviews have also prompted the Committee to host workshops on various topics of interest, including technical assistance, conformity assessment, labeling, good regulatory practice, international standards, and regulatory cooperation.

Major Issues in 2017

The TBT Committee met three times in 2017, March (G/TBT/M/71), June (G/TBT/M/72), and November (G/TBT/M/73). At these meetings, Members made statements informing the Committee of measures they had taken to implement the TBT Agreement and to administer measures in compliance with the Agreement. Members also used Committee meetings to raise concerns about specific technical regulations, standards, or conformity assessment procedures that have been proposed or adopted by other Members. Measures garnering significant Committee attention included nutrition labeling requirements for food (Peru, Indonesia, Israel, and Uruguay); measures that may unnecessarily restrict labeling, advertising and

promotion of food to infants and young children (Thailand); regulations on alcoholic beverages (Korea, East African Community, Mexico, Russia, Thailand, and Ecuador); and continued concern regarding regulations for Registration of Chemicals (Korea, and the EU); the development of China-specific standards in the information technology sphere and standards for materials for recycled goods; testing procedures for toys (Colombia, Turkey, Eurasian Economic Commission, and Indonesia); the EU's proposal to regulate potential endocrine disruptors; and Egypt's product registration and conformity assessment requirements.

The Seventh Triennial Review of the Operation and Implementation of the TBT Agreement was concluded in November 2015 and was implemented between November 2015 and November 2017. Ninety-four proposals made by 22 Members through papers and during informal discussions of the TBT Committee include: Good Regulatory Practices, Regulatory Cooperation, Conformity Assessment Procedures, Standards, Transparency, Technical Assistance, Special and Differential Treatment, and on the Operation of the Committee.

- Outcomes on Good Regulatory Practices include continuing to exchange information on Good Regulatory Practice mechanisms adopted by Members and continuing to discuss how Regulatory Impact Assessment can facilitate the implementation of the TBT Agreement, including a discussion of the challenges faced by developing countries.
- Regulatory Cooperation was a new topic identified by Members for discussion in the Seventh Triennial Review. With respect to Regulatory Cooperation, the Committee agreed to deepen its information exchange on Regulatory Cooperation between Members, to share information and experiences related to emerging or ongoing issues in specific sectors, and to discuss effective elements of Regulatory Cooperation. It is anticipated that the first discussion on Regulatory Cooperation will focus on energy efficiency standards.
- The recommendations on Conformity Assessment include three areas of work identified in the Sixth Triennial Review: approaches to conformity assessment, use of relevant international standards and guides, and facilitating the recognition of conformity assessment results.
- The recommendations on Standards relate to exchanging information on how Members reference standards in technical regulations, and developing further transparency in standards setting, including the publication of work programs and comment periods for draft standards on websites, and compliance to the Code of Good Practice for local government and non-government standardizing bodies.
- Recommendations for improved Transparency focused on the functioning of Inquiry Points, coherent use of WTO notification formats for proposed technical regulations, increasing the availability of translations, and improving the use and function of on-line tools managed by the WTO Secretariat.
- For Technical Assistance and Special and Differential Treatment, the Committee will continue to exchange information.
- Finally, with respect to the Operation of the Committee, Members agreed to continue holding thematic sessions.

The complete outcomes of the Seventh Triennial Review are summarized in G/TBT/37.

Of those Seventh Triennial Review priorities, the TBT Committee exchanged information and experiences through a series of informal thematic sessions in 2017. In March, the TBT Committee held two thematic sessions on Good Regulatory Practices⁶⁰ and Conformity Assessment Procedures.⁶¹ The United States

⁶⁰ Thematic Session on Good Regulatory Practice Report of the Moderator (G/TBT/GEN/214)

⁶¹ Thematic Session on and Conformity Assessment Procedures Report of the Moderator (G/TBT/GEN/213)

made a presentation to the TBT Committee about how to measure the impact of technical barriers to trade in goods.⁶² In June, the Committee held thematic session on Risk Assessment.⁶³ In the thematic discussions the United States offered expert presentations from the U.S. Government including representatives from the U.S. Food and Drug Administration, Office of the United States Trade Representative, and the United States Department of Commerce.

Prospects for 2018

In 2018, the TBT Committee will continue to monitor Members' implementation of the TBT Agreement. The United States will continue efforts to resolve specific trade concerns, and engage in the negotiation of the 8th Triennial Review of the TBT Agreement, which will conclude in November 2018.

9. Committee on Antidumping Practices

Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement) sets forth detailed rules and disciplines prescribing the manner and basis on which Members may take action to offset the injurious dumping of products imported from another Member. Implementation of the Antidumping Agreement is overseen by the Committee on Antidumping Practices (the Antidumping Committee), which operates in conjunction with two subsidiary bodies, the Working Group on Implementation (the Working Group) and the Informal Group on Anticircumvention (the Informal Group).

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

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

The Working Group has drawn a high level of participation by Members, in particular capital-based experts and officials of antidumping administering authorities. Since the inception of the Working Group, the United States has submitted papers on most topics and has been an active participant at all meetings. While not a negotiating forum in either a technical or formal sense, the Working Group serves an important role

⁶² Presentation by Jeff Okun-Kozlowicki on Standards and Regulations – measuring the link to Goods Trade (G/TBT/GEN/215)

⁶³ Thematic Session on Risk Assessment (G/TBT/GEN/226)

in promoting improved understanding of the Antidumping Agreement's provisions and exploring options for improving practices among antidumping administrators.

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

Major Issues in 2017

In 2017, the Antidumping Committee held meetings in April and October. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Antidumping Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken over the preceding six months.

The following is a list of the more significant activities that the Antidumping Committee, the Working Group, and the Informal Group undertook in 2017.

Notification and Review of Antidumping Legislation: To date, 80 Members have notified that they currently have antidumping legislation in place, and 37 Members have notified that they maintain no such legislation. In 2017, the Antidumping Committee reviewed new notifications of antidumping legislation and/or regulations submitted by Armenia, Brazil, El Salvador, European Union, India, Japan, Kyrgyz Republic, and New Zealand. Several Members, including the United States, were active in formulating written questions and in making follow up inquiries at the Antidumping Committee meetings.

Notification and Review of Antidumping Actions: In 2017, 45 Members notified that they had taken antidumping actions during the latter half of 2016, while 45 Members reported having taken actions in the first half of 2017. Members identified these actions, as well as outstanding antidumping measures currently maintained by Members, in semi-annual reports submitted for the Antidumping Committee's review and discussion. The semi-annual reports for the second half of 2016 were issued in document series "G/ADP/N/294/..." and the semi-annual reports for the first half of 2017 were issued in document series "G/ADP/N/300/..." At its April and October 2017 meetings, the Antidumping Committee also reviewed Members' notifications of preliminary and final actions pursuant to Article 16.4 of the Antidumping Agreement.

Other Business: During the April 2017 meeting of the Antidumping Committee, China made a statement regarding the expiry of section 15(a)(ii) of its Protocol of Accession. Comments were made by Japan, Mexico, and the United States.

Working Group on Implementation: The Working Group held meetings in April and October 2017. Beginning in 2003, the Working Group has held discussions on several agreed topics, including: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; (4) judicial, arbitral, or administrative reviews under Article 13; and (5) price undercutting by dumped imports. In 2009, the Working Group agreed to include the following additional topics for discussion: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset reviews. The discussions in the Working Group on all of these topics have focused on submissions by Members describing their own practice.

At the April 2017 meeting, the Working Group discussed the issue of standards for initiation of investigations, operation of the standing test, and ensuring effective participation in antidumping investigations. A representative from Brazil served as a discussant and several Members, including the United States, made informal presentations.

For the October 2017 meeting, the Working Group discussed injury determination-related topics, namely the analysis of the effect of imports on domestic industry prices and the methodology for analyzing imports by the domestic industry. A representative from the European Union served as the discussant and several Members, including the United States, made informal presentations.

Informal Group on Anticircumvention: The Informal Group held meetings in April and October 2017. At the April 2017 meeting, the European Union provided a detailed explanation of its anti-circumvention law and practice. The Informal Group engaged in an active question and answer session afterwards.

At the October 2017 meeting, the United States provided a detailed explanation of its first determination made under the Enforce and Protect Act of 2015 and the Informal Group afterwards engaged in an active question and answer session.

Prospects for 2018

Work will proceed in 2018 on the areas that the Antidumping Committee and the Working Group addressed this past year, and the Informal Group will continue to meet on relevant topics as the Members deem appropriate. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This review process is supposed to ensure that Members' antidumping laws are properly drafted and implemented. Since notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other Members, which should assist them in better understanding the operation of such laws and in taking them into account in commercial planning.

The preparation by Members and review in the Antidumping Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2018. The semi-annual reports are accessible to the general public on the WTO website. This transparency promotes improved public knowledge and appreciation of the trends and focus of all WTO Members' antidumping actions.

Discussions in the Working Group will continue to play an important role as more Members enact antidumping laws and begin to apply them. There has been a sharp and widespread interest in the technical issues related to understanding how Members implement these rules when administering their laws pursuant to the Antidumping Agreement. For these reasons, the United States will continue to use the Working Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss not only the laws as written, but also the operational practices that Members employ to implement them. In 2018, the Working Group will continue to assess the effectiveness of the topic-centered discussion approach and decide whether to continue this approach for upcoming meetings and, if so, discuss and select topics accordingly.

The work of the Informal Group will also continue in 2018 according to the framework for discussion on which Members have agreed.

10. Committee on Import Licensing

Status

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

Major Issues in 2017

In 2017, the Import Licensing Committee held its meetings in May and October. In accordance with Articles 1.4(a), 5.4, and 8.2(b) of the Import Licensing Agreement and procedures agreed to by the Committee, all Members, upon joining the WTO, must notify the publication sources for their laws, regulations, and administrative procedures relevant to import licensing. Any subsequent changes to these measures must also be published and notified. Since the entry into force of the WTO Agreement, 110 Members⁶⁴ have notified the Committee of their measures or publications under these provisions. During 2017, the Committee reviewed 13 notifications from the following 11 Members: Brunei Darussalam; the European Union; Kazakhstan; Mauritius; Republic of Moldova; South Africa; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; Ukraine; and the United States. These notifications can be found in document series G/LIC/N/1/-(http://www.wto.org/english/res_e/res_e.htm).

With regard to notifications of new import licensing procedures or changes in such procedures (required by Articles 5.1 through 5.4 of the Agreement), the Committee reviewed 22 notifications relating to the institution of new import licensing procedures or changes in these procedures from 11 Members: Argentina; the European Union; Hong Kong, China; Indonesia; Republic of Korea; Malawi; Malaysia; Paraguay; Philippines; Togo; and Ukraine. These notifications can be found in documents series G/LIC/N/2/- (http://www.wto.org/english/res_e/res_e.htm).

Article 7.3 of the Import Licensing Agreement requires all Members to provide replies to the annual Questionnaire on Import Licensing Procedures; Committee procedures set a deadline of September 30 each year for Members to submit replies. Not all Members provide replies each year; however, since the entry into force of the WTO Agreement, 112 Members have provided replies under this provision. The number of Members submitting replies to the annual Questionnaire has increased from 11 Members in 1995, when the WTO was established, to 31 Members in 2017. Replies to the Questionnaire, including the U.S. replies (G/LIC/N/3/USA/13), are notified to the WTO and may be found in document series G/LIC/N/3/- (http://www.wto.org/english/res_e/res_e.htm). (Other notifications made under the Import Licensing Agreement may also be found in this document series).

In 2017, the United States used the Import Licensing Committee to gather information and to discuss import licensing measures applied to its trade by other Members. In 2017, the United States raised concerns about

⁶⁴ The EU and its Member States counted as one Member for purposes of this notification.

the import licensing procedures of: Indonesia (cell phones, handheld computers, and tablets, as well as milk supply and circulation); India (boric acid); Mexico (steel); China (certain recoverable wastes and recovered materials); and Vietnam (distilled spirits and completeness of its import licensing notifications). The United States and other Members submitted written questions on these and other issues. Written questions from Members and replies to those questions submitted to the Committee concerning notifications and import licensing procedures may be found in document series G/LIC/Q/- (http://www.wto.org/english/res_e/res_e.htm).

Notifications and Other Documentation: The United States continues to work within the Committee to seek to enhance Members' efforts to comply with the Agreement's notification requirements. There is a concern that potential overlap in notification requirements in different provisions in the Import Licensing Agreement, as well as duplications in the current notification templates, might contribute to the low level of submissions of required notifications. In this context, in 2017, three informal meetings were held on improving transparency and streamlining the notification procedures and templates. To facilitate the discussion, the Secretariat had previously prepared a number of background papers and presentations, which were circulated in documents RD/LIC/6, 7, 8, and 9. Divergent views remain among Members on how to proceed on this issue. At its October meeting, the Import Licensing Committee agreed to pursue discussions on how to improve compliance with the notification requirements under the Import Licensing Agreement.

With a view to addressing the capacity constraints of some Members in fulfilling their notification obligations under the Import Licensing Agreement, the first workshop on import licensing was organized by the Secretariat in May 2017. Thirty Members participated in this workshop.

Prospects for 2018

The administration of import licensing procedures continues to be a significant topic of discussion in the day-to-day implementation of Members' WTO obligations. The use of such measures to monitor and to regulate imports has increased. Import licensing also remains a factor in the administration of tariff-rate quotas and the application of safeguard measures, technical regulations, and sanitary and phytosanitary requirements. The proliferation of import licensing requirements is a continuing source of concern, as many such requirements appear to be administered in a manner that restricts trade. The United States will continue to advocate for increased transparency and proper use of import licensing procedures, as well as to closely monitor licensing procedures to ensure that the procedures do not, in themselves, restrict imports in a manner inconsistent with Members' WTO obligations. The United States also expects to be active in the examination of the current notification procedures and templates, with a view towards ensuring that all of the substantive information as required by the Import Licensing Agreement can be efficiently provided.

11. Committee on Safeguards

Status

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

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

Major Issues in 2017

The Safeguards Committee held two regular meetings in April and October 2017.

During its two meetings in 2017, the Safeguards Committee continued its review of Members' laws, regulations, and administrative procedures based on notifications required under Article 12.6 of the Safeguards Agreement. The Safeguards Committee reviewed the national legislation of Afghanistan, Armenia, El Salvador, and Kyrgyz Republic.

The Safeguards Committee reviewed Article 12.1(a) notifications regarding the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it, or the initiation of a review process relating to the extension of an existing measure, from the following Members: Gulf Cooperation Council members on Prepared Additives for Cements, Mortars, Or Concretes (Chemical Plasticizers); Indonesia on Flat-Rolled Product of Iron or Non-Alloy Steel, and I and H Sections of Other Alloy Steel; Turkey on Pneumatic Tyres, Toothbrushes, and Polyethylene Terephthalate; Ukraine on Tableware and Kitchenware of Porcelain, and Sulfuric Acid and Oleum; United States on Large Residential Washers and Crystalline Silicon Photovoltaic Cells; and Vietnam on Mineral or Chemical Fertilizers.

The Safeguards Committee reviewed Article 12.1(b) notifications regarding a finding of serious injury or threat thereof caused by increased imports from the following Members: China on Sugar; Gulf Cooperation Council members on Flat-Rolled Products of Iron or Non-Alloy Steel; India on Unwrought Aluminium (Aluminium Not Alloyed and Aluminium Alloys); Indonesia on Flat-Rolled Product of Iron or Non-Alloy Steel; Jordan on Aluminium Bars, Rods, and Profiles; Malaysia on Steel Concrete Reinforcing Bar; South Africa on Flat-Rolled Products of Iron or Non-Alloy Steel, and Certain Flat-Rolled Products of Iron, Non-Alloy Steel, or Other Alloy Steel; Thailand on Structural Hot-Rolled H-Beam with Alloy, and Non Alloy Hot-Rolled Steel Flat Products in Coils and Not in Coils; Turkey on Toothbrushes; United States on Large Residential Washers, and Crystalline Silicon Photovoltaic Cells; and Vietnam on Pre-Painted Galvanized Steel Sheet and Strip.

The Safeguards Committee also reviewed Article 12.1(c) notifications regarding a decision to apply or extend a safeguard measure from the following Members: China on Sugar; Costa Rica on Pounded Rice; India on Hot-Rolled Flat Sheets and Plates (excluding Hot-Rolled Flat Products in Coil Form) of Alloy or Non-Alloy Steel; Indonesia on Flat-Rolled Product of Iron or Non-Alloy Steel; Jordan on Aluminium Bars, Rods, and Profiles; Malaysia on Steel Concrete Reinforcing Bar, and Steel Wire Rod and Deformed Bar-In-Coil; Morocco on Paper in Rolls and Reams; South Africa on Certain Flat-Rolled Products of Iron, Non-Alloy Steel, or Other Alloy Steel; Thailand on Structural Hot-Rolled H-Beam with Alloy, and Non Alloy Hot-Rolled Steel Flat Products in Coils and Not in Coils; and Vietnam on Pre-Painted Galvanized Steel Sheet and Strip.

The Safeguards Committee reviewed Article 12.4 notifications regarding the application of a provisional safeguard measure from the following Members: Gulf Cooperation Council members on Ferro Silico Manganese; Turkey on Pneumatic Tyres; and Vietnam on Mineral or Chemical Fertilizers.

The Safeguards Committee received notifications of the termination of a safeguard investigation with no definitive safeguard measure imposed, or the expiration or termination of a definitive safeguard measure, from the following Members: Egypt on Steel Bar; Gulf Cooperation Council members on Ferro Silico Manganese; India on Unwrought Aluminium (Aluminium Not Alloyed and Alluminium Alloys); South Africa on Flat-Rolled Products of Iron or Non-Alloy Steel; Turkey on Porcelain and Ceramic Tableware, Kitchenware; and Ukraine on Tableware and Kitchenware of Porcelain.

Also, at the meeting in April the Safeguards Committee separately discussed an idea put forth by Brazil regarding the creation of a working group on implementation, where experts could engage in horizontal technical discussions on safeguards investigations without reference to specific investigations. The United States supported the creation of such a group, but requested that certain changes be made to the rules and procedures under which the group would function.

Also, at the April meeting, the United States separately raised the status of several safeguard investigations initiated by Tunisia. These investigations were initiated more than two years ago without further notifications. Tunisia was not present at the meeting, so no update was provided.

Also, at the October meeting, at the request of Brazil, the Safeguards Committee discussed the importance of prompt notification of the list of developing country Members to which the measure would not be applied by virtue of Article 9.1, as well as prompt notification of the modified list of developing country Members that were previously exempted but were later subjected to the measure.

Also at both the April and October meetings, the Safeguards Committee separately discussed a proposal made by Australia to include, in the relevant annex of the Safeguards Committee's annual report, the timing of the notification of key actions taken under Article 12.1 of the Safeguards Agreement. While there was wide support for the idea, one delegation lacked consensus. This issue will be taken up again in future meetings.

Finally, at the Safeguards Committee meeting in April, the Friends of Safeguards Procedures (FSP) – a 12 delegation group of WTO Members, including the United States – organized an informal discussion group. The informal discussion group consisted of presentations by various WTO Members on (1) unforeseen developments, and (2) transparency in safeguards investigations.

Prospects for 2018

The Safeguards Committee's work in 2018 will continue to focus on the review of safeguard actions that have been notified to the Safeguards Committee and on the review of notifications of any new or amended safeguards legislation. The United States will also work on its own, as well as with the FSP, to continue to address systemic issues of concern with safeguard proceedings as issues arise.

12. Committee on Trade Facilitation

Status

The Trade Facilitation Agreement (TFA) entered into force on February 22, 2017, in accordance with Article X of the WTO Agreement, upon the ratification by two thirds – 118 Members – of the WTO. The TFA establishes transparent and predictable multilateral trade rules under the WTO to reduce opaque customs and border procedures and unwarranted delays at the border. Burdensome red tape and delays can add costs that are the equivalent of significant tariffs and are often cited by U.S. exporters as barriers to trade.

The TFA will bring improved transparency and an enhanced rules-based approach to border regimes, and will be an important element of broader ongoing domestic strategies of many WTO Members to increase economic output and attract greater investment. The TFA also provides new opportunities to address factors holding back increased regional integration and south-south trade. Implementation of the TFA is expected to bring particular benefits to small and medium-sized businesses, enabling them to increase participation in the global trading system.

Major Issues in 2017

Upon entry into force, a WTO Committee on Trade Facilitation (TFC) was established as provided for in Article 23.1 of the TFA. The TFC held its inaugural session May 16, 2017 to formally confirm the Chairperson, who had been appointed in April. Upon confirmation, the Chairperson consulted with Members on the rules of procedure for the TFC and organization of work. The TFC had a second meeting on July 19, 2017, at which Members considered a proposal for the Committee's rules of procedure. In addition, Members heard updates on ratifications and notifications, and on the Trade Facilitation Agreement (TFA) Facility, an arm of the Secretariat devoted to capacity building for the TFA.

The third and final meeting of the TFC for the year took place on November 3, 2017. The agenda included notifications related to transparency of border measures (required under TFA Articles 1.4, 10.4.3, 10.6.2, and 12.2.2); notifications to schedule commitments in Categories A, B and C; and notifications under Article 22 regarding special and differential treatment available for TFA implementation. Also on the agenda were an update of the TFA Facility, work on the rules of procedure, reminders of upcoming deadlines for notifications, and the draft report to the Council for Trade in Goods.

Substantial capacity building assistance is provided for trade facilitation. Over the course of the negotiations and since the Bali Ministerial, the WTO and multilateral and bilateral assistance organizations like the U.S. Agency for International Development (USAID) have undertaken training programs with developing country Members to help them assess their individual situations regarding capacity and make progress in implementing the provisions of the TFA. Further, to help developing countries and LDCs implement the TFA, the United States, along with five other donors, has been delivering TFA assistance through the Global Alliance for Trade Facilitation (GATF). The GATF is a new multi-donor model of assistance that partners with the private sector to support rapid and full implementation of the TFA. In addition to support provided by the United States, Australia, Canada, Germany, Denmark and the United Kingdom, the partnership is supported by a Secretariat created by the World Economic Forum, the International Chamber of Commerce, the Center for International Private Enterprise, and by private sector representatives and others who are contributing their expertise and resources for this mission. The Alliance has projects underway in Colombia, Vietnam, Ghana, and Kenya. New programs are being developed in Sri Lanka, Morocco, and Myanmar. Projects are currently being scoped in Argentina, Bangladesh, Cambodia, Dominican Republic, Guatemala, Honduras, Jordan, Malawi, Nigeria, Rwanda, Tunisia, and Zambia.

Prospects for 2018

In 2018, the TFC is expected to meet at least twice, with the first meeting anticipated in early spring. Standing agenda items for the TFC will continue to include an update on ratifications and Member notifications. The TFA text includes specific deadlines for notifications under Section II of the TFA, which provides the flexibilities for developing countries to Schedule commitments in Categories A, B, or C and self-declare timelines for implementation. Two deadlines occur in 2018: developing countries must notify their final timeframes for Category B commitments by February 2018, and in August 2018, eighteen months after entry into force, Category A commitments are due for least-developed members.

In addition, the TFC will take up best practices and experience-sharing among Members for implementing of the TFA. Finally, Members will have a meeting dedicated to technical assistance and capacity building, as required by the TFA.

During 2018, we expect continued focus on ensuring that developing country Members seeking to obtain technical assistance for implementation of provisions of the TFA are matched with donors and that technical assistance projects are prioritized and funded.

13. Working Party on State Trading Enterprises

Status

Article XVII of the GATT 1994 requires Members, *inter alia*, to ensure that state trading enterprises (STEs) act in a manner consistent with the general principles of nondiscriminatory treatment, and make purchases or sales solely in accordance with commercial considerations. The Understanding on the Interpretation of Article XVII of the GATT 1994 (the Article XVII Understanding) defines an STE for the purposes of providing a notification. Members are required to submit new and full notifications to the Working Party on State Trading Enterprises (WP-STE) for review every two years.

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

Major Issues in 2017

The WP-STE held two formal meetings, on May 9, 2017 and November 9, 2017. During the period of review, the WP-STE reviewed new and full notifications from the following Members: Argentina, Australia, Burundi, Chile, Colombia, European Union, Iceland, Indonesia, Malawi, Malaysia, Mali, Mexico, Moldova, Pakistan, Qatar, the Republic of Macedonia, Togo, Tunisia, United States, and Zambia.

During one or both of the WP-STE's meetings, the following agenda items were taken up: (1) Continued Non-Notification of STEs by the Russian Federation (item requested by the European Union and the United States); and (2) Continued Non-Notification of STEs by the United Arab Emirates (item requested by the United States).

Prospects for 2018

The WP-STE will continue its review of new notifications and its examination of how to improve Member compliance with STE notification obligations to enhance the transparency of STEs. The WP-STE is formally scheduled to meet in May and October 2018. Also, the United States will continue to work with other WTO Members on the Russia and United Arab Emirates notification issues.

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

Status

The TRIPS Council monitors the implementation of the TRIPS Agreement, provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement. The TRIPS Agreement sets minimum standards of

protection for copyrights and related rights, trademarks, geographical indications (GIs), industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights (IPR) through civil actions for infringement, actions at the border and, at least with respect to copyright piracy and trademark counterfeiting, in criminal actions.

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

Developed Members were required to fully implement the obligations of the TRIPS Agreement by January 1, 1996, and developing country Members generally had to achieve full implementation by January 1, 2000. LDC Members have had their transition period for full implementation of the TRIPS Agreement extended to July 1, 2021. The extension of this deadline provides, as before, that “This Decision is without prejudice to the Decision of the Council for TRIPS of June 27, 2002, on ‘Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least-Developed Country Members for Certain Obligations with respect to Pharmaceutical Products’ (IP/C/25), and to the right of least developed country Members to seek further extensions of the period provided for in paragraph 1 of Article 66 of the Agreement.” On November 6, 2015, the TRIPS Council extended the transition period for LDC Members to implement Sections 5 and 7 of the TRIPS Agreement with respect to pharmaceutical products until January 1, 2033, and recommended waiving Articles 70.8 and 70.9 of the TRIPS Agreement with respect to pharmaceuticals also until January 1, 2033, which was adopted by the WTO General Council on November 30, 2015. On January 23, 2017, following the ratification notifications of two-thirds of Members, an amendment of the TRIPS Agreement entered in force. The amendment implements the 2005 WTO General Council decision to amend the TRIPS Agreement and allows pharmaceutical products made under compulsory licenses to be exported to countries lacking production capacity. At the October TRIPS Council, Members agreed to grant permanent observer status to the African Regional Intellectual Property Organization (ARIPO) and the African Intellectual Property Organization (OAPI).

Major Issues in 2017

In 2017, the TRIPS Council held four formal meetings, including a January meeting called to recognize the entry into force of the TRIPS Agreement amendment. In addition to its continuing work on reviewing the implementation of the Agreement, the TRIPS Council’s activities in 2017 focused on the positive relationship between intellectual property (IP) and innovation, under agenda items co-sponsored by the United States and other WTO Members. The TRIPS Council also continued its consideration of the relationship of the TRIPS Agreement to the Convention on Biological Diversity of issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health, and of technology transfer and technical cooperation. This year, Members, including India, China, South Africa, and Brazil, introduced new agenda items on topics including *The United Nations Secretary-General’s High Level Panel Report on Access to Medicines* and *IP and the Public Interest: Compulsory Licensing*.

Intellectual Property and Innovation: At the March, June, and November TRIPS Council meetings, the United States co-sponsored agenda items on the positive contributions of IP to innovation under the year-long theme of Inclusive Innovation and Micro-, Small-, and Medium-Sized Enterprises (MSMEs) covering key issues over the course of three successive meetings.

In February 2017, the United States cosponsored an agenda item that explored MSME collaboration under the theme of IP and Inclusive Innovation. Micro, small and medium-sized enterprises (MSMEs) contribute to the global trading economy, including as entrepreneurs, start-ups, businesses, researchers, and investors.

These enterprises often form collaborative partnerships to harness greater opportunities and share business solutions. Examples of MSME collaboration can include inter-firm partnerships, research and development opportunities, public-private partnerships, start-up incubators and entrepreneurial ventures. The benefits of MSME collaboration include sharing of information, ideas, and research to advance mutual objectives such as developing a product or service. Public-private partnerships also enable cross-sector skills transfer and engagement. MSME employees can also undertake secondments or training/teaching opportunities to help facilitate knowledge transfer and development. These partnerships help to provide shared resources and support so that entities of all sizes are able to establish themselves in global value chains. MSMEs rely on intellectual property frameworks that are able to protect expressions of new ideas, inventions, provide economic benefits and promote follow-on innovation. A diverse set of Members shared national experiences and examples of inclusive innovation and MSME collaboration in their countries; in particular demonstrating how intellectual property frameworks and innovation policies and programs have assisted MSMEs to successfully build and maintain collaborations.

In June 2017, the United States cosponsored an agenda item on Intellectual Property and Innovation: Inclusive Innovation and MSME Growth. The important role of IP in the growth and success of innovative MSMEs has long been recognized: it allows innovative and creative businesses to capture the results of their creativity, inventiveness, and R&D investments; and creates incentives for further investment in innovation. In many cases, businesses using IP rights in innovative and creative industries tend to perform better, and this is often true in the case of MSMEs. MSMEs owning IP rights have often higher revenue per employee than MSMEs that do not. In many cases, they also expand their workforce faster and pay higher salaries. IP can therefore be considered a key component for smart and sustainable growth. Yet, even in developed countries, only a smaller portion of MSMEs make use of IP, compared to larger companies. The underuse of IP by MSMEs may be due, in part, to the fact that they are not aware of the benefits, they may lack the necessary expertise, or find that procedures are too slow or costly. The need to support greater usage by MSMEs of the IP system as a tool for growth and cooperation is accordingly an important challenge for all countries, developed, developing, and least-developed. During the session, Members discussed ways to help MSMEs by fostering IP awareness and exchanged best practices to encourage and assist MSMEs in the use of the IP system.

In October 2017, the United States cosponsored an agenda item on Intellectual Property and Innovation: Inclusive Innovation and MSME Trade. In many countries around the world, whether developing or developed, MSMEs are the backbone of the national economy. Globally, they account for more than 90% of business, whereby in most countries, in particular in low- and middle-income countries, they account for approximately 99% of business. They can be found in most economic sectors, from agriculture and textile manufacturing to development of high technology goods and services. Regional and global supply chains generate many opportunities for MSMEs, as innovators, producers, developers, suppliers or as service providers. Progress in information and communication technologies contributes to facilitate the activities and provide for new opportunities for MSMEs at the national and international level. However, MSMEs often focus on local markets and face numerous challenges in integrating into global markets. According to WTO calculations based on the World Bank Enterprise Surveys, including over 25,000 MSMEs in low- and middle income countries, direct exports only account for 7.6 percent of sales in the manufacturing sector, in comparison with large manufacturing businesses where exports account for 14.4 percent. The share of low- and middle-income country MSMEs in services exports is even smaller, accounting for less than 4 percent of total services sales. The figures for high income countries are different. Direct export shares of MSMEs in high income countries add up to half of the value of total exports. It is thus important to look at policy measures that are successful and consider how local business environments can be improved to be more conducive to MSMEs and allow them to increase their participation in an open international trade framework, including through exports. An important element in this context are intellectual property rights. During this discussion, Members shared domestic experiences and examples

of successful measures promoting inclusive innovation and MSME trade – in particular, how IP frameworks and innovation policy or programs have assisted MSMEs to help MSMEs integrate into global value chains.

In addition, the United States sponsored a side event at the WTO on the margins of the October meeting that brought together MSME stakeholders from around the world to speak directly about the benefits of IP to promoting MSME development. The event featured representatives from Indonesia and Israel who shared their experiences navigating trademark systems and using trade secrets to develop their companies. A representative of a South African university discussed the crucial role of tech transfer offices in the innovation value chain. A speaker from Colombia explained how access to pro bono IP counsel helps enable small businesses to leverage the patent system despite a business' lack of resources.

Review of Developing Country Members' TRIPS Agreement Implementation: During 2017, the TRIPS Council continued to conduct ongoing reviews of developing country Members' and newly acceded Members' implementation of the TRIPS Agreement and to provide assistance to developing country Members in implementing the Agreement. The United States continued to press for full implementation of the TRIPS Agreement by developing country Members and participated actively during the reviews of legislation by highlighting specific concerns regarding individual Members' implementation of the Agreement's obligations.

Intellectual Property and Access to Medicines: On January 23, 2017, an amendment to TRIPS entered into force to implement the August 30, 2003 solution (the General Council Decision on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health). With the acceptance of this amendment by two thirds of the WTO Membership in January 2017, the amendment has taken effect as of that date. The January 2017 outcome preserves all substantive aspects of the August 30, 2003 solution and does not alter the substance of the previously agreed to solution. The United States was the first Member to submit its acceptance of the amendment to the WTO in December 2005.

TRIPS-related WTO Dispute Settlement Cases: In April 2007, the United States initiated WTO dispute settlement proceedings over deficiencies in China's legal regime for the protection and enforcement of IPR by requesting consultations with China. The Panel circulated its report on January 26, 2009. The Panel found that China's denial of copyright protection to works that did not meet China's content review standards was inconsistent with the TRIPS Agreement. The Panel also found it inconsistent with the TRIPS Agreement for China to provide for simple removal of an infringing trademark as the only precondition for the sale at public auction of counterfeit goods seized by Chinese customs authorities.

With respect to the U.S. claim regarding thresholds in China's law that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties, the panel clarified that China must provide for criminal procedures and penalties to be applied to willful trademark counterfeiting and copyright piracy on a commercial scale. The Panel agreed with the United States that Article 61 of the TRIPS Agreement requires China not to set its thresholds for prosecution of piracy and counterfeiting so high as to ignore the realities of the commercial marketplace. The Panel did find, however, that it needed more evidence in order to decide whether the actual thresholds for prosecution in China's criminal law are so high as to allow commercial-scale counterfeiting and piracy to occur without the possibility of criminal prosecution. The DSB adopted the panel report on March 20, 2009, and China made a number of changes to its legal regime. The United States continues to monitor China's compliance with the DSB recommendations and rulings.

The United States also continues to monitor EU compliance with a 2005 ruling of the DSB that the EU's regulation on food-related GIs was inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States has raised certain questions and concerns with regard to the revised EU

regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute.

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

Technical Cooperation and Capacity Building: As in each past year, the United States and other Members provided reports on their activities in connection with technical cooperation and capacity building for consideration at the fall TRIPS Council meeting in October 2017 (see IP/C/W/632/Add.2). Priority needs reports submitted by LDCs were discussed in the TRIPS Council as well as in informal consultations.

Implementation of Article 66.2: Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives for enterprises and institutions in their territories to promote and encourage technology transfer to LDC Members in order to enable them to create a sound and viable technological base. This provision was reaffirmed in the Doha Decision on Implementation related Issues and Concerns, and the TRIPS Council was directed to put in place a mechanism for ensuring monitoring and full implementation of the obligation. Developed country Members are required to provide detailed reports every third year, with annual updates, on these incentives. In October 2017, the United States provided an updated report on specific U.S. Government institutions and incentives (see IP/C/W/631/Add.2).

Implementation of the TRIPS Agreement by LDCs: On June 11, 2013, the TRIPS Council reached consensus on a decision to extend the transition period under Article 66.1 of the TRIPS Agreement for least-developed WTO Members. Under this decision, LDCs are not required to apply the provisions of the TRIPS Agreement, other than Articles 3, 4, and 5, until July 1, 2021, or until such a date on which they cease to be a LDC Member, whichever date is earlier. On November 6, 2015, the TRIPS Council reached consensus to extend the transition period for LDC Members to implement Sections 5 and 7 of the TRIPS Agreement with respect to pharmaceutical products until January 1, 2033, and reached consensus to recommend waiving Articles 70.8 and 70.9 of the TRIPS Agreement with respect to pharmaceuticals also until January 1, 2033, which the WTO General Council adopted on November 30, 2015.

Non-Violation and Situation Complaints: On November 23, 2015, the TRIPS Council reached agreement to extend the moratorium on non-violation and situation complaints under the TRIPS Agreement for two years until the next Ministerial in 2017. Members agreed to extend the moratorium for an additional two years during the 2017 Ministerial. The moratorium was originally introduced in Article 64 of the TRIPS Agreement, for a period of five years following the entry into force of the WTO Agreement (i.e., until December 31, 1999). The moratorium has been referred to and extended in several WTO Ministerial documents, most recently in 2013. In 2017, the TRIPS Council continued its intensified discussions on this issue, including on the basis of a communication by the United States to the Council outlining the U.S. position on non-violation and situation complaints. This communication (document number [IP/C/W/599](#)) addressed the relevant TRIPS Agreement provisions, WTO and GATT disputes, and provided responses to issues raised by other WTO Members.

Prospects for 2018

In 2018, the TRIPS Council will continue to focus on IP and innovation as well as its built-in agenda, including possibly issues related to the LDC transition period for implementing the TRIPS Agreement, on the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), and on traditional knowledge and folklore, as well as enforcement and other relevant new developments.

U.S. objectives for 2017 continue to be to:

- Resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- Continue efforts to ensure that developing country Members fully implement the TRIPS Agreement;
- Engage in constructive dialogue with WTO members, including regarding the technical assistance and capacity-related needs of developing countries, and especially LDCs, in connection with TRIPS Agreement implementation;
- Continue to encourage a fact-based discussion within the TRIPS Council regarding TRIPS Agreement provisions and defend against Members seeking to use the TRIPS Council as a forum to criticize robust IP protection and enforcement;
- Ensure that provisions of the TRIPS Agreement are not weakened;
- Continue to advance discussions on IP and Innovation, including through data-driven discussions on IPR that promote concrete outcomes; and
- Intensify discussions within the TRIPS Council on the application of non-violation nullification and impairment (NVNI) under the TRIPS Agreement.

G. Council for Trade in Services

Status

The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council. This includes a technical review of GATS Article XX.2 provisions; review of waivers from specific commitments pursuant to paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the WTO; a periodic review of developments in the air transport sector; the transitional review mechanism under Section 18 of the Protocol on the Accession of the People’s Republic of China; implementation of GATS Article VII; a review of Article II exemptions (to most-favored nation treatment); and notifications made to the General Council pursuant to GATS Articles III.3, V.5, V.7, and VII.4. Four subsidiary bodies report to the CTS: The Committee on Specific Commitments, the Committee on Trade in Financial Services, the Working Party on Domestic Regulation, and the Working Party on GATS Rules.

Major Issues in 2017

The CTS met several times during 2017, receiving a number of notifications pursuant to GATS Article III:3 (transparency) and GATS Article V:7 (economic integration). The operationalization of the LDC services waiver was discussed, and one additional notification of preferential treatment was acknowledged during the year. A total of 24 Members have submitted notifications to date, including the United States.

The Council endeavored to organize workshops on electronic commerce and mode 4, but when consensus could not be reached on the agenda for electronic commerce, both workshops were deferred to 2018. The Council discussed various submissions related to the Work Program on Electronic Commerce, with several Members proposing a decision at MC11 that would set out a pathway for the launch of negotiations. However, other Members opposed any work on rule-making related to electronic commerce and, once again, a consensus could not be reached.

At the request of the United States and Japan, the Council discussed cybersecurity measures of China and Vietnam. Several Members joined the discussion to express concern about such measures and to state that they could have an adverse effect on trade. The Council also undertook the fourth review of MFN exemptions and determined to consider the date of the next review at the first meeting in 2022.

Prospects for 2018

The CTS will continue discussions related to its mandated reviews and various notifications related to GATS implementation, as well as other topics raised by Members. The Council may renew efforts to reach consensus on the agenda for workshops on electronic commerce and mode 4.

1. Committee on Trade in Financial Services

Status

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

Major Issues in 2017

The CTFS met in March, June, and October 2017.

The CTFS continued its work on regulatory issues in financial services. The Committee on Payments and Market Infrastructures (CPMI), the Financial Stability Board (FSB), and the International Association of Insurance Supervisors (IAIS) made presentations on recent developments in their respective areas of competence.

The topic of trade in financial services and development continued to receive attention from the CTFS. During the year, the CTFS continued discussion on financial inclusion, based on a Background Note, “Barriers to Financial Inclusion and Trade in Services” prepared by the Secretariat at the request of CTFS members. The representative of Jamaica, on behalf of the members of the Caribbean Community (CARICOM), proposed a seminar on de-risking and correspondent banking. Members are continuing to consult on this proposal.

Prospects for 2018

At this time, no meetings of the CTFS have been scheduled during 2018, and the future focus of Committee is not clear.

2. Working Party on Domestic Regulation

Status

GATS Article VI:4 on Domestic Regulation provides for Members to develop any necessary disciplines relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures. In May 1999, the CTS established the Working Party on Domestic Regulation (WPDR), which took on the mandate of GATS VI:4.

Major Issues in 2017

The WPDR saw a significant uptick in work during 2017, with numerous meetings throughout the year.

During 2017, discussions intensified on the basis of detailed proposals made by several Members in late 2016. In February 2017, India supplemented its 2016 proposal of “Possible Elements of a Trade Facilitation

in Services Agreement” with an elaboration entitled “Trade Facilitation Agreement for Services.” However, there was little discussion of this proposal in the second half of 2017.

The group of Members who in late 2016 had proposed a revised text on “Administration of Measures” followed up with proposed texts relating to transparency, development of measures, technical standards, and development. A sub-set of these Members also made a proposal on gender equality in services licensing and proposed an alternative text on development of measures. These texts were ultimately compiled into a single proposal by Argentina, Australia, Canada, Chile, Colombia, Costa Rica, the European Union, Hong Kong China, Iceland, Israel, Japan, Kazakhstan, the Republic of Korea, Liechtenstein, Mexico, the Republic of Moldova, New Zealand, Norway, Switzerland, Chinese Taipei, Turkey, Ukraine, and Uruguay. Notably, however, although this compiled text included earlier proposals on gender equality and a necessity test, not all co-sponsors supported these proposals. Comments and textual suggestions on this compiled text were submitted by India and the Russian Federation. Many Members expressed the view that this compiled text should be the basis of future discussions in the WPDR. However, other Members expressed fundamental conceptual differences with the compiled text. Although this text was discussed at the 11th Ministerial Conference, no consensus was reached either on its adoption or on a future work plan for the WPDR.

The United States continues to take the view that any horizontal disciplines in this area must be balanced in their application and must advance regulatory transparency while respecting the right of WTO Members to regulate, as recognized by the GATS.

Prospects for 2018

At this time, no meetings of the WPDR have been scheduled during 2018. Discussion is likely to continue on the basis of the compiled text.

3. Working Party on GATS Rules

Status

The Working Party on GATS Rules (WPGR) provides a forum to discuss the possibility of new disciplines on emergency safeguard measures, government procurement, and subsidies.

Major Issues in 2017

Continuing the low level of engagement in prior years, the WPGR did not meet during 2017.

Prospects for 2018

At this time, no meetings of the WPGR have been scheduled for 2017, and the future focus of the Committee is not clear.

4. Committee on Specific Commitments

Status

The Committee on Specific Commitments (CSC) examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the GATS negotiations, and oversees the application of the procedures for the modification of schedules under GATS Article XXI. The CSC also oversees

implementation of commitments in Members' schedules in sectors for which there is no sectoral committee, which is currently the case for all sectors except financial services.

Major Issues in 2017

The CSC held one meeting, in March 2017. China proposed to continue prior discussions of the concept of “new services.” However other Members took the view that this subject had been exhausted. China also proposed a discussion of the distinction between the terms “e-commerce” and “digital trade,” but other Members did not agree on the need to draw such a distinction. The Committee also continued its prior discussion of the uncertainty caused by vaguely described schedule entries on economic needs tests.

Prospects for 2018

Work will continue on technical issues as raised by Members.

H. Dispute Settlement Understanding

Status

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

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

Major Issues in 2017

The DSB met 14 times in 2017 to oversee disputes and to address responsibilities such as appointing members to the Appellate Body and approving additions to the roster of governmental and nongovernmental panelists.

Roster of Governmental and Non-Governmental Panelists

Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be “well-qualified,” such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of nongovernmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates' qualifications and encouraging the appointment of well-qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2017, the DSB approved by consensus a number of additional names for the roster. The United States scrutinized the credentials of these candidates to assure the quality of the roster.

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

Rules of Conduct for the DSU

The DSB completed work on a code of ethical conduct for WTO dispute settlement and, on December 3, 1996, adopted the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes to these Rules in 2017.

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

The Rules of Conduct also provide parties an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by the U.S. Congress in section 123(c) of the URAA, which directed USTR to seek conflict of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also: (1) arbitrators; (2) experts participating in the dispute settlement mechanism (*e.g.*, the Permanent Group of Experts under the SCM Agreement); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; and (4) the support staff of the Appellate Body.

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

Appellate Body

Pursuant to the DSU, the DSB appoints seven persons to serve on an Appellate Body, which is to be a standing body with members serving four year terms, except for three initial appointees determined by lot whose terms expired at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. The DSB also agreed that Appellate Body members would serve on a part-time basis and sit periodically in Geneva. The original seven Appellate Body members were Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Mr. Claus-Dieter Ehlermann of Germany, Mr. Said El-Naggar of Egypt, Mr. Florentino Feliciano of the Philippines, Mr. Julio Lacarte-Muró of Uruguay, and Mr. Mitsuo Matsushita of Japan. On June 25, 1997, it was determined by lot that the terms of Messrs, Ehlermann, Feliciano, and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing on December 11, 1997. At its meeting held on October 27, 1999 and November 3, 1999, the DSB agreed to renew the terms of Messrs, Bacchus, and Beeby for a final term of four years, commencing on December 11, 1999, and to extend the terms of Mr. El-Naggar and Mr. Matsushita until the end of March 2000. On April 7, 2000, the DSB agreed to appoint Mr. Georges Michel Abi-Saab of Egypt and Mr. A.V. Ganesan of India to a term of four years commencing on June 1, 2000. On May 25, 2000, the DSB agreed to the appointment of Mr. Yasuhei Taniguchi of Japan to serve through December 10, 2003, the remainder of the term of Mr. Beeby, who passed away on March 19, 2000. On

September 25, 2001, the DSB agreed to appoint Mr. Luiz Olavo Baptista of Brazil, Mr. John S. Lockhart of Australia, and Mr. Giorgio Sacerdoti of Italy to a term of four years commencing on December 11, 2001. On November 7, 2003, the DSB agreed to appoint Ms. Merit Janow of the United States to a term of four years commencing on December 11, 2003, to reappoint Mr. Taniguchi for a final term of four years commencing on December 11, 2003, and to reappoint Mr. Abi-Saab and Mr. Ganesan for a final term of four years commencing on June 1, 2004. On September 27, 2005, the DSB agreed to reappoint Mr. Baptista, Mr. Lockhart, and Mr. Sacerdoti for a final term of four years commencing on December 12, 2005. On July 31, 2006, the DSB agreed to the appointment of Mr. David Unterhalter of South Africa to serve through December 11, 2009, the remainder of the term of Mr. Lockhart, who passed away on January 13, 2006. At its meeting held on November 19 and 27, 2007, the DSB agreed to appoint Ms. Lilia R. Bautista of the Philippines and Ms. Jennifer Hillman of the United States as members of the Appellate Body for four years commencing on December 11, 2007, and to appoint Mr. Shotaro Oshima of Japan and Ms. Yuejiao Zhang of China as members of the Appellate Body for four years commencing on June 1, 2008. On November 12, 2008, Mr. Baptista notified the DSB that he was resigning for health reasons, effective in 90 days. On December 22, 2008, the DSB decided to deem the term of the position to which Mr. Baptista was appointed to expire on June 30, 1999, and to fill the position previously held by Mr. Baptista for a four year term. On June 19, 2009, the DSB agreed to appoint Mr. Ricardo Ramírez Hernández of Mexico as a member of the Appellate Body for four years commencing on July 1, 2009, to appoint Mr. Peter Van den Bossche of Belgium as a member of the Appellate Body for four years commencing on December 12, 2009, and to reappoint Mr. Unterhalter for a final term of four years commencing on December 12, 2009. On November 18, 2011, the DSB agreed to appoint Mr. Thomas Graham of the United States and Mr. Ujal Bhatia of India as members of the Appellate Body for four years commencing on December 11, 2011. On May 24, 2012, the DSB agreed to appoint Mr. Seung Wha Chang of Korea as a member of the Appellate Body for four years commencing on June 1, 2012, and to reappoint Ms. Zhang for a final term of four years commencing on June 1, 2012. On March 26, 2013, the DSB agreed to reappoint Mr. Ramírez Hernández of Mexico for a final term of four years commencing on July 1, 2013. On November 25, 2013, the DSB agreed to reappoint Mr. Van den Bossche of Belgium for a final term of four years commencing on December 12, 2013. On September 26, 2014, the DSB agreed to appoint Mr. Shree Baboo Chekitan Servansing of Mauritius to a term of four years commencing on October 1, 2014. On November 25, 2015, the DSB agreed to reappoint Mr. Bhatia of India and Mr. Graham of the United States for a final term of four years each commencing on December 11, 2015. On November 23, 2016, the DSB agreed to appoint Ms. Zhao Hong of China and Mr. Hyun Chong Kim of Korea to a term of four years commencing on December 1, 2016. On August 1, 2017, Mr. Kim tendered his resignation, effective immediately. The DSB had not appointed replacements for Mr. Ramirez, Mr. Kim, or Mr. Van den Bossche as of the end of 2017 (*the names and biographical data for the Appellate Body members during 2017 are included in Annex II of this report*).

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

Zhang served as Chairperson from December 11, 2011 to December 31, 2012; Mr. Ramirez served as Chairperson from January 1, 2013 to December 31, 2014; Mr. Van den Bossche served as Chairperson from January 1, 2015 to December 31, 2015; Mr. Graham served as Chairperson from January 1, 2016 to December 31, 2016, and Mr. Bhatia served as Chairperson from January 1, 2017 to December 31, 2017.

In 2017, the Appellate Body issued two reports on the following issues: (1) on a challenge by the United States and New Zealand to Indonesia's barriers on the importation of horticultural products, beef, poultry, and animals; and (2) on a challenge by Indonesia to EU anti-dumping duties on fatty alcohols. In the disputes in which it was not a party, the United States participated as a third party.

Dispute Settlement Activity in 2017

During the DSB's first 23 years in operation, WTO Members filed 535 requests for consultations (25 in 1995, 42 in 1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, 37 in 2002, 26 in 2003, 19 in 2004, 11 in 2005, 20 in 2006, 14 in 2007, 19 in 2008, 14 in 2009, 17 in 2010, 8 in 2011, 27 in 2012, 17 in 2013, 14 in 2014, 13 in 2015, 16 in 2016, and 18 in 2017). During that period, the United States filed 113 complaints against other Members' measures and received 130 complaints on U.S. measures. Several of these complaints involved the same issues as other complaints. A number of disputes commenced in earlier years remained active in 2017. What follows is a description of those disputes in which the United States was a complainant, defendant, or third party during the past year.

Prospects for 2018

The United States has used the opportunity of the ongoing review to seek improvements in the dispute settlement system, including greater transparency. In 2018, the United States expects the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. Participants will continue to consider reform proposals in 2018.

Disputes Brought by the United States

In 2017, the United States continued to be one of the most active participants in the WTO dispute settlement process. This section includes brief summaries of dispute settlement activity in 2017 where the United States was a complainant (listed alphabetically by responding party).

Argentina — Measures Affecting the Importation of Goods (DS444)

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

Between 2008 and 2013, Argentina greatly expanded the list of products subject to non-automatic import licensing requirements, with import licenses required for approximately 600 eight-digit tariff lines in Argentina's goods schedule. In February 2012, Argentina adopted an additional licensing requirement that applies to all imports of goods into the country. In conjunction with these licensing requirements, Argentina has adopted informal trade balancing requirements and other schemes, whereby companies seeking to obtain authorization to import products must agree to export goods of an equal or greater value, make investments in Argentina, lower prices of imported goods, and/or refrain from repatriating profits.

Through these measures, the United States was concerned that Argentina was acting inconsistently with its WTO obligations, including with Article XI:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), which generally prohibits restrictions on imports of goods, including those made effective through import licenses. The United States was also concerned the measures breached various provisions of the *Agreement on Import Licensing Procedures*, which contains requirements related to the administrative procedures used to implement import licensing regimes.

The United States and Argentina held consultations on September 20 and 21, 2012, but these consultations failed to resolve the dispute. On December 17, 2012, the United States, together with the European Union and Japan, requested the WTO to establish a dispute settlement panel to examine Argentina's import restrictions, and a panel was established on January 28, 2013. The Director General composed the panel as follows: Ms. Leora Blumberg, Chair; and Ms. Claudia Orozco and Mr. Graham Sampson, Members.

Argentina repealed its product-specific non-automatic import licenses, which had been the subject of consultations and the U.S. panel request on January 25, 2013. However, it continued to maintain a discretionary non-automatic import licensing requirement applicable to all goods imported into Argentina, as well as informal trade balancing and similar requirements.

On August 22, 2014, the Panel issued its report. The Panel found Argentina's import licensing requirement and its trade balancing requirements to be inconsistent with Article XI of the GATT 1994.

On September 26, 2014, Argentina appealed the panel findings. The parties made written submissions to the Appellate Body during the fall of 2014, and the Appellate Body held an oral hearing on November 3 and 4, 2014.

The Appellate Body issued its report on January 15, 2015. In its report, the Appellate Body rejected Argentina's arguments, upholding the Panel's findings that Argentina's import licensing requirement and trade balancing requirements are inconsistent with Article XI of the GATT 1994. On January 26, 2015, the DSB adopted the panel and Appellate Body reports.

At the DSB meeting held on February 23, 2015, Argentina informed the DSB that it intended to implement the DSB's recommendations and rulings in a manner that respects its WTO obligations, and that it would need a reasonable period of time (RPT) to do so. The United States and Argentina agreed that the RPT would be 11 months and 5 days, ending on December 31, 2015. Since December 2015, Argentina has issued modified import licensing requirements. The United States has significant questions about how the adoption of these measures could serve to bring Argentina's import licensing measures into compliance with its WTO obligations, and the United States is working to address these concerns.

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

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

Specifically, the United States was concerned that certain Chinese measures: (1) restricted trading rights (such as the right to import goods into China) with respect to imported films for theatrical release,

audiovisual home entertainment products, sound recordings, and publications; and (2) restricted market access for, or discriminated against, imported films for theatrical release and sound recordings in physical form, and foreign service providers seeking to engage in the distribution of certain publications, audiovisual home entertainment products, and sound recordings. The Chinese measures at issue appeared to be inconsistent with several WTO provisions, including provisions in the GATT 1994 and GATS, as well as specific commitments made by China in its WTO accession agreement.

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

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

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

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

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

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

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

The United States and China held consultations on July 30 and September 1 and 2, 2009, but did not resolve the dispute. The EU and Mexico also requested and held consultations with China on these measures. On November 19, 2009, the EU and Mexico joined the United States in requesting the establishment of a panel, and on December 21, 2009, the WTO DSB established a single panel to examine all three complaints. On March 29, 2010, the Director General composed the panel as follows: Mr. Elbio Rosselli, Chair; Ms. Dell Higgie and Mr. Nugroho Wisnumurti, Members.

The panel's final report was circulated to Members on July 5, 2011. The panel found that the export duties and export quotas imposed by China on various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, and zinc constitute a breach of WTO rules and that China failed to justify those measures as legitimate conservation measures, environmental protection measures, or short supply measures. The panel also found China's imposition of minimum export price, export licensing, and export quota administration requirements on these materials, as well as China's failure to publish certain measures related to these requirements inconsistent with WTO rules.

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

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

At the conclusion of the RPT for China to comply, it appeared that China had eliminated the export duties and export quotas on the products at issue in this dispute, as of January 1, 2013. However, China maintains export licensing requirements for a number of the products. The United States continues to monitor actions by China that might operate to restrict exports of raw materials at issue in this dispute.

China – Certain Measures Affecting Electronic Payment Services (DS413)

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

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

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

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

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

The United States prevailed on significant threshold issues, including:

- EPS is a single service (or EPS are integrated services) and each element of EPS is necessary for a payment card transaction to occur.
- EPS is properly classified under the same subsector, item (viii) of the GATS Annex on Financial Services, which appears as subsector (d) of China's Schedule (All payment and money transmission services, including credit, charge, and debit cards...) as the United States argued, and no element of EPS is classified as falling in item (xiv) of the GATS Annex on Financial services (settlement and clearing of financial assets, including securities, derivative products, and other negotiable instruments), as China argued and for which China has no WTO commitments.
- In addition to the "four-party" model of EPS (*e.g.*, Visa and MasterCard), the "three-party" model (*e.g.*, American Express) and other variations, and third party issuer processor and merchant processors also are covered by subsector (d) of China's Schedule.

- With respect to the U.S. GATS national treatment claims, the Panel found the following violations:
- China imposes requirements on issuers of payment cards that payment cards issued in China bear the “Yin Lian/UnionPay logo,” and therefore China requires issuers to become members of the CUP network; that the cards they issue in China meet certain uniform business specifications and technical standards; and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;
- China imposes requirements that all terminals (ATMs, merchant processing devices, and point of sale (POS) terminals) in China that are part of the national card inter-bank processing network be capable of accepting all payment cards bearing the Yin Lian/UnionPay logo, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;
- China imposes requirements on acquirers (those institutions that acquire payment card transactions and that maintain relationships with merchants) to post the Yin Lian/UnionPay logo, and furthermore, China imposes requirements that acquirers join the CUP network and comply with uniform business standards and technical specifications of inter-bank interoperability, and that terminal equipment operated or provided by acquirers be capable of accepting bank cards bearing the Yin Lian/UnionPay logo, and that these requirements fail to accord to services and service suppliers of any other Member treatment no less favorable than China accords to its own like services and service suppliers;

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

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

In April 2015, the State Council of China issued a formal decision announcing that China’s market would be open to foreign suppliers that seek to provide EPS for domestic currency payment card transactions. The People’s Bank of China followed this in July 2015 by publishing a draft licensing regulation for public comment. This draft licensing regulation was finalized in June 2016. However, to date no foreign EPS supplier is permitted to operate in the domestic Chinese market. The United States has urged China to ensure that approvals for foreign EPS suppliers to operate in China occur without delay, in accordance with China’s WTO obligations, and continues to monitor the situation closely.

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

On March 13, 2012, the United States requested consultations with China regarding China’s export restraints on rare earths, tungsten, and molybdenum. These materials are vital inputs in the manufacture of electronics, automobiles, steel, petroleum products, and a variety of chemicals that are used to produce both everyday items and highly sophisticated, technologically advanced products, such as hybrid vehicle batteries, wind turbines, and energy efficient lighting.

The United States challenged China’s export restraints on these materials as inconsistent with several WTO provisions, including provisions in the GATT 1994, as well as specific commitments made by China in its WTO accession agreement. Specifically, the United States challenged: (1) China’s quantitative restrictions

in the form of quotas on exports of rare earth, tungsten, and molybdenum ores and concentrates, as well as certain intermediate products incorporating some of these inputs; (2) China's export duties on rare earths, tungsten, and molybdenum; and (3) China's other export restraints on these materials, including prior export performance and minimum capital requirements.

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

On June 29, 2012, the EU and Japan joined the United States in requesting the establishment of a panel, and on July 23, 2012, the WTO DSB established a single panel to examine all three complaints. On September 24, 2012, the Director General composed the panel as follows: Mr. Nacer Benjelloun-Touimi, Chair; Mr. Hugo Cayrús and Mr. Darlington Mwape, members. The panel held its meetings with the parties on February 26-28, 2013, and June 18-19, 2013.

On March 26, 2014, the panel issued its report. The panel found that the export quotas and export duties imposed by China on various forms of rare earths, tungsten, and molybdenum constitute a breach of WTO rules and that China failed to justify those measures as legitimate conservation measures or environmental protection measures, respectively. The panel also found China's imposition of prior export performance and minimum capital requirements inconsistent with WTO rules.

On August 7, 2014, the Appellate Body issued a report affirming the panel's findings on all significant claims. In particular, the Appellate Body confirmed that China may not seek to justify its imposition of export duties as environmental measures. The Appellate Body also confirmed, while modifying some of the panel's original reasoning that China had failed to demonstrate that its export quotas were justified as measures for conserving exhaustible natural resources.

On August 29, 2014, the DSB adopted the panel and Appellate Body reports. In September 2014, China announced its intention to implement the DSB recommendations and rulings in the dispute, and stated that it would need a RPT in which to do so. The United States, the EU, Japan, and China agreed that China would have until May 2, 2015, to comply with the recommendations and rulings.

China announced that it had eliminated its export quotas on the products at issue in this dispute as of January 1, 2015, and its export duties as of May 1, 2015.

China maintains export licensing requirements for these products, however. Accordingly, the United States continues to monitor actions by China that might operate to restrict exports of the materials at issue in this dispute.

China — Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States (DS427)

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

On September 27, 2009, China's Ministry of Commerce (MOFCOM) initiated antidumping and countervailing duty investigations of imports of chicken broiler products from the United States. On September 26, 2010 and August 30, 2010, China imposed antidumping and countervailing duties, respectively. The United States' review of MOFCOM's determinations sustaining antidumping and countervailing duties indicated that China was acting inconsistently with numerous WTO obligations, such as abiding by applicable procedures and legal standards, including by finding injury to China's domestic

industry without objectively examining the evidence, by improperly calculating dumping margins and subsidization rates, and by failing to adhere to various transparency and due process requirements.

The United States and China held consultations on October 28, 2011, but were unable to resolve the dispute. On December 8, 2011, the United States requested the establishment of a panel. The DSB established a panel on January 20, 2012. On May 24, 2012, the WTO Director General composed the panel as follows: Mr. Faizullah Khilji, Chair; and Mr. Serge Fréchette and Ms. Claudia Orozco, Members. The Panel held its meetings with the parties on September 27-28, 2012, and December 4-5, 2012.

The Panel's report, which upheld nearly all the claims brought by the United States, was circulated on August 2, 2013. In particular, the Panel found MOFCOM's substantive determinations and procedural conduct in levying the duties was inconsistent with China's WTO obligations. With respect to the substantive errors, the Panel's report found China breached its obligations by:

- Levying countervailing duties on U.S. producers in excess of the amount of subsidization;
- Relying on flawed price comparisons for its determination that China's domestic industry had suffered injury;
- Unjustifiably declining to use the books and records of two major U.S. producers in calculating their costs of production; failing to consider any of the alternative allocation methodologies presented by U.S. producers and instead using a weight-based methodology resulting in high dumping margins; improperly allocating distinct processing costs to other products inflating dumping margins; and allocating one producer's costs in producing non-exported products to exported products creating an inflated dumping margin; and
- Improperly calculating the "all others" dumping margin and subsidy rates.

With respect to the procedural failings, the Panel found that China breached its WTO obligations by:

- Denying a hearing request during the investigation;
- Failing to require the Chinese industry to provide non-confidential summaries of information it provided to MOFCOM; and
- Failing to disclose essential facts to U.S. companies including how their dumping margins were calculated.

The DSB adopted the panel report on September 25, 2013. On December 19, 2013, the United States and China agreed that China would have until July 9, 2014 to comply with the panel's findings.

MOFCOM announced on December 25, 2014 that it was initiating a reinvestigation of U.S. producers in response to the panel report. MOFCOM released re-determinations on July 8, 2014, that maintained recalculated duties on U.S. broiler products.

The United States considered that China failed to bring its measures into compliance with WTO rules, and on May 10, 2016, requested consultations. The United States and China held consultations on May 24, 2016 but did not resolve the dispute. On May 27, 2016, the United States requested the establishment of a compliance panel, which was established on July 18, 2016. A hearing before the panel took place in April 2017. The panel released the public version of its report on January 18, 2018.

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

On September 17, 2012, the United States requested consultations with China concerning China's automobile and automobile parts "export base" program. Under this program, China appears to provide

extensive subsidies to automobile and automobile parts exporting enterprises located in designated regions known as “export bases.” It appears that China is providing these subsidies in contravention of its obligation under Article 3 of the SCM Agreement, which prohibits the provision of subsidies contingent upon export performance. China also appears to have failed to comply with various transparency related obligations, including its obligation to notify the challenged subsidies as required by the SCM Agreement, and to publish the measures at issue in an official journal and to translate the measures into one or more of the official languages of the WTO as required by China’s Protocol of Accession.

The United States and China held consultations in November 2012. After consultations, China removed or did not renew key provisions. The United States continues to monitor China’s actions with respect to the matters at issue in this dispute.

China — Measures related to Demonstration Bases and Common Service Platform Programs (DS489)

On February 11, 2015, the United States requested consultations regarding China’s “Demonstration Bases-Common Service Platform” export subsidy program. Under this program, China appears to provide prohibited export subsidies through “Common Service Platforms” to manufacturers and producers across seven economic sectors and dozens of sub-sectors located in more than 150 industrial clusters, known as “Demonstration Bases.”

Pursuant to this Demonstration Bases-Common Service Platform program, China provides free and discounted services as well as cash grants and other incentives to enterprises that meet export performance criteria and are located in 179 Demonstration Bases throughout China. Each of these Demonstration Bases is comprised of enterprises from one of seven sectors: (1) textiles, apparel and footwear; (2) advanced materials and metals (including specialty steel, titanium and aluminum products); (3) light industry; (4) specialty chemicals; (5) medical products; (6) hardware and building materials; and (7) agriculture. China maintains and operates this extensive program through over 150 central government and sub-central government measures throughout China.

The United States held consultations with China on March 13 and April 1-2, 2015. On April 9, 2015, the United States requested the establishment of a panel, and on April 22, 2015, the WTO DSB established a panel to examine the complaint. The United States and China held additional consultations following the establishment of the panel and reached agreement in April 2016 on a Memorandum of Understanding (MOU). Pursuant to the MOU, China agreed to terminate the export subsidies it had provided through the Demonstration Bases-Common Service Platform program. The United States continues to monitor China’s actions with respect to its compliance with the terms of the MOU.

China – Tax Measures Concerning Certain Domestically Produced Aircraft (DS501)

On December 8, 2015, the United States requested consultations with China concerning its measures providing tax advantages in relation to the sale of certain domestically produced aircraft in China. It appears that China exempts the sale of certain domestically produced aircraft from China’s value-added tax (VAT), while imported aircraft continue to be subject to the VAT. The aircraft subject to the exemptions appear to include general aviation, regional, and agricultural aircraft. China has also failed to publish the measures that establish these exemptions.

These measures appear to be inconsistent with Articles III:2 and III:4 of the GATT 1994. China also appears to have acted inconsistently with its obligations under Article X:1 of the GATT 1994, as well as a number of specific commitments made by China in its WTO accession agreement.

The United States and China held consultations on January 29, 2016. Following consultations, the United States confirmed that China rescinded the discriminatory tax exemptions at issue, and the United States made those relevant measures public.

China — Export Duties on Certain Raw Materials (DS508, 509)

On July 13, 2016, and July 19, 2016, the United States requested consultations with China regarding China's restraints on the exportation of antimony, chromium, cobalt, copper, graphite, indium, lead, magnesia, talc, tantalum, and tin. These materials are critical to the production of downstream products made in the United States in industries including aerospace, automotive, construction, electronics, and steel.

The United States challenged China's export restraints on these materials as inconsistent with several WTO provisions, including provisions in the GATT 1994, as well as specific commitments made by China in its WTO accession agreement. The export restraints include export quotas, export duties, and additional requirements that impose restrictions on the trading rights of enterprises seeking to export various forms of the materials, such as prior export performance requirements.

The United States, together with the EU, held consultations with China on September 8-9, 2016. Consultations did not resolve the dispute.

Pursuant to a request by the United States, the WTO DSB established a panel on November 8, 2016.

China — Subsidies to Producers of Primary Aluminum

On January 12, 2017, the United States requested consultations with China concerning apparent subsidies that China provides to certain producers of primary aluminum in China. China appears to provide subsidies through artificially cheap loans from banks and through artificially low-priced inputs for aluminum production, such as coal, electricity, and alumina.

These subsidies appear to be inconsistent with China's obligations under Articles 5(c), 6.3(a), 6.3(b), 6.3(c) and 6.3(d) of the *Subsidies and Countervailing Measures* (SCM Agreement) and Article XVI:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994). In particular, under Article 5(c) of the SCM Agreement, WTO Members have agreed that subsidies should not cause "serious prejudice" to the interests of other WTO Members.

The United States is concerned that China's subsidies appear to be causing or threatening to cause serious prejudice to the interests of the United States through displacement or impedance of U.S. imports into China and third country markets, significant price undercutting, price suppression, price depression or lost sales in a given market, or through an increase in Chinese world market share.

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

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

Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that, while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the

requirements of the SPS Agreement. In this case, the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed.

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

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

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

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

Pursuant to a Memorandum of Understanding (MOU) between the United States and the EU, further litigation in the EU-Hormones compliance proceeding has been suspended.

In 2016 industry representatives requested that the U.S. reinstate suspension of concessions, as authorized by the DSB. USTR accordingly initiated proceedings under Section 306 of the Trade Act.

(For additional information on the U.S. suspension of concessions and the MOU, please see the discussion of the associated Section 301 investigation in section 5.B.1 of this report.)

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

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

On May 13, 2003, the United States filed a consultation request with respect to: (1) the EU's moratorium on all new biotechnology approvals; (2) delays in the processing of specific biotech product applications;

and (3) the product-specific bans adopted by six EU Member States (Austria, France, Germany, Greece, Italy, and Luxembourg). The United States requested the establishment of a panel on August 7, 2003. Argentina and Canada submitted similar consultation and panel requests. On August 29, 2003, the DSB established a panel to consider the claims of the United States, Argentina, and Canada. On March 4, 2003, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Mohan Kumar and Mr. Akio Shimizu, Members.

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

- The panel found that the EU adopted a *de facto*, across-the-board moratorium on the final approval of biotechnological products, starting in 1999 up through the time the panel was established in August 2003.
- The panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in “undue delays” in violation of the EU’s obligations under the SPS Agreement.
- The panel identified specific, WTO inconsistent “undue delays” with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.
- The panel upheld the United States’ claims that, in light of positive safety assessments issued by the EU’s own scientists, the bans adopted by six EU Member States on products approved in the EU prior to the moratorium were not supported by scientific evidence, and were thus inconsistent with WTO rules.

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

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

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

European Union and certain Member States – Measures affecting trade in large civil aircraft (DS316)

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

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

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

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

- Every instance of “launch aid” provided to Airbus was a subsidy because in each case, the terms charged for this unique low interest, success-dependent financing were more favorable than were available in the market.
- Some of the launch aid provided for the A380, Airbus's newest and largest aircraft, was contingent on exports and, therefore, a prohibited subsidy.
- Several instances in which German and French government entities created infrastructure for Airbus were subsidies because the infrastructure was not general, and the price charged to Airbus for use resulted in less than adequate remuneration to the government.
- Several government equity infusions into the Airbus companies were subsidies because they were on more favorable terms than available in the market.
- Several EU and Member State research programs provided grants to Airbus to develop technologies used in its aircraft.
- These subsidies caused adverse effects to the interests of the United States in the form of lost sales, displacement of U.S. imports into the EU market, and displacement of U.S. exports into the markets of Australia, Brazil, China, Chinese Taipei, Korea, Mexico, and Singapore.

The EU filed a notice of appeal on July 21, 2010. The WTO Appellate Body conducted an initial hearing on August 3, 2010, to discuss procedural issues related to the need to protect business confidential information and highly sensitive business information and issued additional working procedures to that end on August 10, 2010. The Appellate Body held two hearings on the issues raised in the EU's appeal of the

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

On December 1, 2011, the EU provided a notification in which it claimed to have complied with the DSB recommendations and rulings. On December 9, 2011, the United States requested consultations regarding the notification and also requested authorization from the DSB to impose countermeasures. The United States and the EU held consultations on January 13, 2012. On December 22, 2011, the EU objected to the level of suspension of concessions requested by the United States, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On January 19, 2012, the United States and the EU requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

On March 30, 2012, in light of the parties' disagreement over whether the EU had complied with the DSB's recommendations and rulings, the United States requested that the DSB refer the matter to the original Panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on April 13, 2012. On April 25, 2012, the compliance Panel was composed with the members of the original Panel: Mr. Carlos Pérez del Castillo, Chair; Mr. John Adank and Mr. Thinus Jacobsz, Members.

The parties filed submissions in the compliance proceeding in late 2012, and the compliance Panel held a meeting with the parties on April 16-17, 2013.

On September 22, 2016, the report of the Article 21.5 Panel was circulated to the Members. The panel found that the EU breached Articles 5(c) and 6.3(a), (b), and (c) of the SCM agreement, and that the EU and certain Member States failed to comply with the DSB recommendations under Article 7.8 of the SCM Agreement to “take appropriate steps to remove the adverse effects or ... withdraw the subsidy.”

Significant findings by the compliance panel against the EU include:

- 34 out of 36 alleged compliance “steps” notified by the EU did not amount to “actions” with respect to the subsidies provided to the Airbus or the adverse effects that those subsidies were to have caused in the original proceeding.
- As a result, the EU failed to withdraw the subsidies, as recommended by the DSB.
- Those subsidies were a genuine and substantial cause of lost sales to U.S. aircraft, and displacement and impedance of exports of U.S. aircraft to Australia, China, India, Korea, Singapore, and the United Arab Emirates.

On October 13, 2016, the EU notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the compliance panel. The Division hearing the appeal is Ricardo Ramirez-Hernandez (Chair), Peter van den Bossche and Ujal Singh Bhatia.

The parties and third parties filed written submissions in December 2016 and January 2017. The Appellate Body Division held substantive oral hearings with the parties and third parties from May 2-5, 2017, and from September 26-29, 2017. A decision is expected in the first half of 2018.

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

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

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

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

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

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

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

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

The GATB entered into force on May 1, 2012, following completion of certain domestic procedures. The EU's revised tariff commitments on bananas were formally certified through the WTO certification process (document WT/Let/868 of October 30, 2012). Pursuant to the GATB, the EU, and the Latin American signatories to the GATB settled their disputes and claims on November 8, 2012. As the GATB has entered into force and both the EU and the United States have completed necessary domestic procedures, the United States-European Union agreement entered into force on January 24, 2013. The United States will also settle its dispute with the EU.

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

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

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

On March 6, 2012, the United States requested consultations with India regarding its import prohibitions on various agricultural products from the United States. India asserts these import prohibitions are necessary to prevent the entry of avian influenza into India. However, the United States has not had an outbreak of highly pathogenic avian influenza since 2004. With respect to low pathogenic avian influenza (LPAI), the only kind of avian influenza found in the United States since 2004, international standards do not support the imposition of import prohibitions, including the type maintained by India. The United States considers that India's restrictions are inconsistent with numerous provisions of the SPS Agreement, including Articles 2.2, 2.3, 3.1, 5.1, 5.2, 5.5, 5.6, 5.7, 6.1, 6.2, 7, and Annex B, and Articles I and XI of GATT 1994.

The United States and India held consultations on April 16-17, 2012, but were unable to resolve the dispute. The United States requested the establishment of a WTO panel on May 24, 2012. At its meeting on June 25, 2012, the WTO DSB established a panel. On February 18, 2014, the WTO Director General composed

the Panel as follows: Mr. Stuart Harbinson as Chair; and Ms. Delilah Cabb and Mr. Didrik Tønseth, Members. The panel held meetings with the Parties on July 24-25, 2013 and December 16-17, 2013.

The Panel issued its report on October 14, 2014. In its report, the panel found in favor of the United States. Specifically, the Panel found that India's restrictions breach its WTO obligations because they: are not based on international standards or a risk assessment that takes into account available scientific evidence; arbitrarily discriminate against U.S. products because India blocks imports while not similarly blocking domestic products; constitute a disguised restriction on international trade; are more trade restrictive than necessary since India could reasonably adopt international standards for the control of avian influenza instead of imposing an import ban; fail to recognize the concept of disease free areas and are not adapted to the characteristics of the areas from which products originate and to which they are destined; and were not properly notified in a manner that would allow the United States and other WTO Members to comment on India's restrictions before they went into effect. India filed its notice of appeal on January 26, 2015.

On 4 June 2015, the Appellate Body issued its report in this dispute, upholding the Panel's findings that India's restrictions: are not based on international standards or a risk assessment that takes into account available scientific evidence; arbitrarily discriminate against U.S. products because India blocks imports while not similarly blocking domestic products; are more trade restrictive than necessary since India could reasonably adopt international standards for the control of avian influenza instead of imposing an import ban; and fail to recognize the concept of disease-free areas and are not adapted to the characteristics of the areas from which products originate and to which they are destined.

On July 13, 2015, India informed the DSB that it intended to implement the DSB's recommendations and rulings and would need a RPT to do so. On December 8, 2015, the United States and India agreed that the RPT would be 12 months, ending on June 19, 2016.

On July 7, 2016, the United States requested the authorization of the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. India objected to the request, referring the matter to arbitration. The Arbitrator was composed by the original panel panelists. The United States and India submitted written submissions during the summer and fall of 2017, as well participated in a meeting with the Arbitrator the week of November 30, 2017.

On April 6, 2017, India requested the establishment of a compliance panel. India asserted that it had enacted a revised avian influenza measure that complied with India's WTO obligations. The compliance panel was composed by the original panelists. The United States and India presented written submissions the fall of 2017, as well as participated in a meeting with the compliance panel the week of December 6, 2017.

India – Solar Local Content I / II (DS456)

In February 2013, the United States requested WTO consultations with India concerning domestic-content requirements for participation in an Indian solar power generation program known as the National Solar Mission (NSM). Under Phase I of the NSM, which India initiated in 2010, India provided guaranteed, long-term payments to solar power developers contingent on the purchase and use of solar cells and solar modules of domestic origin. India continued to impose domestic content requirements for solar cells and modules under Phase II of the NSM, which India launched in October 2013. In March 2014, the United States held consultations with India on Phase II of the NSM. In April 2014, after two rounds of unsuccessful consultations with India, the United States requested that the WTO DSB establish a dispute settlement panel. In May 2014, the DSB established a WTO panel to examine India's domestic content requirements under its NSM program. On September 24, 2014, the parties agreed to compose the Panel as follows: Mr. David Walker as Chair; and Mr. Pornchai Danvivathana and Mr. Marco Tulio Molina Tejada, Members. The Panel held meetings with the Parties on February 3-4, 2015, and April 28-29, 2015.

The Panel issued its final public report on February 24, 2016, finding in favor of the United States on all claims. The Panel found that India's domestic content requirements under its National Solar Mission are inconsistent with India's national treatment obligations under Article III:4 of the GATT 1994, and Article 2.1 of the Agreement on Trade-related Investment Measures (TRIMS Agreement). Because an Indian solar power developer may bid for and maintain certain power generation contracts only by using domestically produced equipment, and not by using imported equipment, India's requirements accord "less favorable" treatment to imported solar cells and modules than that accorded to like products of Indian origin. India appealed this decision to the WTO Appellate Body on April 20, 2016. The Appellate Body issued its report on September 16, 2016. The Appellate Body affirmed the Panel's finding that India's domestic content requirements (DCR measures) under its National Solar Mission are inconsistent with India's national treatment obligations under Article III:4 of the GATT 1994 and Article 2.1 of the TRIMS Agreement. The Appellate Body also affirmed that Panel's rejection of India's defensive claims under Articles III:8(a), XX(j) and XX(d) of the GATT 1994.

The DSB adopted the panel and Appellate Body reports during a special meeting of the DSB on October 14, 2016. At that meeting, India informed the DSB that India intended to implement the DSB's recommendations and rulings in a manner that respects its WTO obligations, and that it would need an RPT to do so. India and the United States agreed that India would complete implementation of the DSB recommendations and rulings by December 14, 2017.

On December 14, 2017 India submitted a status report to DSB indicating that India had implemented the rulings and recommendations of the DSB. On December 19, 2017 the United States requested authorization from the DSB to suspend trade concessions under Article 22.2 of the DSU on grounds that India had not, in fact, brought its measures into conformity with WTO rules. India objected to the United States' request on January 3, 2018. The United States' request to suspend concessions was referred to arbitration pursuant to Article 22.6 of the DSU at special meeting of the DSB on January 12, 2018. An arbitration panel has yet to be established.

On January 23, 2018, India requested the establishment of a compliance panel under Article 21.5 of the DSU to determine whether the measures that India has purportedly taken to comply the recommendations and rulings of the DSB are consistent with WTO rules. The DSB was scheduled to consider India's request at a February 9, 2018 meeting of the DSB.

Indonesia – Import Restrictions on Horticultural Products, Animals, and Animal Products (DS455, DS465 and DS478)

On May 8, 2014, the United States, joined by New Zealand, requested consultations with Indonesia concerning certain measures affecting the importation of horticultural products, animals, and animal products into Indonesia. The measures on which consultations were requested include Indonesia's import licensing regimes for horticultural products and for animals and animal products, as well as certain prohibitions and restrictions that Indonesia imposes through these regimes.

The United States previously had requested consultations on prior versions of Indonesia's import licensing regimes. Indonesia established import licensing regimes governing the importation of horticultural products and animals and animal products in 2012. The United States was concerned about these regimes and certain measures imposed through them and, on January 10, 2013, requested consultations with Indonesia. Indonesia subsequently amended or replaced its import licensing regulations, changing their structure and requirements. The United States requested consultations again, this time joined by New Zealand, on August 30, 2013. Indonesia again amended its import licensing regimes shortly thereafter, and the consultation request in the current dispute (DS478) followed.

The United States is concerned that Indonesia, through its import licensing regimes, imposes numerous prohibitions and restrictions on the importation of covered products, including: (1) prohibiting the importation of certain products altogether; (2) imposing strict application windows and validity periods for import permits; (3) restricting the type, quantity, and country of origin of products that may be imported; (4) requiring that importers actually import a certain percentage of the volume of products allowed under their permits; (5) restricting the uses for which products may be imported; (6) imposing local content requirements; (7) restricting imports on a seasonal basis; and (8) setting a “reference price” below which products may not be imported. The Indonesian measures at issue appeared to be inconsistent with several WTO provisions, including Article XI:1 of the GATT 1994 and Article 4.2 of the Agriculture Agreement.

The United States and New Zealand held consultations with Indonesia on June 19, 2014, but these consultations failed to resolve the dispute. On March 18, 2015, the United States, together with New Zealand, requested the WTO to establish a dispute settlement panel to examine Indonesia’s import restrictions. A panel was established on May 20, 2015. The Director General Composed the panel as follows: Mr. Christian Espinoza Cañizares, Chair; and Mr. Gudmundur Helgason and Ms. Angela Maria Orozco Gómez, Members. The panel held meetings with the Parties on February 1-2, 2016 and April 13-14, 2016.

The Panel circulated its report on December 22, 2016. The Panel found that all of Indonesia's import restricting measures for horticultural products and animal products are inconsistent with Article XI:1 of the GATT 1994. The Panel also found that Indonesia has failed to demonstrate that the challenged measures are justified under any general exception available under the GATT 1994. Indonesia appealed the Panel’s report to on February 17, 2017. An appellate report was issued on November 9, 2017. The appellate report affirmed the finding of the Panel that all of Indonesia’s measures are inconsistent with Article XI:1 of the GATT 1994 and, as Indonesia did not establish an affirmative defense with respect to any measure, with Indonesia’s WTO obligations.

The DSB adopted the appellate report and the Panel report, as modified by the appellate report, on November 22, 2017. On December 18, 2017, Indonesia circulated a letter pursuant to Article 21.3(c) of the DSU stating that it would need a reasonable period of time to implement the DSB’s recommendations and rulings in this dispute.

China – Domestic Supports for Agricultural Producers (DS511)

On September 13, 2016, the United States requested consultations with China concerning certain measures through which China provides domestic support in favor of agricultural producers, in particular, to those producing wheat, Indica rice, Japonica rice, and corn. It appears that China's level of domestic support is in excess of its commitment level of “nil” specified in Section I of Part IV of China’s Schedule CLII because, for example, China provides domestic support in excess of its product-specific *de minimis* level of 8.5 percent for each of wheat, Indica rice, Japonica rice, and corn.

China’s level of domestic support appears to be inconsistent with Articles 3.2, 6.3, and 7.2(b) of the Agriculture Agreement. The parties consulted on this matter on October 20, 2016, but the consultations did not resolve the dispute.

At a meeting of the Dispute Settlement Body on December 16, 2016, the United States requested the establishment of a panel to examine the complaint. A panel was established on January 25, 2017. On June 24, 2017, the parties agreed to compose the Panel as follows: Mr. Gudmundur Helgason as Chair; and Mr. Juan Antonio Dorantes Sánchez, Member, and Ms. Elaine Feldman as Members. The panel held meetings

with the parties on January 22-25, 2018 and will hold a second panel meeting April 24-27, 2018. No date has yet been set for circulation of the final report.

Australia, Brazil, Canada, Colombia, Ecuador, Egypt, El Salvador, the European Union, Guatemala, India, Indonesia, Israel, Japan, Kazakhstan, Korea, Norway, Pakistan, Paraguay, Philippines, Russia, Saudi Arabia, Singapore, Chinese Taipei, Thailand, Turkey, Ukraine, and Vietnam have reserved their rights to participate in the panel proceedings as third parties.

China — Administration of Tariff-Rate Quotas for Certain Agricultural Products (DS517)

On December 15, 2016, the United States requested consultations with China regarding the administration of tariff-rate quotas for certain agricultural products, namely, wheat, corn, and rice.

The measures identified in the request establish a system by which the National Development and Reform Commission (NDRC) annually allocates quota to eligible enterprises, and reallocates quota returned unused, based on eligibility requirements and allocation principles that are not clearly specified. The tariff-rate quotas for these commodities have under filled, even in years where market conditions would suggest demand for imports. China's administration of these tariff-rate quotas inhibits the filling of the tariff-rate quotas, restricting opportunities for U.S. and other trading partners to export wheat, corn, and rice to China.

In its Accession Protocol China agreed to ensure that the tariff-rate quotas were administered on a transparent, predictable, uniform, fair and non-discriminatory basis using clearly specified timeframes, administrative procedures and requirements that would provide effective import opportunities; that would reflect consumer preference and end-user demand; and that would not inhibit the filling of each tariff-rate quota. In addition to acting inconsistent with tariff-rate quota-specific commitments in its Accession protocol, China's administration is inconsistent with Article XIII:3(b) of the General Agreement on Tariffs and Trade of 1994 (GATT 1994) because China fails to provide public notice of quantities permitted to be imported and changes to quantities permitted to be imported under each TRQ. China's administration is inconsistent with Article XI:1 of the GATT 1994, which generally prohibits restrictions on imports of goods other than duties, taxes, or other charges. Finally, China's administration is inconsistent with Article X:3(a) of the GATT 1994 because China does not administer its tariff-rate quotas in a reasonable manner.

On February 9, 2017, the United States and China held consultations in Geneva. The European Union, Canada, Australia, and Thailand requested to join the consultations as third parties but China denied the third parties' requests.

The consultations filed to resolve the U.S. concerns, and the United States requested the establishment of a panel at the August 31 and September 22, 2017 meetings of the Dispute Settlement Body. On September 22, 2017, a panel was established. The panel proceedings are ongoing.

Canada — Measures Governing the Sale of Wine in Grocery Stores (Second Complaint) (DS531)

On January 18, 2017, the United States requested consultations with Canada regarding measures maintained by the Canadian province of British Columbia ("BC") governing the sale of wine in grocery stores. The WTO Secretariat entitled that dispute *Canada — Measures Governing the Sale of Wine in Grocery Stores* and assigned it the dispute number DS520. The United States and Canada held consultations in Ottawa on April 21, 2017. On October 2, 2017, the United States filed a second request for consultations with Canada regarding the same matter and identified successor laws and regulations that entered into force subsequent to the original request for consultations. The United States and Canada held consultations by video conference on October 25, 2017.

The BC wine measures that the United States has challenged provide advantages to BC wine through the granting of exclusive access to a retail channel of selling wine on grocery store shelves. The BC measures discriminate on their face against imported wine by allowing only BC wine to be sold on regular grocery store shelves while imported wine may be sold in grocery stores only through a so-called “store within a store.” These measures are inconsistent with Canada’s obligations pursuant to Article III:4 of the GATT 1994, because they are laws, regulations, or requirements affecting the internal sale, offering for sale, purchase, or distribution of wine and fail to accord products imported into Canada treatment no less favorable than that accorded to like products of Canadian origin.

Disputes Brought Against the United States

Section 124 of the URAA requires, *inter alia*, that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO: each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 2016 for disputes in which the United States was a responding party (listed by DS number).

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

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

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

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

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

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

United States – Section 211 Omnibus Appropriations Act (DS176)

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

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

In January 2016, the United States notified the EU of positive developments that resolved a longstanding issue of concern to the EU and others, which helped moved this dispute into a more cooperative phase.

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

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

The Appellate Body report was issued on July 24, 2001, reversing in part and affirming in part. The reports were adopted on August 23, 2001. Pursuant to a February 19, 2002 arbitral award, the United States was given 15 months, or until November 23, 2002, to implement the DSB's recommendations and rulings. On November 22, 2002, Commerce issued a new final determination in the hot-rolled steel antidumping duty investigation, which implemented the recommendations and rulings of the DSB with respect to the calculation of antidumping margins in that investigation. The RPT ended on July 31, 2005. With respect

to the outstanding implementation issue, on July 7, 2005, the United States and Japan agreed that Japan would not request authorization to suspend concessions at that time and that the United States would not object to a future request on grounds of lack of timeliness.

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

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

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

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

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

antidumping or countervailing duties paid on imports from each party at that time, as published by the U.S. authorities, multiplied by 0.72.

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

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

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

On May 11, 2017, the EU announced that it would maintain unchanged the list of products subject to retaliation, and would increase the duty on those products from 0.45 percent to 4.30 percent. On November 30, 2017, Japan notified the DSB that it would continue its non-application of retaliatory measures for the coming year.

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

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

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

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

requirements of the Article XIV chapeau, the Appellate Body found that the United States needed to clarify an issue concerning Internet gambling on horse racing.

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

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

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

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

On December 21, 2007, the Article 22.6 arbitration award was circulated. The arbitrator concluded that Antigua's annual level of nullification or impairment of benefits is \$21 million, and that Antigua may request authorization from the DSB to suspend its obligations under the TRIPS Agreement in this amount. On December 6, 2012, Antigua submitted a request under Article 22.7 of the DSU for authorization to suspend concessions or other obligations under the TRIPS Agreement consistent with the award of the Arbitrator. At the DSB meeting of January 28, 2013, the DSB authorized Antigua to suspend concessions or other obligations under the TRIPS Agreement consistent with the award of the Arbitrator.

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

United States – Subsidies on large civil aircraft (DS317)

On October 6, 2004, the EU requested consultations with respect to “prohibited and actionable subsidies provided to U.S. producers of large civil aircraft.” The EU alleged that such subsidies violated several provisions of the SCM Agreement, as well as Article III:4 of the GATT. Consultations were held on November 5, 2004. On January 11, 2005, the United States and the EU agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three month timeframe for the negotiations and agreed that, during negotiations, they would not request panel proceedings. These discussions did not produce an agreement. On May 31, 2005, the EU requested the

establishment of a panel to consider its claims. The EU filed a second request for consultations regarding large civil aircraft subsidies on June 27, 2005. This request covered many of the measures covered in the initial consultations, as well as many additional measures that were not covered.

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

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

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

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

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

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

Findings against the EU

- Most of the NASA research spending challenged by the EU did not go to Boeing.
- Most of the U.S. Department of Defense (DoD) research payments to Boeing were not subsidies or did not cause adverse effects to Airbus.
- Treatment of patent rights under U.S. Government contracts is not a subsidy specific to the aircraft industry.
- Treatment of certain overhead expenses in U.S. Government contracts is not a subsidy.
- Washington State infrastructure and plant location incentives were not a subsidy or did not cause adverse effects.
- Commerce research programs were not a subsidy specific to the aircraft industry.
- The U.S. Department of Labor payments to Edmonds Community College in Snohomish County, Washington, were not specific subsidies.

- Kansas and Illinois tax programs were not subsidies or did not cause adverse effects.
- The Foreign Sales Corporation/Extraterritorial Income tax measures were a WTO inconsistent subsidy, but as the United States removed the subsidy in 2006, there was no need for any further recommendation.

Findings against the United States

- NASA research programs conferred a subsidy to Boeing of \$2.6 billion that caused adverse effects to Airbus.
- Tax programs and other incentives offered by the State of Washington and some of its municipalities conferred a subsidy of \$16 million that caused adverse effects to Airbus.
- Certain types of research projects funded under the U.S. Department of Defense's Manufacturing Technology and Dual Use Science and Technology programs were a subsidy to Boeing of approximately \$112 million that caused adverse effects to Airbus.

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

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

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

On September 25, 2012, the EU requested consultations regarding the U.S. notification. The United States and the EU held consultations on October 10, 2012. On October 11, 2012, the EU requested that the DSB refer the matter to the original Panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on October 23, 2012. On October 30, 2012, the compliance Panel was composed with the members of the original Panel: Mr. Crawford Falconer, Chair; and Mr. Francisco Orrego Vicuña and Mr. Virachai Plasai, Members. The compliance Panel held a meeting with the parties on October 29-31, 2013.

The compliance Panel circulated its report on June 9, 2017, with the following findings:

Findings against the EU

- The EU alleged that DoD provided Boeing with funding and other resources worth \$2.9 billion to conduct research that assisted Boeing's development of large civil aircraft. The Panel rejected most of the EU claims for procedural reasons. It found that the remaining claims were worth only \$41 million, that most of those programs were not subsidies. The Panel subsequently found that the DoD funding found to constitute subsidies did not cause adverse effects to Airbus.
- The Panel found that NASA R&D programs were subsidies, but only conferred benefits of approximately \$158 million. It found that these subsidies did not cause adverse effects to Airbus.
- The EU alleged that the Federal Aviation Administration ("FAA") provided funding and resources worth \$28 million to Boeing. The Panel found that the FAA program in question was a subsidy, and agreed that it was worth \$28 million. However, it found that these subsidies did not cause adverse effects to Airbus.
- The EU alleged that Boeing received \$51 million in tax benefits from 2007 through 2014 under the FSC/ETI program that Congress discontinued in 2006. The Panel found that there was no evidence that Boeing benefitted this program in the 2007-2014 period.
- The EU asserted that the City of Wichita issued "industrial revenue bonds" in a way that gave Boeing tax subsidies. The Panel found that this program was a subsidy, but that it did not constitute a WTO breach because it was not "specific," *i.e.*, targeted toward particular entities or industries.
- The EU brought claims with respect to a number of Washington State programs. The Panel rejected one of the EU claims for procedural reasons. The Panel found that all of the remaining programs were subsidies. However, with one exception, the Panel found that these programs did not cause any adverse effects to Airbus.
- The EU alleged that several South Carolina programs worth a total of \$1.7 billion caused adverse effects to Airbus. The Panel found that all but three of these programs either were not subsidies or were not "specific," *i.e.*, did not involve the type of targeting needed to establish a WTO breach. Although it found that three South Carolina programs, worth a total of \$78 million, were subsidies, the Panel concluded that they did not cause adverse effects to Airbus.

Findings against the United States

- The EU argued that Washington State's adjustment to its Business and Occupation ("B&O") tax applicable to aerospace manufacturing foregoes revenue that could otherwise be collected from Boeing, making it a subsidy for WTO purposes. The Panel found that this program confers a subsidy on Boeing, worth an average value of \$100-110 million per year during the period of review. The Panel further found that these subsidies cause adverse effects, but only with respect to certain sales of the Airbus A320 aircraft.

On June 29, 2017, the EU filed a notice of appeal on certain findings, and the United States filed a notice of other appeal on August 10, 2017. The Division assigned to hear the appeal consists of Mr. Peter Van den Bossche (Presiding Member), Mr. Thomas R. Graham, and Mr. Shree B.C. Servansing. The parties and third parties filed written submissions during the second half of 2017. The Appellate Body is planning to hold the first of two substantive hearings with the parties and third parties on April 17-20, 2018.

On September 27, 2012, the EU requested authorization from the DSB to impose countermeasures. On October 22, 2012, the United States objected to the level of suspension of concessions requested by the EU, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On November 27, 2012, the United States and the EU each requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

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

On October 24, 2008, Mexico requested consultations regarding U.S. dolphin-safe labeling provisions for tuna and tuna products. These provisions prohibit labeling tuna and tuna products as dolphin-safe unless they meet certain conditions, including not being produced by intentionally setting purse-seine nets on dolphins, a technique Mexico uses to catch tuna in the Eastern Tropical Pacific Ocean. Mexico challenged three legal instruments: (1) the Dolphin Protection Consumer Information Act (19 U.S.C. § 1385); (2) certain dolphin-safe labeling regulations (50 C.F.R. §§ 216.91-92); and (3) the Ninth Circuit decision in *Earth Island v. Hogarth*, 494 F.3d. 757 (Ninth Cir. 2007). On April 20, 2009, at Mexico's request, the DSB established a WTO panel. Mexico alleged that the U.S. measure accords imports of tuna and tuna products from Mexico less favorable treatment than like products of national origin and like products originating in other countries and fails to immediately and unconditionally accord imports of tuna and tuna products from Mexico an advantage, favor, privilege, or immunity granted to like products of other countries. Mexico further alleged that the U.S. measure creates unnecessary obstacles to trade and are not based on relevant international standards. Mexico alleged that the U.S. measure is inconsistent with Articles I and III of the GATT 1994 and Article 2 of the TBT Agreement.

On December 14, 2009, the Panel was composed by the Director-General to include Mr. Mario Matus, Chair, Ms. Elizabeth Chelliah, and Mr. Franz Perrez. The Panel issued its interim report on May 5, 2011, and its final report to the parties on July 8, 2011. The final report was circulated to Members and the public on September 15, 2011.

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

judicial economy with respect to the GATT 1994 claims in light of its findings under Article 2.1 of the TBT Agreement.

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

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

On July 23, 2013, the United States announced that it had fully complied with the DSB's recommendations and rulings through a final rule of the National Oceanic and Atmospheric Administration (NOAA) that came into effect on July 13, 2013. The final rule enhances the documentary requirements for certifying that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught outside the Eastern Tropical Pacific.

On November 25, 2013, Mexico requested that the DSB establish a compliance panel to determine whether the U.S. dolphin-safe labeling provisions, as amended by the new final rule, are consistent with U.S. WTO obligations. At its meeting on January 22, 2014, the DSB referred the matter to the original Panel, and on January 27, 2014 the Panel was composed with the members of the original Panel. Mexico has claimed that the U.S. dolphin-safe labeling provisions are inconsistent with Article 2.1 of the TBT Agreement and Articles I:1 and III:4 of the GATT 1994.

The Panel met with the parties on August 19-21, 2014. The Panel issued its report on April 14, 2015. In its report, the Panel found that the amended dolphin-safe labeling measure was inconsistent with Article 2.1 of the TBT Agreement and Articles I:1 and III:4 of the GATT 1994 and, although the measure was preliminarily justified under Article XX(g) of the GATT 1994, was not applied consistently with the Article XX chapeau.

The United States appealed aspects of the compliance panel's report on June 5, 2015, and Mexico appealed aspects of the report on June 10, 2015. The Appellate Body circulated its report on November 20, 2015. The Appellate Body found that the compliance panel had erred in its analytical approach to the amended measure, and it reversed the Panel's findings as to the measure's consistency with the covered agreements as to the eligibility criteria, the certification requirements, and the tracking and verification requirements. The Appellate Body found, however, that because the compliance panel had not made a proper factual assessment of the matter, the Appellate Body could not complete the analysis and made no findings as to those three regulatory distinctions under either Article 2.1 of the TBT Agreement or Article XX of the GATT 1994. The Appellate Body also found that analysis of other aspects of the measure did not depend on factual findings and that these aspects rendered the measure inconsistent with Article 2.1 of the TBT Agreement and Article XX of the GATT 1994.

On March 10, 2016, Mexico sought authorization to suspend concessions or other obligations under the covered agreements. The United States objected to Mexico's proposed level of suspension of concessions

or other obligations on March 22, 2016, which referred the matter to arbitration pursuant to Article 22.6 of the DSU. The arbitrator held a meeting with the parties on October 25-26, 2016. The arbitrator's award, circulated on April 25, 2017, found that the level of nullification and impairment suffered by Mexico as a result of the U.S. measure as it existed at the end of the RPT, was \$163.23 million per year. On May 22, 2017, Mexico requested and received authorization from the DSB to suspend concessions consistent with the arbitrator's award. Mexico has not, thus far, suspended concessions pursuant to this authorization.

On March 22, 2016, NOAA promulgated an interim final rule amending the U.S. dolphin safe labeling measure, and, on April 11, 2016, the United States requested that the DSB establish a compliance panel to determine whether the U.S. dolphin-safe labeling provisions, as amended by the new final rule, are consistent with U.S. WTO obligations. The DSB referred the matter to the original panel at its meeting on May 9, 2016. On May 27, 2016, the compliance panel was composed, including a new chairperson, Mr. Stefan Johannesson, due to the unavailability of the original chairperson. On June 9, 2016, Mexico also requested the establishment of a compliance panel pursuant to Article 21.5 of the DSU. At its meeting on June 22, 2016, the DSB referred the matter to the same panel as the other compliance proceeding. The schedules of the two proceedings were harmonized.

The Panels met with the parties on January 24-25, 2017. The Panels issued their reports on October 26, 2017. The Panels agreed with the United States that, while the dolphin safe labeling measure, as amended by the 2016 IFR, results in a detrimental impact on Mexican tuna product, it does not unjustifiably discriminate against Mexican tuna product because its labeling requirements are calibrated to the risks to dolphins arising from the use of different fishing methods in different areas of the oceans. Consequently, the Panels found that the measure is consistent with Article 2.1 of the TBT Agreement and, although inconsistent with Articles I:1 and III:4 of the GATT 1994, is justified under Article XX because it is preliminarily justified under subparagraph (g) and applied consistently with the chapeau. Thus, the Panels found that the U.S. measure was consistent with the relevant U.S. WTO obligations.

Mexico appealed aspects of the compliance Panels' reports on December 1, 2017. The United States filed an appellee submission on December 19, 2017. The Appellate Body is expected to issue a report in 2018.

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

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

Canada alleged that the COOL requirements were inconsistent with Articles III:4, IX:2, IX:4, and X:3(a) of the GATT 1994, Articles 2.1, 2.2, and 2.4 of the TBT Agreement, or in the alternative, Articles 2, 5, and 7 of the SPS Agreement, and Articles 2(b), 2(c), 2(e), and 2(j) of the Agreement on Rules of Origin. Canada asserted that these violations nullified or impaired the benefits accruing to Canada under those Agreements and further appeared to nullify or impair the benefits accruing to Canada within the meaning of GATT 1994 Article XXIII:1(b).

Consultations were held on December 16, 2008, and supplemental consultations were held on June 5, 2009. On October 7, 2009, Canada requested the establishment of a panel, and on November 19, 2009, the DSB

established a single panel to examine both this dispute and Mexico's dispute regarding COOL (see WT/DS386). On May 10, 2010, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members.

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

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

On December 4, 2012, a WTO arbitrator determined that the RPT for the United States to comply with the DSB recommendations and rulings was 10 months, ending on May 23, 2013.

On May 24, 2013, the United States announced that it had fully implemented the DSB's recommendations and rulings through a new final rule issued by USDA on May 23, 2013. The final rule modified the labeling provisions for muscle cut covered commodities to require the origin designations to include information about where each of the production steps (*i.e.*, born, raised, slaughtered) occurred and removes the allowance for commingling.

On September 25, 2013, at the request of Canada, the DSB referred the matter raised by Canada in its panel request to a compliance panel to determine whether the COOL program, as amended by the May 23 final rule, was consistent with U.S. WTO obligations. Canada made claims under Articles 2.1 and 2.2 of the TBT Agreement and Articles III:4 and XXIII:1(b) of the GATT 1994.

On October 20, 2014, the compliance Panel circulated its final report. The Panel found that the amended COOL measure was inconsistent with Article 2.1 of the TBT Agreement because it accorded imported Canadian livestock treatment less favorable than that accorded to like domestic livestock. In particular, the Panel found that this was so because the measure resulted in a detrimental impact on the competitive

opportunities of Canadian livestock, and this detrimental impact did not stem exclusively from a legitimate regulatory distinction. The Panel further found that Canada had not made a *prima facie* case that the amended COOL measure was more trade restrictive than necessary and, therefore, inconsistent with Article 2.2 of the TBT Agreement. With respect to the GATT 1994 claims, the Panel found that the amended COOL measure violated Article III:4 of the GATT 1994, because it had a detrimental impact on the competitive opportunities of imported Canadian livestock, and thus accorded “less favourable treatment” to imported products. In light of this finding, the Panel exercised judicial economy with regard to Canada’s non-violation claim under Article XXIII:1(b) of the GATT 1994.

On November 28, 2014, the United States filed its notice of appeal, and on December 5, 2014, the United States filed its appellant submission. The United States appealed the Panel’s findings on Article 2.1 of the TBT Agreement and on Article III:4 of the GATT 1994. The United States also challenged the Panel’s failure to address the availability of the exceptions provided for in Article XX of the GATT 1994. On December 12, 2014, Canada appealed other of the Panel’s findings.

On May 18, 2015, the Appellate Body circulated its report. The Appellate Body upheld the compliance Panel’s findings with respect to Article 2.1. of the TBT Agreement. In particular, it maintained the compliance Panel’s conclusions with respect to the alleged lack of accuracy of the labels, the burdens imposed by “heightened” recordkeeping and verification requirements, and the relevance of exemptions from the labeling requirements. The Appellate Body also upheld the compliance Panel’s ultimate determination with respect to Article 2.2 of the TBT Agreement.

On June 4, 2015, Canada sought authorization to suspend concessions under the covered agreements. On June 16, 2015, the United States objected to the level of suspension of concessions or obligations sought by Canada, thus referring the matter to arbitration pursuant to Article 22.6 of the DSU. On December 7, 2015, the decision by the Arbitrator was circulated to Members. In considering the level of nullification or impairment of the benefits accruing to Canada, the Arbitrator rejected requests to consider the domestic effect of the amended COOL measure on Canadian prices, and instead focused on the trade impact of the amended COOL measure. The Arbitrator found that the level of nullification or impairment attributable to the amended COOL measure was CAD 1,054,729 million annually. On December 21, 2015, the DSB granted authorization to Canada to suspend concessions consistent with the award of the Arbitrator, and pursuant to the DSU, the authorization shall be equivalent to the level of nullification or impairment.

On December 18, 2015, the President signed legislation repealing the country of origin labeling requirement for beef and pork. This action withdrew the measure at issue, thus bringing the United States into compliance with the WTO’s recommendations and rulings.

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

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory country of origin labeling (COOL) provisions. Mexico requested supplemental consultations with the United States regarding this matter on May 7, 2009. Mexico challenged the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the USDA Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

Mexico alleged that the COOL requirements are inconsistent with Articles III:4, IX:2, IX:4, and X:3(a) of the GATT 1994, Articles 2.1, 2.2, 2.4, 12.1, and 12.3 of the TBT Agreement, or in the alternative, Articles

2, 5, and 7 of the SPS Agreement, and Articles 2(b), 2(c), and 2(e), of the Agreement on Rules of Origin. Mexico asserted that these violations nullify or impair the benefits accruing to Mexico under those Agreements and further appeared to nullify or impair the benefits accruing to Mexico within the meaning of GATT 1994 Article XXIII:1(b).

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

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

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

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

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

On December 4, 2012, a WTO arbitrator determined that the RPT for the United States to comply with the DSB recommendations and rulings was 10 months, ending on May 23, 2013.

On May 24, 2013, the United States announced that it had fully implemented the DSB's recommendations and rulings through a new final rule issued by USDA on May 23, 2013. The final rule modifies the labeling provisions for muscle cut covered commodities to require the origin designations to include information about where each of the production steps (*i.e.*, born, raised, slaughtered) occurred and removes the allowance for commingling.

On September 25, 2013, at the request of Mexico, the DSB referred the matter raised by Mexico in its panel request to a compliance Panel to determine whether the COOL program, as amended by the May 23 final rule, was consistent with U.S. WTO obligations. Mexico made claims under Articles 2.1 and 2.2 of the TBT Agreement and Articles III:4 and XXIII:1(b) of the GATT 1994.

On October 20, 2014, the compliance Panel circulated its final report. The Panel found that the amended COOL measure was inconsistent with Article 2.1 of the TBT Agreement because it accorded imported Mexican livestock treatment less favorable than that accorded to like domestic livestock. In particular, the Panel found that this was so because the measure resulted in a detrimental impact on the competitive opportunities of Mexican livestock, and this detrimental impact did not stem exclusively from a legitimate regulatory distinction. The Panel further found that Mexico had not made a *prima facie* case that the amended COOL measure was more trade restrictive than necessary and, therefore, inconsistent with Article 2.2 of the TBT Agreement. With respect to the GATT 1994 claims, the Panel found that the amended COOL measure violated Article III:4 of the GATT 1994 because it had a detrimental impact on the competitive opportunities of imported Mexican livestock, and thus accorded "less favourable treatment" to domestic products. In light of this finding, the Panel exercised judicial economy with regard to Mexico's non-violation claim under Article XXIII:1(b) of the GATT 1994.

On November 28, 2014, the United States filed its notice of appeal, and on December 5, 2014, the United States filed its appellant submission. The United States appealed the Panels' findings on Article 2.1 of the TBT Agreement and on Article III:4 of the GATT 1994. The United States also challenged the Panel's failure to address the availability of the exceptions provided for in Article XX of the GATT 1994. On December 12, 2014, Mexico appealed other of the Panel's findings.

On May 18, 2015, the Appellate Body released its report. The Appellate Body upheld the compliance Panel's findings with respect to Article 2.1. of the TBT Agreement. In particular, it maintained the compliance Panel's conclusions with respect to the accuracy of the labels, the burdens imposed by recordkeeping and verification requirements, and the impact of exemptions. The Appellate Body also upheld the compliance Panel's ultimate determination with respect to Article 2.2 of the TBT Agreement. However, in the context of Article 2.2., the Appellate Body found that the compliance Panel should have completed its analysis regarding the "gravity of the consequences of non-fulfilment," noting that difficulties and imprecision that arise in this analysis do not excuse the Panel from reaching an overall conclusions.

On June 4, 2015, Mexico sought authorization to suspend certain concessions and other obligations under the covered agreements. On June 12, 2015, Mexico revised the amount of suspension of concessions sought. Mexico removed this item from the agenda of the DSB meeting on June 17, 2015, and submitted a revised request for authorization from the DSB. On June 22, 2015, the United States objected to the level of suspension of concessions or obligations sought by Mexico, thus referring the matter to arbitration pursuant to Article 22.6 of the DSU. On December 7, 2015, the decision by the Arbitrator was circulated to Members. In considering the level of nullification or impairment of the benefits accruing to Mexico, the Arbitrator rejected requests to consider the domestic effect of the amended COOL measure on Mexican prices, and instead focused on the trade impact of the amended COOL measure. The Arbitrator found that the level of nullification or impairment attributable to the amended COOL measure was \$227,758 million annually. On December 21, 2015, the DSB granted authorization to Mexico to suspend concessions

consistent with the award of the Arbitrator, and pursuant to the DSU, the authorization shall be equivalent to the level of nullification or impairment.

On December 18, 2015, the President signed legislation repealing the country of origin labeling requirement for beef and pork. This action withdrew the measure at issue, thus bringing the United States into compliance with the WTO's recommendations and rulings.

United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (DS436)

On April 24, 2012, India requested consultations concerning countervailing measures on certain hot-rolled carbon steel flat products from India. India challenged the Tariff Act of 1930, in particular sections 771(7)(G) regarding accumulation of imports for purposes of an injury determination and 776(b) regarding the use of “facts available.” India also challenged Title 19 of the Code of Federal Regulations, sections 351.308 regarding “facts available” and 351.511(a)(2)(i)-(iv), which relates to Commerce's calculation of benchmarks. In addition, India challenged the application of these and other measures in Commerce's countervailing duty determinations and the USITC's injury determination. Specifically, India argued that these determinations were inconsistent with Articles I and IV of the GATT 1994 and Articles 1, 2, 10, 11, 12, 13, 14, 15, 19, 21, 22, and 32 of the SCM Agreement. The DSB established a panel to examine the matter on August 31, 2012. The panel was composed by the Director General on February 18, 2013, as follows: Mr. Hugh McPhail, Chair; Mr. Anthony Abad and Mr. Hanspeter Tschaeni, Members.

The Panel met with the parties on July 9-10, 2013, and on October 8-9, 2013. The Panel circulated its report on July 14, 2014. The Panel rejected India's claims against the U.S. statutes and regulations concerning facts available and benchmarks under Articles 12.7 and 14(d) of the SCM Agreement, respectively, but found that the U.S. statute governing accumulation was inconsistent with Article 15 of the SCM Agreement because it required the accumulation of both dumped and subsidized imports in the context of countervailing investigations. Consequently, the Panel also found that the ITC's injury determination breached U.S. obligations under Article 15.

The Panel rejected India's challenges under Article 1.1(a)(1) of the SCM Agreement to Commerce's “public body” findings in two instances, as well as most of India's claims with respect to Commerce's application of facts available under Article 12.7 in the determination at issue. The Panel also rejected most of India's claims against Commerce's specificity determinations under Article 2.1, and its calculation of certain benchmarks used in the proceedings under Article 14(d). The Panel found that Commerce's determination that certain low-interest loans constituted “direct transfers” of funds was consistent with Article 1.1(a)(1), but that Commerce's determination that a captive mining program constituted a financial contribution was not consistent with Article 1.1(a). Finally, the Panel found that Commerce did not act inconsistently with Articles 11, 13, 21 and 22 of the SCM Agreement when it analyzed new subsidy allegations in the context of review proceedings.

On August 8, 2014, India appealed the Panel's findings; on August 13, 2014, the United States also appealed certain of the Panel's findings. The Appellate Body released its report on December 8, 2014.

The Appellate Body upheld the Panel's findings regarding the U.S. benchmarks regulation, but found that certain instances of Commerce's application of these regulations were inconsistent with Article 14(d). The Appellate Body also upheld the Panel's findings regarding accumulation, finding that the application of the U.S. statute in the injury determination at issue was inconsistent with Article 15 of the SCM Agreement, and that the U.S. statute was inconsistent with that provision, although on different grounds than those found by the Panel. The Appellate Body rejected India's interpretation of “public body” under Article 1.1(a)(1), but reversed the Panel's finding that Commerce acted consistently in making the public

body determination at issue on appeal. Regarding specificity, the Appellate Body rejected each of India's appeals under Article 2.1(c), as it did with respect to India's challenge to the Panel's finding under Article 1.1(a)(1)(i) relating to "direct transfers of funds." The Appellate Body also reversed the Panel's finding that Commerce had acted inconsistently with Article 1.1(a)(1)(iii) in finding that captive mining program constituted a provision of goods. Finally, the Appellate Body upheld the Panel's rejection of India's claims under Articles 11, 13 and 21 regarding new subsidy allegations. The Appellate Body reversed the Panel's findings under Article 22 of the SCM Agreement, but was unable to complete the analysis. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on December 19, 2014.

At the DSB meeting held on January 16, 2015, the United States notified the DSB of its intention to comply with the recommendations and rulings and indicated it would need a RPT to do so. On March 24, 2015, the United States and India informed the DSB that they had agreed on a RPT of 15 months, ending on March 19, 2016. At the United States' request, India then agreed to a 30 day extension to April 18, 2016.

On March 7, 2016, USITC issued a Section 129 determination in the hot-rolled steel from India countervailing duty (CVD) proceeding to comply with the findings of the Appellate Body. On March 18, 2016, DOC issued its preliminary determination memos in the Section 129 proceedings, and on April 14, 2016, DOC issued its final Section 129 determinations. On April 22, 2016, the United States informed the DSB that it had complied with the recommendations and rulings in this dispute.

On June 5, 2017, India requested consultations regarding the U.S. implementation. On July 13, 2017, consultations were held between India and the United States.

United States — Countervailing Duty Measures on Certain Products from China (DS437)

On May 25, 2012, China requested consultations regarding numerous U.S. countervailing duty determinations in which the U.S. Department of Commerce had determined that various Chinese state-owned enterprises were "public bodies" under Article 1.1(a)(1) of the SCM Agreement, with a view towards extending the Appellate Body's analysis in DS379 to those determinations. China challenged various other aspects of these investigations as well, including but not limited to Commerce's calculation of benchmarks, initiation standard, determination of specificity of the subsidies, use of facts available, and finding that export restraints were a countervailable subsidy.

Consultations were held in July 2012, and a panel was established in September 2012. The Panel was composed by the Director-General on November 26, 2012, as follows: Mr. Mario Matus, Chair; Mr. Scott Gallacher and Mr. Hugo Perezcano Díaz, Members. The Panel met with the parties on April 30-May 1, 2013, and on June 18-19, 2013. The panel circulated its report on July 14, 2014. The Panel found that Commerce's determinations in 12 investigations that certain state-owned enterprises were "public bodies" were inconsistent with Article 1.1(a)(1) of the SCM Agreement, based on the Appellate Body's analysis in DS379. However, the Panel found in favor of the United States with respect to China's claims regarding Commerce's calculation of benchmarks, initiation of investigations, and use of facts available, and the Panel upheld most of Commerce's specificity determinations. The Panel also found that China established that Commerce acted inconsistently with Article 11.3 of the SCM Agreement by initiating countervailing duty investigations of export restraints.

On August 22, 2014, China appealed the Panel's findings regarding Commerce's calculation of benchmarks, specificity determinations, and use of facts available. On August 27, 2014, the United States appealed the Panel's finding that a section of China's panel request setting forth claims related to Commerce's use of facts available was within the panel's terms of reference. The Appellate Body held a

hearing in Geneva on October 16-17, 2014, with Ujal Singh Battia and Seung Wha Chang as Members, and Peter Van den Bossche as Chairman.

On December 18, 2014, the Appellate Body circulated its report. On benchmarks, the Appellate Body reversed the Panel and found that Commerce's determination to use out-of-country benchmarks in four countervailing duty investigations was inconsistent with Articles 1.1(b) and 14(d) of the SCM Agreement. On specificity, the Appellate Body rejected one of China's claims with respect to the order of analysis in *de facto* specificity determinations. However, the Appellate Body reversed the Panel's findings that Commerce did not act inconsistently with Article 2.1 when it failed to identify the "jurisdiction of the granting authority" and "subsidy programme" before finding the subsidy specific. On facts available, the Appellate Body accepted China's claim that the Panel's findings regarding facts available were inconsistent with Article 11 of the DSU, and reversed the Panel's finding that Commerce's application of facts available was not inconsistent with Article 12.7 of the SCM Agreement. Lastly, the Appellate Body rejected the U.S. appeal of the Panel's finding that China's panel request failed to meet the requirement of Article 6.2 of the DSU to present an adequate summary of the legal basis of its claim sufficient to present the problem clearly.

The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on January 16, 2015. In a letter dated February 13, 2015, the United States notified the DSB of its intention to comply with its WTO obligations and indicated it would need a RPT to do so.

On June 26, 2015, China requested that the RPT be determined through arbitration pursuant to Article 21.3(c) of the DSU. On July 17, 2015, the Director General appointed Mr. Georges M. Abi-Saab as the arbitrator. On October 9, 2015, the arbitrator issued his award, deciding that the RPT would be 14 months and 16 days, ending on April 1, 2016.

Commerce subsequently issued redeterminations in 15 separate countervailing duty investigations and with respect to one "as such" finding of the DSB. Commerce implemented these determinations on April 1, 2016, and May 26, 2016. On June 22, 2016, the United States notified the DSB that it had brought the challenged measures into compliance with the recommendations and rulings of the DSB.

On May 13, 2016, China requested consultations regarding the U.S. implementation. The United States and China held consultations on May 27, 2016. On July 8, 2016, China requested that the DSB refer the matter to the original Panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on July 21, 2016. On October 5, 2016, the compliance Panel was composed with one member of the original Panel: Mr. Hugo Perezcano Diaz, Chair; and with two additional panelists selected to replace unavailable members of the original panel: Mr. Luis Catibayan and Mr. Thinus Jacobsz, Members. The compliance Panel held a meeting with the parties on May 10-11, 2017. The Panel is expected to issue a report in early 2018.

United States — Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina (DS447)

On August 30, 2012, Argentina requested consultations regarding inaction by the United States to authorize importation of fresh bovine meat from Argentina. U.S. law prohibits the importation of fresh meat from countries, pending a determination by the USDA as to whether, and under what import conditions, if any, such products can be safely imported without introducing foot-and-mouth disease (FMD) into the United States. At issue in this matter were the status of three applications by Argentina to the USDA to revise its prohibition and permit the importation of fresh bovine meat. Specifically, Argentina contended that U.S. measures are inconsistent with Articles 1.1, 2.2, 2.3, 3.1, 3.3, 5.1, 5.2, 5.4, 5.6, 6.1, 6.2, 8, and 10.1 of the SPS Agreement; and Articles I:1 and XI:1 of the GATT 1994.

Consultations were held on October 18 and 19, 2012. Argentina requested the establishment of a panel on December 6, 2012, and the DSB established a panel on January 28, 2013. On August 8, 2013, the Director General composed the Panel as follows: Mr. Eirik Glenne, Chair; and Mr. Jaime Coghi and Mr. David Evans, Members. The Panel met with the parties on January 28 and 29, 2014, and September 2, 4-5, 2014.

The final report was issued on July 24, 2015. The Panel's report concluded that the U.S. measures were inconsistent with U.S. obligations under the SPS Agreement and the GATT 1994.

Prior to the issuance of the panel report, USDA issued two administrative documents (in August 2014 and July 2015) that lift the FMD ban on Argentina, and permit the importation of fresh bovine meat under certain conditions. In light of the regulatory actions taken by USDA prior to the conclusion of the panel proceeding, the United States notified the DSB at its meeting held on August 31, 2015, that the United States had addressed the matters raised in this dispute.

United States — Measures Affecting the Importation of Fresh Lemons (DS448)

On September 3, 2012, Argentina requested consultations regarding the U.S. failure thus far to grant import authorization for fresh lemons from Northwest Argentina. Consultations were held on October 17-18, 2012, in Geneva, Switzerland. Argentina submitted its request for establishment of a dispute settlement panel on December 6, 2012.

United States — Countervailing and Anti-Dumping Measures on Certain Products from China (DS449)

On September 17, 2012, the United States received a request for consultations from China regarding Public Law 112-99 (P.L. 112-99) and determinations and actions made by Commerce, the USITC, and U.S. Customs and Border Protection in connection with 31 joint antidumping and countervailing duty proceedings. China alleged in its consultation request that the retroactive nature of Section 1 of P.L. 112-99 and the difference in effective dates between Sections 1 and 2 of P.L. 112-99 were violations of GATT Article X. China further alleged that dozens of antidumping and countervailing duty proceedings initiated between November 20, 2006 and March 13, 2012 violated the United States' WTO obligations because the United States had no basis under domestic law to identify and avoid "double remedies" and U.S. authorities failed to "investigate and avoid double remedies."

China and the United States held consultations on November 5, 2012. On November 30, China requested the establishment of a panel. China and the United States held consultations on November 5, 2012. On November 30, China requested the establishment of a panel, and on December 17, 2012 a panel was established. On March 4, 2013, the Director General composed the panel as follows: Mr. José Graça Lima, Chair; and Mr. Donald Greenfield and Mr. Arie Reich, Members. The panel met with the parties on July 2-3, 2013, and August 27-28, 2013.

On March 27, 2014, the panel issued a report that rejected all of China's claims concerning the WTO-consistency of P.L. 112-99. However, the panel found that U.S. authorities failed to "investigate and avoid double remedies." Therefore, the panel found that 25 countervailing duty proceedings involving imports from China initiated between November 20, 2006, and March 13, 2012 were inconsistent with U.S. WTO obligations.

On April 8, 2014, China appealed the panel's interpretation of Article X:2 of the GATT 1994. On April 17, 2014, the United States filed its own appeal, challenging the sufficiency of China's panel request under Article 6.2 of the DSU, and requesting reversal of the panel's findings relating to the 25 countervailing duty proceedings involving imports from China.

On July 7, 2014, the Appellate Body issued its report. The Appellate Body found that the panel erred in its legal interpretation of Article X:2 of the GATT, and reversed the Panel's findings with respect to P.L. 112-99. The Appellate Body was unable to complete the analysis to determine the consistency of P.L. 112-99 with Article X:2 due to the lack of undisputed facts on the record. The Appellate Body found that China's panel request complied with Article 6.2 of the DSU.

On July 22, 2014, the DSB adopted its recommendations and rulings in the dispute. On August 21, 2014, the United States stated its intention to comply with the DSB recommendations and rulings, and that it would need a RPT to do so. The United States and China initially agreed to a RPT of 12 months. The United States and China subsequently agreed to extend the RPT, so as to expire on August 5, 2015. At the DSB meeting on August 31, 2015, the United States notified the DSB that it had implemented the recommendations and rulings of the DSB in the dispute.

United States – Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea (DS464)

On August 29, 2013, the United States received from Korea a request for consultations pertaining to antidumping and countervailing duty measures imposed by the United States pursuant to final determinations issued by Commerce following antidumping and countervailing duty investigations regarding large residential washers (washers) from Korea. Korea claimed that Commerce's determinations, as well as certain methodologies used by Commerce, were inconsistent with U.S. commitments and obligations under Articles 1, 2, 2.1, 2.4, 2.4.2, 5.8, 9.3, 9.4, 9.5, 11, and 18.4 of the AD Agreement, Articles 1.1, 1.2, 2.1, 2.2, 10, 14, and 19.4 of the SCM Agreement; Articles VI, VI:1, VI:2, and VI:3 of the GATT 1994; and Article XVI:4 of the WTO Agreement. Specifically, Korea challenged Commerce's alleged use of "zeroing" and application of the second sentence of Article 2.4.2 of the AD Agreement, as applied in the washers antidumping investigation and "as such." Korea also challenged Commerce's determinations in the washers countervailing duty investigation that Article 10(1)(3) of Korea's Restriction of Special Taxation Act (RSTA) is a subsidy that is specific within the meaning of Article 2.1 of the SCM Agreement, Commerce's determination of the amount of subsidy benefit received by a respondent under Article 10(1)(3) of the RSTA, Commerce's determination that Article 26 of the RSTA is a regionally specific subsidy, and Commerce's imposition of countervailing duties on one respondent that were attributable to tax credits that the respondent received for investments that it made under Article 26 of the RSTA.

The United States and Korea held consultations on October 3, 2013. On December 5, 2013, Korea requested that the DSB establish a panel. On January 22, 2014, a panel was established. On June 20, 2014, the Director General composed the panel as follows: Ms. Claudia Orozco, Chair; and Mr. Mazhar Bangash and Mr. Hanspeter Tschaeni, Members. The panel held meetings with the parties on March 10-11, 2015, and on May 20-21, 2015.

The panel circulated its report on March 11, 2016. The panel found that aspects of Commerce's antidumping determination were inconsistent with the second sentence of Article 2.4.2 of the AD Agreement, including the determination to apply an alternative, average-to-transaction comparison methodology and the application of that methodology to all transactions rather than just to so-called pattern transactions. The panel rejected other claims asserted by Korea, including Korea's argument that Commerce acted inconsistently with Article 2.4.2 by determining the existence of a pattern exclusively on the basis of quantitative criteria.

The panel found that aspects of Commerce's differential pricing methodology are inconsistent "as such" with the second sentence of Article 2.4.2 of the AD Agreement. The panel also found that the United States' use of zeroing when applying the average-to-transaction comparison methodology is inconsistent

with the second sentence of Article 2.4.2 and Article 2.4, both “as such” and as applied in the washers antidumping investigation.

In addition, the panel made several findings on the CVD issues raised by Korea. The Panel found that Commerce’s disproportionality analysis, in its original and remand determinations, was inconsistent with Article 2.1(c) of the SCM Agreement. But the panel rejected Korea’s remaining claims – i.e., its claim that Commerce’s regional specificity determination was inconsistent with Article 2.2 of the SCM Agreement, and its claims concerning the proper quantification of subsidy ratios.

On April 19, 2016, the United States appealed certain of the panel’s findings. Korea filed another appeal on April 25, 2016. The oral hearing in the appeal was held on June 20-21, 2016, in Geneva.

On September 7, 2016, the Appellate Body circulated its report. The Appellate Body upheld several of the panel’s findings under the AD Agreement, including the panel’s finding that the average-to-transaction comparison methodology should be applied only to so-called pattern transactions, the panel’s finding that the use of zeroing is inconsistent with the second sentence of Article 2.4.2 and Article 2.4, both “as such” and as applied, and the panel’s finding that the differential pricing methodology is inconsistent “as such” with the second sentence of Article 2.4.2 of the AD Agreement. The Appellate Body reversed other findings made by the panel. For instance, the Appellate Body found that an investigating authority must assess the price differences at issue on both a quantitative and qualitative basis, and the Appellate Body mooted the panel’s finding concerning systemic disregarding, finding instead that the combined application of comparison methodologies is impermissible. With respect to the CVD issues, the Appellate Body upheld the panel’s rejection of Korea’s regional specificity claim, but found that certain aspects of Commerce’s calculation of subsidy rates were inconsistent with Article 19.4 of the SCM Agreement and Article VI:3 of the GATT 1994.

On September 26, 2016, the DSB adopted the panel and Appellate Body reports. On October 26, 2016, the United States stated that it intends to implement the recommendations of the DSB in this dispute in a manner that respects U.S. WTO obligations, and that it will need a reasonable period of time in which to do so. On April 13, 2017, an Article 21.3(c) arbitrator determined that the RPT for implementation would expire on December 26, 2017.

On December 15, 2017, USTR requested that Commerce initiate a proceeding under section 129 of the *Uruguay Round Agreements Act* to address the DSB’s recommendations relating to Commerce’s CVD investigation of washers from Korea. On December 18, 2017, Commerce initiated a section 129 proceeding. The section 129 proceeding is expected to be completed in 2018.

United States – Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China (DS471)

On December 3, 2013, the United States received from China a request for consultations pertaining to antidumping measures imposed by the United States pursuant to final determinations issued by Commerce following antidumping investigations regarding a number of products from China, including certain coated paper suitable for high-quality print graphics using sheet-fed presses, certain oil country tubular goods, high pressure steel cylinders, polyethylene terephthalate film, sheet, and strip; aluminum extrusions; certain frozen and canned warm water shrimp; certain new pneumatic off-the-road tires; crystalline silicon photovoltaic cells, whether or not assembled into modules; diamond sawblades and parts thereof; multilayered wood flooring; narrow woven ribbons with woven selvedge; polyethylene retail carrier bags; and wooden bedroom furniture. China claimed that Commerce’s determinations, as well as certain methodologies used by Commerce, are inconsistent with U.S. obligations under Articles 2.4.2, 6.1, 6.8, 6.10, 9.2, 9.3, 9.4, and Annex II of the AD Agreement; and Article VI:2 of the GATT 1994. Specifically,

China challenges Commerce's application in certain investigations and administrative reviews of a "targeted dumping methodology," "zeroing" in connection with such methodology, a "single rate presumption for non-market economies," and a "NME-wide methodology" including certain "features". China also challenges a "single rate presumption" and the use of "adverse facts available" "as such."

The United States and China held consultations on January 23, 2014. On February 13, 2014, China requested that the DSB establish a panel, and a panel was established on March 26, 2014. On August 28, 2014, the Director General composed the panel as follows: Mr. José Pérez Gabilondo, Chair; and Ms. Beatriz Leycegui Gardoqui and Ms. Enie Neri de Ross, Members. The panel held meetings with the parties on July 14-16, 2015, and on November 17-19, 2015.

The panel circulated its report on October 19, 2016. The panel found that a number of aspects of the "targeted dumping methodology" applied by Commerce in three challenged investigations were not inconsistent with the requirements of the AD Agreement, including certain quantitative aspects of Commerce's methodology. However, the Panel found fault with other aspects of Commerce's methodology and with Commerce's explanation of why resort to the alternative methodology was necessary. The panel also found that Commerce's application of the alternative methodology to all sales, rather than only to so-called pattern sales, and Commerce's use of "zeroing" in connection with the alternative methodology, were inconsistent with the second sentence of Article 2.4.2 of the AD Agreement. The panel found that Commerce's use of a rebuttable presumption that all producers and exporters in China comprise a single entity under common government control – the China-government entity – to which a single antidumping margin is assigned, both as used in specific proceedings and generally, is inconsistent with certain obligations in the WTO Antidumping Agreement concerning when exporters and producers are entitled to a unique antidumping margin or rate. Finally, the Panel agreed with the United States that China had not established that Commerce has a general norm whereby it uses adverse inferences to pick information that is adverse to the interests of the China-government entity in calculating its antidumping margin or rate. The panel also decided to exercise judicial economy with respect to the information Commerce utilized in particular proceedings.

On November 18, 2016, China appealed certain of the panel's findings regarding Commerce's "targeted dumping methodology," use of "adverse facts available," and the "single rate presumption." The Appellate Body held a hearing in Geneva on February 27-28, 2017, and issued a report on May 11, 2017. The Appellate Body rejected virtually all of China's claims on appeal and did not make any additional findings of inconsistency against the United States.

On May 22, 2017, the DSB adopted the panel and Appellate Body reports. On June 19, 2017, the United States stated that it intends to implement the recommendations of the DSB in this dispute in a manner that respects U.S. WTO obligations, and that it will need a reasonable period of time in which to do so. On October 17, 2017, China requested that an Article 21.3(c) arbitrator determine the RPT for implementation. The award of the arbitrator is expected in early 2018.

United States – Conditional Tax Incentives for Large Civil Aircraft (DS487)

On December 19, 2014, the EU requested consultations with the United States with respect to "conditional tax incentives established by the State of Washington in relation to the development, manufacture, and sale of large civil aircraft." The EU alleges that such tax incentives are prohibited subsidies that are inconsistent with Articles 3.1(b) and 3.2 of the SCM Agreement. Consultations were held on February 2, 2015, and a panel was established on February 23, 2015. The panel was composed by the Director General on April 22, 2015, as follows: Mr. Daniel Moulis, Chair; Mr. Terry Collins-Williams and Mr. Wilhelm Meier, Members.

On November 28, 2016, the panel report was circulated to the Members finding only the Washington State B&O tax incentive to be a prohibited subsidy. Six other tax incentives were found to be subsidies, but they were not deemed to be illegal under WTO rules.

Findings against the EU

- The EU failed to demonstrate that the aerospace tax measures are *de jure* contingent upon the use of domestic over imported goods with respect to the First Siting Provision in Washington State's Engrossed Substitute Senate Bill (ESSB 5952) considered separately.
- The EU failed to demonstrate that the reduced B&O tax rate for the manufacture and sale of commercial airplanes is *de jure* contingent upon the use of domestic over imported goods with respect to the Second Siting Provision in ESSB 5952 considered separately.
- The EU failed to demonstrate that the aerospace tax measures are *de jure* contingent upon the use of domestic over imported goods with respect to the First Siting Provision and the Second Siting Provision considered jointly.

Findings against the United States

- The seven aerospace tax measures at issue constitute a subsidy within the meaning of Article 1 of the SCM Agreement.
- The Washington State B&O tax rate for the manufacturing or sale of commercial airplanes under the 777X program is inconsistent with Article 3.1(b) of the SCM Agreement.
- The United States acted inconsistently with Article 3.2 of the SCM Agreement.

On November 28, 2016, the panel report was circulated to the Members finding only the Washington State B&O tax incentive to be a prohibited subsidy. Six other tax incentives were found to be subsidies, but they were not deemed to be illegal under WTO rules.

The United States appealed certain aspects of the Panel's findings on December 16, 2016. The EU filed a notice of other appeal on January 17, 2017. The Division assigned to hear the appeal consisted of Mr. Thomas R. Graham (Presiding Member), Mr. Shree B.C. Servansing, and Mr. Peter Van den Bossche. The Appellate Body held an oral substantive hearing with the parties and third parties on June 6, 2017.

The Appellate Body circulated its report on September 4, 2017. The Appellate Body found that none of the seven challenged programs were prohibited import-substitution subsidies, as alleged by the EU. Accordingly, the United States had no compliance obligations, and the dispute ended with a complete U.S. victory.

United States — Anti-Dumping Measures on Oil Country Tubular Goods from Korea (DS488)

On December 22, 2014, the United States received from Korea a request for consultations pertaining to antidumping duties imposed on oil country tubular goods from Korea. Korea claimed that the calculation by Commerce of the constructed value profit rate for Korean respondents was inconsistent with U.S. obligations under Articles 2.2, 2.2.2, 2.4, 6.2, 6.4, 6.9, and 12.2.2 of the Antidumping Agreement and Articles I and X:3 of the GATT 1994. Korea also claimed that Commerce's decision regarding the affiliation of a certain Korean respondent to a supplier, and the effects of that decision, was inconsistent

with Articles 2.2.1.1 and 2.3 of the Antidumping Agreement and that its selection of two mandatory respondents was inconsistent with Article 6.10, including Articles 6.10.1 and 6.10.2. Korea further claimed that Commerce's methodology for disregarding a respondent's exports to third-country markets was inconsistent "as such" and "as applied" in the investigation at issue with Article 2.2 of the Antidumping Agreement.

The United States and Korea held consultations on January 21, 2015. On February 23, Korea requested the establishment of a panel. The DSB established a panel on March 25, 2015, and the Parties agreed to the composition of the panel on July 13 as follows: Mr. John Adank, Chair; and Mr. Abd El Rahman Ezz El Din Fawzy and Mr. Gustav Brink, Members. Subsequently, Mr. Adank withdrew as Chair prior to the second substantive meeting of the Panel, and the Parties agreed that Mr. Crawford Falconer would replace Mr. Adank as Chair. The panel met with the parties on July 20-21, 2016, and November 1-2, 2016.

The panel circulated its report on November 14, 2017. The panel found that the United States had acted inconsistently with the chapeau of Article 2.2.2 of the Antidumping Agreement because Commerce did not determine profit for constructed value based on actual data pertaining to sales of the like product in the home market. The panel also found that the United States had acted inconsistently with Articles 2.2.2(i) and (iii) because Commerce relied on a narrow definition of the "same general category of products" in concluding it could not determine profit under Article 2.2.2(i) and in concluding it could not calculate a profit cap under Article 2.2.2(iii). The panel further found that the United States had acted inconsistently with Article 2.2.2(iii) because Commerce failed to calculate and apply a profit cap. The panel exercised judicial economy with respect to Korea's claims that the United States acted inconsistently with the chapeau of Article 2.2.2 because Commerce did not determine profit for constructed value based on actual data pertaining to sales of the like product in third-country markets and with respect to Articles 1 and 9.3 as a consequence of substantive violations of Articles 2.2.2, 2.2.2(i), and 2.2.2(iii). Finally, the panel found two of Korea's claims with respect to profit for constructed value to be outside its terms of reference, specifically its claim that the United States had violated Article 2.2.2(iii) because Commerce had determined the profit rate based on a certain company's financial statements and its claim that the United States had violated Article X.3(a) of the GATT 1994, because Commerce had purportedly acted contrary to its agency practice of determining profit.

The panel otherwise rejected the remaining claims asserted by Korea with respect to the investigation at issue, including claims regarding the use of constructed export price and the selection of costs for calculation of constructed normal value; found such claims to be outside its terms of reference; or exercised judicial discretion. For example, the panel specifically found that Korea failed to demonstrate that the United States acted inconsistently with Articles 6.10 and 6.10.2 of the Antidumping Agreement in its selection of mandatory respondents. The panel also specifically rejected Korea's claims that Commerce's methodology for disregarding a respondent's exports to third-country markets was inconsistent "as such" and "as applied" in the investigation with Article 2.2 of the Antidumping Agreement. Finally, the panel exercised judicial economy with respect to Korea's claim that the United States had acted inconsistently with Article 2.4.

On January 12, 2018, the DSB adopted the panel report in this dispute.

United States – Anti-Dumping and Countervailing Measures on Certain Coated Paper from Indonesia (DS491)

On March 13, 2015, Indonesia requested consultations concerning antidumping and countervailing duty measures pertaining to certain coated paper suitable for high-quality print graphics using sheet-fed presses. Indonesia alleged inconsistencies with Article VI of the GATT 1994, Articles 1, 3.5, 3.7 and 3.8 of the Antidumping Agreement, and Articles 2.1, 12.7, 10, 14(d), 15.5, 15.7 and 15.8 of the SCM Agreement.

With respect to the countervailing duty measures, Indonesia challenged Commerce's determinations that Indonesia's provision of standing timber, log export ban and debt forgiveness program are countervailable subsidies. Indonesia claimed that Commerce determined both that the standing timber was provided for less than adequate remuneration and that the log export ban distorted prices without factoring in prevailing market conditions. Indonesia also alleged, in regards to all three subsidies, that Commerce failed to examine whether there was a plan or scheme in place sufficient to constitute a "subsidy programme" within the meaning of the SCM Agreement. Indonesia further claimed that Commerce did not identify whether each subsidy was "specific to an enterprise ... within the jurisdiction of the granting authority," as required by the SCM Agreement. In addition, Indonesia challenged Commerce's facts available determination in which it concluded that the government of Indonesia forgave debt.

With respect to both the antidumping and countervailing duty measures, Indonesia alleged that the USITC threat of injury determination breached both the AD Agreement and SCM Agreement because it relied on allegation, conjecture, and remote possibility; was not based on a change in circumstances that was clearly foreseen and imminent; and showed no causal relationship between the subject imports and the threat of injury to the domestic industry.

Indonesia also raised an "as such" claim with respect to 19 U.S.C. § 1677(11) (B). Indonesia contended that, with respect to threat of injury cases, the law does not consider or exercise "special care" as a result of the requirement that a tie vote be treated as an affirmative ITC determination.

Consultations between Indonesia and the United States took place in Geneva on June 25, 2015. A panel was established on September 28, 2015, and on February 4, 2016, the Director-General composed the panel as follows: Mr. Hanspeter Tschani, Chair; and Mr. Martin Garcia and Ms. Enie Neri de Ross, Members. The panel held its first substantive meeting with the parties, in Geneva, on December 6-7, 2016. The panel held its second substantive meeting with the parties, in Geneva, on March 28-29, 2017. On December 6, 2017, the Panel circulated its report to the Members. The report rejected all of Indonesia's claims. Indonesia chose not to appeal, and the DSB adopted the report on January 22, 2018.

United States — Measures Concerning Non-Immigrant Visas (DS503)

On March 3, 2016, India requested consultations with the United States regarding certain measures relating to (1) fees for the L-1 and H-1B categories of non-immigrant visas, under which the United States permits the temporary entry of foreign workers that meet certain criteria; and (2) an alleged U.S. commitment to issue a certain amount of H-1B visas to nationals of Singapore and Chile on an annual basis. India's request alleges that these measures are inconsistent with Articles II, III:3, IV:1, V:4, VI:1, XVI, XVII, and XX of the GATS; and paragraphs three and four of the GATS Annex on the Movement of Natural Persons Supplying Services. Consultations between India and the United States took place in Geneva on May 11-12, 2016.

United States – Countervailing Measures on Supercalendered Paper from Canada (DS505)

On March 30, 2016, Canada requested consultations with the United States to consider claims related to U.S. countervailing duties on supercalendered paper from Canada (Investigation C-122-854). Consultations between the United States and Canada took place in Washington, D.C. on May 4, 2016.

On June 9, 2016, Canada requested the establishment of a panel challenging certain actions of the U.S. Department of Commerce with respect to the countervailing duty investigation and final determination, the countervailing duty order, and an expedited review of that order. The panel request also presents claims with respect to alleged U.S. "ongoing conduct" or, in the alternative, a purported rule or norm, with respect

to the application of facts available in relation to subsidies discovered during the course of a countervailing duty investigation.

Canada alleges that the U.S. measures at issue are inconsistent with obligations under Articles 1.1(a)(1), 1.1(b), 2, 10, 11.1, 11.2, 11.3, 11.6, 12.1, 12.2, 12.3, 12.7, 12.8, 14, 14(d), 19.1, 19.3, 19.4, 22.3, 22.5, and 32.1 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement); and Article VI:3 of the General Agreement on Tariffs and Trade 1994 (GATT 1994).

A panel was established on July 21, 2016. On August 31, 2016, the Panel was composed by the Director-General to include: Mr. Paul O'Connor, Chair; and Mr. David Evans and Mr. Colin McCarthy, Members. The panel met with the parties on March 21-22, 2017, and on June 13-14, 2017. The panel is expected to circulate its report in 2018.

United States – Certain Measures Relating to the Renewable Energy Sector (DS510)

On September 9, 2016, India requested WTO consultations regarding alleged domestic content requirement and subsidy measures maintained under renewable energy programs in the states of Washington, California, Montana, Massachusetts, Connecticut, Michigan, Delaware, and Minnesota. India's request alleges inconsistencies with Articles III:4, XVI:1 and XVI:4 of the GATT 1994, Article 2.1 of the TRIMS Agreement; and Articles 3.1(b), 3.2, 5(a), 5(c), 6.3(a), 6.3(c), and 25 of the SCM Agreement. Consultations between India and the United States took place in Geneva on November 16-17, 2016.

United States – Countervailing Measures on Cold- and Hot-Rolled Steel Flat Products from Brazil (DS514)

On November 11, 2016, Brazil requested consultations concerning countervailing duty measures pertaining to cold- and hot-rolled steel flat products from Brazil. Brazil alleges inconsistencies with Article VI of the GATT 1994; Articles 1, 2, 10, 11 (in particular, Articles 11.2, 11.3, 11.4, and 11.9), 12 (in particular, Articles 12.3, 12.5, and 12.7), 14, 15, 16, 17, 19, and 32.1, and Annexes II and III of the SCM Agreement.

Brazil characterizes its claims as claims related to the procedures applied in the countervailing duty investigations, claims related to the determinations of injury and domestic industry, claims related to the characterization of certain measures as countervailable subsidies, and claims related to the calculation and determination of the subsidy margins for certain tax legislation and loans. With respect to the procedures, Brazil alleges that the United States initiated countervailing duty investigations in the absence of sufficient evidence and inappropriately drew adverse inferences or relied upon adverse facts available. With respect to the determination of injury and domestic industry, Brazil claims that it is not clear that the decision on injury was based on positive evidence or an objective examination of the facts, and that the domestic industry definition did not refer to the domestic producers as a whole. With respect to the characterization of certain measures as countervailable subsidies, Brazil alleges that the United States failed to demonstrate that certain legislation (related to the "IPI" (tax on industrialized products) levels for capital goods, the integrated drawback scheme, the *ex-tarifario*, the "REINTEGRA," the payroll tax exemption, and the FINAME and "Desenvolve Bahia") entailed a financial contribution and conferred a benefit within the meaning of the SCM Agreement; that the United States failed to demonstrate that the tax legislation is specific within the meaning of the SCM Agreement; and that, with regard to FINAME, the United States failed to demonstrate that the loans conferred a benefit and were specific within the meaning of the SCM Agreement. Finally, with respect to the calculation and determination of subsidy margins for tax legislation and loans, Brazil alleges that the subsidies were calculated in excess of the actual benefit provided, because the benchmarks used were flawed.

The parties consulted on this matter on December 19, 2016.

United States – Measures Related to Price Comparison Methodologies (DS515)

On December 12, 2016, China requested consultations with the United States regarding its use of a non-market economy (NME) methodology in the context of anti-dumping investigations involving Chinese producers. In its request, China asserts that WTO Members were required to terminate the use of an NME methodology by December 11, 2016, and thereafter apply the provisions of the AD Agreement and the GATT 1994 to determine normal value.

Specifically, China alleges that the following “measures” are inconsistent with Articles 2.1, 2.2, 9.2, 18.1, and 18.4 of the Antidumping Agreement and Articles I:1, VI:1, and VI:2 of GATT 1994:

- Sections 771(18) and 773 of the Tariff Act of 1930, as amended;
- Part 351.408 of Commerce’s regulations, 19 C.F.R. § 351.408;
- Commerce’s 2006 determination that China is a ‘non-market economy’ for purposes of the Tariff Act of 1930, as amended; and
- The failure of the United States, by way of omission, to revoke the 2006 determination or otherwise modify its laws with respect to antidumping investigations and reviews of Chinese products initiated and/or resulting in preliminary or final determinations after December 11, 2016.

China also challenges Section 773(e) of the Tariff Act of 1930 – the constructed value provision that applies to market economies – to the extent that it permits the use of “surrogate values.” Consultations took place on February 7-8, 2017, in Geneva.

China requested supplemental consultations on November 3, 2017, which took place on January 4, 2018, in Geneva. As part of its supplemental consultations request, China further alleged that certain of the following “measures” are also inconsistent with Articles 2.1, 2.2, 5.2, 5.3, 7.1(ii), 9.2, 9.3, 11.1, 11.2, 11.3, 18.1, and 18.4 of the Antidumping Agreement, Articles I:1, VI:1, and VI:2 of GATT 1994, and Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization:

- Commerce’s 2017 determination that China is a “non-market economy” for purposes of the Tariff Act of 1930, as amended;
- The policy or practice of using surrogate values to determine normal value in both original and administrative review determinations in antidumping proceedings involving Chinese products, whether that conduct is pursuant to Section 773(c) of the Tariff Act, Section 773(e), or any other provision of U.S. law;
- Certain named Commerce final determinations of normal value in antidumping investigations or administrative reviews of Chinese imports made subsequent to December 11, 2016, which were based on the use of “surrogate values”;
- Commerce’s preliminary affirmative determinations in *Certain Hardwood Plywood Products From the People's Republic of China* (June 23, 2017); *Certain Aluminum Foil From the People's Republic of China* (October 26, 2017); and *Carton-Closing Staples from the People's Republic of China* (October 27, 2017);
- Certain named Commerce final determinations in sunset reviews in which Commerce relied on margins of dumping calculated on the basis of “surrogate values”;
- The policy or practice of making final determinations in sunset reviews of antidumping orders applicable to Chinese products relying on margins of dumping calculated on the basis of surrogate values, whether pursuant to Section 773(c) of the Tariff Act of 1930, Section 773(e), or any other provision of U.S. law; and

- The failure of Commerce, by way of omission, to conduct “reviews based on changed circumstances” pursuant to Section 751(b) of the Tariff Act in the antidumping investigations of Chinese products, by virtue of the expiration of Section 15(a)(ii) of China’s Accession Protocol.

China further added that the “measures at issue are “not justifiable” under the second Supplementary Provision of Article VI:1 of GATT 1994, as referenced in Article 2.7 of the Antidumping Agreement.

United States – Countervailing Measures on Certain Pipe and Tube Products from Turkey (DS523)

On March 8, 2017, Turkey requested consultations concerning countervailing duty measures imposed by the United States pursuant to four final countervailing duty determinations issued by Commerce pertaining to certain pipe and tubes products. Turkey alleges inconsistencies with Articles 1.1(a)(1), 1.1(b), 2.1(c), 2.4, 10, 12.7, 14(d), 15.3, 19.4, and 32.1 of the SCM Agreement; and Article VI:3 of the GATT 1994.

Turkey challenges the application of measures in four final countervailing duty determinations with respect to the provision of hot-rolled steel for less than adequate remuneration. Specifically, Turkey challenges Commerce’s “public bodies” determination, use of facts available, and determination of specificity of the subsidy program. Turkey also challenges Commerce’s calculation of benchmarks, both as applied and “as such.”

With respect to the injury determinations, Turkey challenges the Tariff Act of 1930, in particular section 771(7)(G)(i) regarding cross-cumulation of imports.

Consultations between the United States and Turkey took place in Geneva on April 28, 2017. A panel was established on June 19, 2017, and on September 14, 2017, the Director-General composed the panel as follows: Mr. Guillermo Valles, Chair; and Ms. Luz Elena Reyes de la Torre and Mr. Jose Antonio de la Puente Leon, Members. The panel will hold its first substantive meeting with the parties on February 28-March 1, 2018, in Geneva.

United States – Countervailing Measures on Softwood Lumber from Canada (DS533)

On November 28, 2017, the United States received from Canada a request for consultations pertaining to the final determination issued by Commerce following a countervailing duty investigation regarding softwood lumber from Canada. Canada claimed that Commerce’s determination is inconsistent with U.S. commitments and obligations under Articles 1.1(a), 1.1(b), 2.1(a), 2.1(b), 10, 11.2, 11.3, 14(d), 19.1, 19.3, 19.4, 21.1, 21.2, 32.1, and 32.5 of the SCM Agreement, and Article VI:3 of the GATT 1994. Specifically, Canada challenged Commerce’s determinations regarding benchmarks for stumpage, log export permitting processes, and non-stumpage programs.

The United States and Canada held consultations on January 17, 2018.

United States – Anti-Dumping Measures Applying Differential Pricing Methodology to Softwood Lumber from Canada (DS534)

On November 28, 2017, the United States received from Canada a request for consultations pertaining to the final determination issued by Commerce following an antidumping investigation regarding softwood lumber from Canada. Canada claimed that Commerce’s determination is inconsistent with U.S. commitments and obligations under Articles 1, 2.1, 2.4, and 2.4.2 of the AD Agreement, and Articles VI:1 and VI:2 of the GATT 1994. Specifically, Canada challenged Commerce’s application of a differential pricing methodology, including the United States’ use of zeroing when applying the average-to-transaction comparison methodology.

The United States and Canada held consultations on January 17, 2018.

I. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB) is the subsidiary body of the General Council, created by the Marrakesh Agreement Establishing the WTO, to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines domestic trade policies of each Member on a schedule designed to review the policies of the full WTO Membership on a timetable determined by trade volume. The express purpose of the review process is to strengthen Members' adherence to WTO provisions and to contribute to the smoother functioning of the WTO. Moreover, the review mechanism serves as a valuable resource for improving the transparency of Members' trade and investment regimes. Members continue to value the review process, because it informs each government's own trade policy formulation and coordination.

The Member under review works closely with the WTO Secretariat to provide pertinent information for the process. The Secretariat produces an independent report on the trade policies and practices of the Member under review. Accompanying the Secretariat's report is the Member's own report. In a TPRB session, the WTO Membership discusses these reports together, and the Member under review addresses issues raised in the reports and answers questions about its trade policies and practices. Reports cover the range of WTO agreements – including those relating to goods, services, and intellectual property – and are available to the public on the WTO's website at <http://www.wto.org>. Documents are filed on the website's "Documents Online" database under the document symbol "WT/TPR."

TPRs of LDC Members often perform a technical assistance function, helping them improve their understanding of their trade policy structure's relationship with the WTO Agreements. The reviews have also enhanced these countries' understanding of the WTO Agreements, thereby better enabling them to comply and integrate into the multilateral trading system. In some cases, the reviews have spurred better interaction among government agencies. The reports' wide coverage of Members' policies also enables Members to identify any shortcomings in policy and specific areas where further technical assistance may be appropriate.

The TPRM requires Members, in between their reviews, to provide information on significant trade policy changes. The WTO Secretariat uses this and other information to prepare reports by the Director General on a regular basis on the trade and trade-related developments of Members and Observer Governments. The reports are discussed at informal meetings of the TPRB. The Secretariat consolidates the information it collects and presents it in the Director General's Annual Report on Developments in the International Trading Environment.

Major Issues in 2017

During 2017, the TPRB reviewed the trade regimes of 23 Members. Members reviewed were Belize, Bolivia (Plurinational State of), Brazil, Cambodia, European Union, Iceland, Jamaica, Japan, Mexico, Mozambique, Nigeria, Paraguay, Sierra Leone, Switzerland and Liechtenstein, and the members of the West African Economic and Monetary Union (WAEMU) (Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo).

Since its inception in 1989 to the end of 2017, the TPRB has conducted 467 reviews. The reviews have covered 153 of 164 Members. Those Members not yet reviewed by the end of 2017 are Afghanistan, Cuba, Kazakhstan, Lao PDR, Liberia, Montenegro, Samoa, Seychelles, Tajikistan, Vanuatu, and Yemen. Of the 36 LDC Members of the WTO, the TPRB had reviewed 31 by the end of 2016.

While each review highlights the specific issues and measures concerning the individual Member, certain common themes emerged during the course of the reviews conducted in 2017. These included:

- transparency in policy making and implementation;
- economic environment and trade liberalization;
- implementation of the WTO Agreements (including acceptance and implementation of the WTO TFA);
- regional trade agreements and their relationship with the multilateral trading system;
- tariff issues, including the differences between applied and bound rates;
- customs valuation and customs clearance procedures;
- the use of trade remedy measures such as antidumping and countervailing duties;
- technical regulations and standards and their alignment with international standards;
- sanitary and phytosanitary measures;
- intellectual property rights legislation and enforcement;
- government procurement policies and practices;
- trade-related investment policy issues;
- sectoral trade policy issues, particularly liberalization in agriculture and certain services sectors; and
- technical assistance in implementing the WTO Agreements and experience with Aid for Trade, and the Enhanced Integrated Framework.

In July, the General Council agreed to amend the TPRM contained in Annex 3 to the Marrakesh Agreement Establishing the WTO to adjust the cycle of TPRs amid the rising number of WTO Members. Currently, Members undergo a TPR every two, four, or six years depending on the size of their economy. From 2019, the frequency will be changed to three, five, or seven years, respectively. This is the first amendment to the TPRM since it was established in 1989 under the GATT and made permanent under the WTO, as part of the 1994 Uruguay Round agreements.

Prospects for 2018

The TPRM will continue to be an important tool for monitoring Members' compliance with WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures. For 2018, the proposed program of reviews is: Armenia; China; Chinese Taipei; Colombia; the members of the East African Community (EAC) – Burundi, Kenya, Rwanda, Tanzania, and Uganda; Egypt; The Gambia; Guinea and Mauritania; Hong Kong, China; Israel; Malaysia; Montenegro; Nepal; Norway; Philippines; United States of America; Uruguay; and Vanuatu.

J. Other General Council Bodies/Activities

1. Committee on Trade and Environment

Status

The WTO General Council created the Committee on Trade and Environment (CTE) on January 31, 1995, pursuant to the Marrakesh Ministerial Decision on Trade and Environment. Since then, the CTE has discussed a broad range of important trade and environment issues. These issues include: market access associated with environmental measures; the TRIPS Agreement and the environment; labeling for environmental purposes; and capacity-building and environmental reviews, among others.

Major Issues in 2017

In 2017, the CTE met twice under the Chairmanship of the Permanent Representative of Kazakhstan, in June and November, 2017.

Both meetings of the CTE covered a range of trade and environment issues, including fisheries, environmental standards, and environmental provisions in regional trade agreements. Across this range of issues, WTO Members provided updates on their respective policies and programs. Additionally, several international organizations, including the Organization for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Framework Convention on Climate Change (UNFCCC), and the International Organization for Standardization (ISO), briefed the CTE on recent activities. The Secretariat also provided an update of the Environmental Database (EDB) and sought input from WTO Members regarding how to make the database more accessible for Members. The EDB contains all environment-related notifications submitted by WTO members as well as environmental measures and policies mentioned in the Trade Policy Reviews (TPRs) of WTO members and is updated on an annual basis.

Prospects for 2018

The United States will participate in the CTE, and will continue to explore fresh and innovative approaches to challenging trade and environment issues.

2. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT 1947's role in the economic development of less developed GATT Contracting Parties. In the WTO, the CTD is a subsidiary body of the General Council. Since the Doha Development Round was launched, Members have established four additional subgroups of the CTD: a Subcommittee on LDCs; a Dedicated Session on Small Economies; a Dedicated Session on Regional Trade Agreements (RTAs); and a Dedicated Session on the Monitoring Mechanism.

The CTD addresses trade issues of interest to Members with particular emphasis on issues related to the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity, and Fuller Participation of Developing Countries). In this context, the CTD focuses on the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing country Members, and regional integration efforts among developing country Members. In addition, the CTD focuses on issues related to the fuller integration of all developing country Members into the international trading system, technical cooperation and training, trade in commodities, market access in products of interest to developing countries, and the special concerns of LDCs, small, and landlocked economies.

The CTD has been the primary forum for discussion of broad issues related to the nexus between trade and development. Since the initiation of the DDA, the CTD has intensified its work on issues related to trade and development. The CTD has focused on issues such as transparency in preferential trade agreements, expanding trade in products of interest to developing country Members, the WTO's technical assistance and capacity building activities, and an overall assessment of the development aspects of the DDA and sustainable development goals. As directed in the 2005 Hong Kong Ministerial Declaration, the CTD also

conducts annual reviews of steps taken by WTO Members to implement the decision on providing DFQF market access to the LDC Members.

Work in the Subcommittee on LDCs and the Dedicated Sessions on Small Economies and RTAs has included review of market access challenges related to exports of LDC Members, LDC accessions to the WTO, trade-related needs of small, vulnerable economies, including island and landlocked states, and review of Member RTAs notified under the Enabling Clause.

The Monitoring Mechanism was established in 2013 at the Ninth Ministerial Conference. It serves as a focal point within the WTO to analyze and review the implementation of special and differential treatment provisions. The Monitoring Mechanism operates on the basis of submissions by Members. To date, no submissions have been made.

Major Issues in 2017

The CTD in Regular Session held five formal sessions in January, March, May, June, and November 2017. Activities of the CTD and its subsidiary bodies in 2017 included:

- *Focused Work on Trade and Development:* At the Eighth Ministerial Conference of the WTO, “Ministers reaffirm[ed] that development is a core element of the WTO’s work. They also reaffirm[ed] the positive link between trade and development and call[ed] for focused work in the Committee on Trade and Development” (WT/MIN(11)/11). In 2017, Members continued their consideration of submissions containing proposals for work under the MC8 mandate through the consideration of specific proposals.
- *Technical Cooperation and Training:* The Committee considered the final report of the evaluation of the WTO’s technical assistance, prepared by an outside consultant, along with the WTO management response to the evaluation. The consultant presented 28 recommendations directed to WTO Members and senior management. The discussion of the evaluation will feed into the development of the next Biennial Technical Assistance and Training Plan for 2018-2019. The Committee took note of the 2016 Annual Report on Technical Assistance and Training (WT/COMTD/W/225). According to the report, a total of 274 activities were undertaken by the Secretariat in 2015, a slight increase from the previous year. Overall, approximately 18,600 participants were trained during the year, which was an increase of 25 percent over 2015.
- *Duty Free, Quota Free Market Access for LDC Members:* The Decision taken at the Hong Kong Ministerial Conference on DFQF market access for LDCs remains a standing item on the CTD’s agenda. A number of Members shared information on the steps they are taking to provide DFQF market access to LDCs’ products, including in respect of preferential rules of origin.
- *Dedicated Session on Small Economies:* The Dedicated Session on Small Economies held two formal meetings, in May and November 2017. The Secretariat circulated a paper on “Challenges and Opportunities experienced by Small Economies in their Efforts to Reduce Trade Costs, Particularly in the Area of Trade Facilitation.” This paper drew on the Aid-for-Trade Monitoring and Evaluation exercise of 2015 to analyze best practices and policy approaches to enhance productive capacity and export competitiveness.
- *Aid for Trade:* The CTD held three sessions on Aid for Trade in 2017, in February, May, and November. The 2017 Global Review of Aid for Trade was held in July 2017. The theme of the event was “Promoting Trade, Inclusiveness and Connectivity for Sustainable Development.” The breadth of

topics addressed was diverse and included digital and physical infrastructure, e-commerce, investment, inclusiveness, SMEs, public-private partnerships, trade facilitation, and trade finance. The United States organized a session on “New Trends in Digital Economy and Connectivity, Innovation and Assistance.”

- *LDC Subcommittee:* The LDC Subcommittee held two meetings in 2017, in May and October. During those meetings, Members considered market access for LDCs and trends in LDC trade, trade-related technical assistance and accession of LDCs.
- *Dedicated Session on Regional Trade Agreements:* The Dedicated Session on Regional Trade Agreements met once in 2017. The Committee considered the Free Trade Agreement between the Association of Southeast Asian Nations (ASEAN) and India, a goods-only agreement.

Prospects for 2018

The CTD is expected to continue to monitor developments as they relate to issues of concern to developing country Members, including technical assistance and market access. It is anticipated that efforts to identify “focused work” will continue, taking into consideration the relevant sections of the applicable Ministerial Declarations. Members will also continue to work with the Secretariat in dedicated sessions to identify the challenges and opportunities experienced by small economies when linking into global value chains. In addition, the CTD’s examination of RTAs between developing country Members will continue as new RTAs are notified to the WTO. Work will continue on implementing the transparency mechanism for preferential trade agreements. The implementation of the Monitoring Mechanism, agreed to at the Bali Ministerial (WT/MIN(13)/W/17), will also continue in dedicated sessions of the CTD.

3. Committee on Balance-of-Payments Restrictions

Status

The Uruguay Round Understanding on Balance-of-Payments (BOP) clarified GATT disciplines on balance-of-payments-related trade measures. The Committee on Balance-of-Payments Restrictions works closely with the International Monetary Fund (IMF) in conducting consultations on balance of payments issues. Full consultations involve examining a Member’s trade restrictions and BOP situation, while simplified consultations provide for more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in its BOP.

Major Issues in 2017

On April 2, 2015, Ecuador notified the introduction of temporary tariff surcharges for balance of-payments purposes (WTO document WT/BOP/N/79 and Add.1, Add.2). Ecuador indicated that the measure, which came into force on March 11, 2015, would be in place for 15 months. The Committee held full consultations with Ecuador in June and October 2015, in accordance with the terms of reference of Article XVIII:B of the GATT 1994, and the Understanding on the Balance-of-Payments Provisions of the GATT 1994. During these consultations, the United States and many other members expressed their concerns regarding the compatibility of the measures with Ecuador’s commitments and called for the elimination of these measures, while at the same time recognizing the difficulties of the situation. Following the October meeting, Ecuador presented a timetable for the dismantlement of the measure (WT/BOP/G/23), offering to reduce the tariff surcharges and then eliminate them in June 2016.

The Committee continued its full consultations with Ecuador throughout 2016. On May 9, 2016, Ecuador notified Resolution No. 006-2016, which deferred elimination of the surcharge until June 2017. Ecuador's notification justified this change of plans based on an April earthquake that it claimed further worsened its balance of payments. The Committee met again in November 2016, with the United States and other Members pressing Ecuador to eliminate its surcharges as soon as possible in 2017.

The Committee met three times in 2017 and continued its full consultations with Ecuador. In June 2017, Ecuador notified the Committee of the complete elimination of the tariff surcharges (WT/BOP/N/84). A draft report of the consultations was circulated among Members for comments (WT/BOP/W/43). During the July 2017 meeting, proposed changes were discussed and a final text for the report was agreed upon. The Committee decided to conclude consultations and approve the report with the changes agreed during that meeting (WT/BOP/R/114). The report was submitted to the General Council for approval on October 26, 2017.

Prospects for 2018

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis. The United States expects the Committee to continue to ensure that balance-of-payments provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

4. Committee on Budget, Finance and Administration

Status

The Committee on Budget, Finance and Administration (the Budget Committee) is responsible for establishing and presenting the budget for the WTO Secretariat to the General Council for Members' approval. The Budget Committee meets throughout the year to address the financial requirements of the WTO. The budget process in the WTO operates on a biennial basis; the WTO is currently in the sixth consecutive year of "zero nominal growth" budgets. As is the practice in the WTO, decisions on budgetary issues are taken by consensus. The United States is an active participant in the Budget Committee.

In the WTO, the assessed contribution of each Member is based on the share of that Member's trade in goods, services, and intellectual property. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. For the 2016 budget, the U.S. assessed contribution was 11.24 percent of the total budget assessment, or Swiss Francs (CHF) 21,974,200 (about \$22 million) (*details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget are provided in Annex II*).

Major Issues in 2016

The Committee met periodically throughout the year and presented six reports to the General Council in 2016. The Committee obtained and reviewed on a quarterly basis reports on the financial and budgetary situation of the WTO, the arrears of contributions from Members and Observers, the WTO Pension Plan, WTO risk management and internal oversight activities, and the financial situation due to negative interest impact. The Committee reviewed and took note of the annual report on diversity in the WTO Secretariat, the staff learning program, and the Human Resources annual report on grading structure and promotions. The Committee also reviewed and approved proposed revisions to the WTO Financial Rules. A dedicated working group examined the possible establishment of an Audit Committee for the WTO, as recommended by the WTO's external and internal auditors; however, this working group was unable to reach a consensus

on whether an Audit Committee was necessary or appropriate for the particular circumstances of the WTO. Members of the Budget Committee also monitored the development, by the WTO Secretariat, of a strategy for addressing long-term sustainability of the medical insurance plan provided to WTO employees and retirees. The Committee also received regular updates on an Organizational Review process launched by the Director General in December 2013.

Prospects for 2017

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis. The Committee is expected, among other 2017 priorities, to establish a budget for the 2018-2019 biennium and to continue to monitor implementation of the strategy for sustainability in the WTO's provision of health insurance. The Committee may also continue its consideration of the possible establishment of an Audit Committee for the WTO.

5. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all regional agreements to which Members are party.

The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established in the Uruguay Round Agreements, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system. Prior to 1996, these reviews were typically conducted by a “working party” formed to review a specific agreement.

GATT Article XXIV is the principal provision governing free trade areas (FTAs), customs unions (CUs), and interim agreements leading to an FTA or CU concerning goods. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the “Enabling Clause,” provides a basis for certain agreements between or among developing country Members, also concerning trade in goods. The Uruguay Round added three more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV of GATT 1994; and Articles V and Vbis of the GATS, which govern services and labor markets integration agreements. FTAs and CUs are authorized departures from the principle of MFN treatment, if relevant requirements are met.

Major Issues in 2017

As of December 31, 2017, 479 regional trade agreements (RTAs) have been notified to the GATT or WTO, of which 284 are in force (140 covering goods only, 1 covering services only, and 143 covering goods and services). RTAs include bilateral or plurilateral free trade agreements (FTAs), customs unions, and services agreements covered under GATS Articles V and Vbis.

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs. The main features of the mechanism, agreed upon in the Negotiating Group on Rules, include: the early announcement of any RTA; guidelines regarding the notification of RTAs; the preparation by the WTO Secretariat, on its own responsibility and in full consultation with the parties, of a factual presentation on each notified RTA to assist Members in their consideration of the notified RTA; timeframes associated with the consideration of RTAs; provisions regarding subsequent notification and reporting with respect to

notified RTAs; technical support for developing countries; and a division of work between the CRTA, entrusted to implement the mechanism *vis-à-vis* RTAs falling under Article XXIV of GATT 1994 and Article V of the GATS, and the Committee on Trade and Development (CTD), entrusted to do the same for RTAs falling under the Enabling Clause.

Since the implementation of the transparency mechanism in 2007, 259 agreements, counting goods and services notifications separately, have been considered (10 factual presentations representing 16 notifications in 2017). Of these agreements, 251 have been reviewed in the CRTA and eight in the CTD.

Under the transparency mechanism, the WTO Secretariat was tasked to establish and maintain an updated electronic database on individual RTAs. The database was launched in January 2009 and includes extensive information, all of which is available to the public. The RTAs database may be accessed at: <http://rtais.wto.org>.

Prospects for 2018

Four sessions of the Committee on Regional Trade Agreements are foreseen in 2018. The United States will continue to push other Members to comply with WTO transparency obligations applicable to their RTAs.

6. Accessions to the World Trade Organization

Status

There are 22 applicants for WTO Membership. Of these 22 applicants⁶⁵, six appeared to be actively engaged in the WTO accession process as of the end of 2017. Five applicants provided the technical inputs necessary to convene formal meetings of their respective Working Parties (WP). The WP for Azerbaijan convened in July; the WP for Belarus met in January and September; the WP for Comoros met in June and October; and the WP for Sudan met in January and July. The WP for Bosnia and Herzegovina may convene in early 2018. In addition, Timor-Leste in July submitted to the WP the first draft of its Memorandum of Foreign Trade Regime (MFTR), which is required for negotiations to commence.

Six WTO accession applicants (Equatorial Guinea, Libya, Sao Tome and Principe, Somalia, and South Sudan, and Syria) have not submitted the initial documents describing their respective foreign trade regimes. As a result, negotiations on their accessions have not commenced. Accession negotiations with nine other applicants – Algeria, Andorra, the Bahamas, Bhutan, Ethiopia, Iran, Lebanon, Serbia, and Uzbekistan – remained dormant in 2017.

Background

Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members, as Article XII of the WTO Agreement provides. The accession process, with its emphasis on the implementation of WTO provisions and the establishment of stable and predictable market access for goods and services, provides a proven framework for the adoption of policies and practices that encourage trade and investment and promote growth and development.

⁶⁵ Accession Working Parties have been established for Algeria, Andorra, Azerbaijan, the Bahamas, Belarus, Bhutan*, Bosnia and Herzegovina, Comoros*, Equatorial Guinea, Ethiopia*, Iran, Iraq, Lebanon, Libya, Sao Tome and Principe*, Serbia, Somalia*, South Sudan*, Sudan*, Syria, Timor-Leste*, and Uzbekistan (the 8 countries marked with an asterisk are LDCs).

In a typical accession negotiation, a government writes to the WTO Director General seeking accession to the WTO. This application is circulated to WTO Members and placed on the agenda of the next meeting of the WTO General Council, which establishes a WP composed of all interested WTO Members to review the applicant's trade regime, conduct the negotiations, and make a recommendation to the General Council on the application. To initiate negotiations on the terms of its WTO Membership, the applicant then provides an initial description of its trade practices—the MFTR—and responds to questions and comments submitted by Members on that document. The WTO Secretariat schedules a first meeting of the WP and subsequent meetings as justified by new developments and documentation. The number of WP meetings needed to complete the negotiations, as well as the overall length of the accession process, largely depends on the speed with which the applicant addresses the issues identified by WP Members and moves to conclude bilateral negotiations to liberalize trade through specific commitments on market access for goods and services, based on requests from WP Members. In addition, applicants are expected to make necessary legislative changes to implement WTO institutional and regulatory requirements and to eliminate existing WTO-inconsistent measures. Almost all “developed country” accession applicants, and many “developing country” accession applicants, take all of these actions on WTO rules prior to conclusion of the accession negotiations.⁶⁶

At the conclusion of its work, the WP adopts the documents recording the agreed results of the negotiations (the “terms of accession” for the applicant developed with WP Members in bilateral and multilateral negotiations) and transmits them with its recommendation for approval to the General Council or to the Ministerial Conference. These terms, *i.e.*, the accession “package,” consist of the “Report of the Working Party” and “Protocol of Accession,” consolidated schedules of specific commitments on market access for goods and services, and agriculture schedules that include commitments on export subsidies and domestic supports. After General Council or Ministerial Conference approval, accession applicants submit the package to their domestic authorities for acceptance (ratification).⁶⁷ Thirty days after the WTO receives the applicant's instrument accepting the terms of accession, the applicant becomes a WTO Member.

Undertaking accession negotiations is a serious decision for any country. Applicants already committed to economic reform, or that demonstrate a strong interest in using WTO provisions as the basis for their trade regimes, usually are the most successful in moving their accession towards completion (*e.g.*, by submitting usable documentation, market access offers, and legislation for WP review on a timely basis). Thus, the pace of the accession process generally depends on the applicant.

The accession process requires attention and active engagement from both applicants and WTO Members. Importantly, the accession process ensures that new Members understand and implement WTO rules from the outset. The process also offers current Members the opportunity to secure market access opportunities from acceding countries, to work with accession applicants towards full implementation of WTO obligations, and to address outstanding trade issues covered by the WTO in a multilateral context.

U.S. Leadership and Technical Assistance: The United States has traditionally taken a leadership role in all aspects of the accession negotiations, including in the bilateral, plurilateral, and multilateral aspects of the negotiations. The U.S. objectives are to ensure that the applicant fully implements WTO provisions

⁶⁶ As outlined below, negotiations with applicants designated as “least developed” by the United Nations are subject to special guidelines, and LDCs do not, as a rule, fully implement all WTO provisions prior to accession. Transitional periods may also be negotiated, if necessary, with developing or other applicants that request them and can justify their necessity.

⁶⁷ The WP decision to adopt the accession package is by “consensus,” *i.e.*, without objection by any WP Member. While there are provisions in the WTO Agreement for the Ministerial Conference or General Council to approve accessions by an affirmative vote of two-thirds of all Members, in practice, the Ministerial Conference or General Council also approve the terms of accession by consensus.

when it becomes a Member, to encourage trade liberalization in developing and transforming economies, and to use the opportunities provided in these negotiations to expand market access for U.S. exports. The United States also has provided technical assistance to countries seeking accession to the WTO to help them meet the requirements and challenges presented, both by the negotiations and the process of implementing WTO provisions in their trade regimes. The U.S. Agency for International Development (USAID), the USDA, the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce, and the U.S. Trade and Development Agency have provided this assistance on behalf of the United States.

The U.S. assistance can include providing short term technical expertise focused on specific issues (*e.g.*, customs procedures, intellectual property rights protection, or sanitary and phytosanitary matters and technical barriers to trade), and/or a WTO expert in residence in the acceding country or customs territory. A number of the WTO Members that have acceded since 1995 received technical assistance in their accession process from the United States at one time or another, including Afghanistan, Albania, Armenia, Bulgaria, Cape Verde, Croatia, Estonia, Georgia, Jordan, Kazakhstan, Kyrgyz Republic, Latvia, Laos, Liberia, Lithuania, Macedonia, Moldova, Montenegro, Nepal, Russia, Tajikistan, Ukraine, Vietnam, and Yemen. The United States provided resident experts for most of these countries for some portion of the accession process.

Among current accession applicants, Algeria, Azerbaijan, Belarus, Bosnia and Herzegovina, Ethiopia, Iraq, Lebanon, Serbia, and Uzbekistan have received U.S. technical assistance in their accession processes. In addition, Afghanistan, Georgia, Kazakhstan, the Kyrgyz Republic, Tajikistan, and Ukraine continue to receive assistance with implementing their membership commitments.

LDC Accessions

WTO Members are committed to facilitating the accession processes of LDCs and to making WTO accession more accessible to these applicants. The accession negotiations for all LDC accession applicants are guided by the simplified and streamlined procedures developed for these countries in response to the WTO General Council Decision on Accessions of Least Developed Countries (WT/L/508) adopted at the end of 2002, and in its addendum, adopted in July 2012 by the General Council.⁶⁸ The expanded guidelines established by these documents include provisions under the following pillars: (i) Benchmarks on Goods Concessions; (ii) Benchmarks on Services Commitments; (iii) Transparency in Accession Negotiations; (iv) Special and Differential (S&D) Treatment and Transition Periods; and, (v) Technical Assistance. Points (i) and (ii) establish that market access negotiations for the WTO accession of LDCs are to be guided by special principles and benchmarks more appropriate to the development level of LDC applicants. The transparency provisions confirm evolving practice in LDC accessions for the use of the good offices of the Chairperson of the Sub-Committee on LDCs, as well as the Chairpersons of the LDCs' Accession Working Parties to assist the conclusion of the accession process for LDCs. S&D treatment and technical assistance provisions of the guidelines also confirm the need for restraint and the broad use of transitional provisions when constructing market access commitments, as well as the utility for detailed action plans for transitional implementation of WTO provisions. Further, the guidelines confirm the need for enhanced technical assistance and capacity building in LDC accessions.

The United States and other developed country WTO Members support both the 2002 and the 2012 Decisions on LDC Accessions, adhering to the guidelines established by these documents in formulating more flexible negotiating positions on market access and WTO implementation commitments for LDCs. The purpose of the guidelines is to ensure that LDCs are prepared for the responsibilities of WTO Membership by promoting use of technical assistance, structuring transitional periods with action plans, and, in general, making extra efforts to facilitate LDC integration into the trading system. The guidelines

⁶⁸ WT/L/508 and WT/L/508/Add.1.

will continue to maintain the WTO accession process for LDCs as a tool for economic development, incorporating the applicant's own development program and schedule for receiving technical assistance into an action plan for progressive implementation of WTO rules.

Major Issues in 2017

After a relatively quiet period in 2016, several WTO accession applicants sought to make substantive progress in their accession processes in 2017. Seven formal WP meetings were held: Azerbaijan (1), Belarus (2), Comoros (2), and Sudan (2). An informal WP meeting was held for Iraq, at which the Iraqi authorities signaled their intent to reengage in the accession process in 2018. In addition, Bosnia and Herzegovina passed critical legislation in September, and the 13th meeting of its WP may be convened in early 2018. Timor-Leste tabled the first draft of its MFTR and is working to respond to Members' initial questions.

Other applicants took steps in 2017 toward engaging in their accession processes. The Bahamas expressed an intent to restart work on its accession; Equatorial Guinea signaled its interest in beginning work to draft its MFTR; Lebanon submitted several of the documents necessary to convene the first meeting of its WP since 2009; Somalia made significant progress toward drafting its MFTR; and Uzbekistan signaled its intent to reengage in the process.

In December, South Sudan submitted an application to pursue WTO accession, and the Ministerial Conference established a Working Party to negotiate terms.

Azerbaijan

Azerbaijan's 14th WP meeting convened in July 2017. WTO Members and Azerbaijan were unable to reach solutions on systemic issues, some of which stemmed from recently introduced policy measures in Azerbaijan. Members and Azerbaijan also made little progress with respect to their bilateral negotiations on goods and services.

Belarus

Belarus formally reengaged in the accession process in 2017 for the first time since 2005. Its WP met twice, in January and September. WP Members and Belarus have begun to explore a number of key issues, and further work is expected in 2018.

Comoros

Comoros' WP was established in October 2007 and has met three times, in December 2016, and in June and October of 2017. Comoros is making steady progress and is expected to address issues in several key areas identified by Members of the WP. Comoros has also made good progress in its bilateral negotiations on goods and services market access.

Sudan

Sudan's WP was established in 1994 and met in January for the first time in 13 years. It met again in July. Efforts in 2017 focused primarily on reacquainting Sudan's authorities with the WTO accession process and preparing the country to grapple with the domestic reforms that will be necessary to align its trade regime with WTO rules and principles.

Prospects for 2018

Several applicants are expected to make progress on their accessions in 2018. Bosnia and Herzegovina's accession process is advanced and could finish relatively quickly once its outstanding market access negotiations are concluded. Belarus, Comoros, Iraq, Somalia, Sudan, and Timor-Leste are expected to submit substantive inputs to their respective Working Parties.

While Serbia's accession package is relatively advanced, Serbia cannot accede to the WTO until it removes a longstanding legislative ban on trade in biotechnology products.

K. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) entered into force on January 1, 1980, and is one of two WTO plurilateral agreements (along with the Agreement on Government Procurement) that are in force only for those WTO Members that have accepted it.⁶⁹

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the Signatories have agreed provisionally to provide duty-free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

There are currently 32 Signatories to the Aircraft Agreement: Albania, Canada, the EU⁷⁰ (the following 20 EU Member States are also Signatories to the Aircraft Agreement in their own right: Austria, Belgium, Bulgaria, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Spain, Sweden and the United Kingdom), Egypt, Georgia, Japan, Macau, Montenegro, Norway, Switzerland, Chinese Taipei and the United States. WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, Gabon, Ghana, India, Indonesia, Israel, South Korea, Mauritius, Nigeria, Oman, the Russian Federation, Saudi Arabia, Singapore, Sri Lanka, Tajikistan, Trinidad and Tobago, Tunisia, Turkey, and Ukraine. The IMF and UNCTAD are also observers.

The Committee on Trade in Civil Aircraft (Aircraft Committee), permanently established under the Aircraft Agreement, provides the Signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

⁶⁹ Additional information on this agreement can be found on the WTO's website at: http://www.wto.org/english/tratop_e/civair_e/civair_e.htm.

⁷⁰ Currently comprising 28 Member States: Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

Major Issues in 2017

The Aircraft Committee held a regular meeting on November 1, 2017. At the regular meeting, the Committee took note of the report of the Chairman on the developments concerning the Protocol adopted in November 2015 that updated the products list of the Civil Aircraft Agreement to be compatible with the 2007 version of the Harmonized System. The Committee also discussed proposals to further update the aviation products list covered by the Agreement to align with subsequent updates to the Harmonized System. The Chair stated that he would organize consultations and an informal meeting in due course.

Prospects for 2018

The Aircraft Committee agreed to hold its next regular meeting in November 2018. The United States will continue to encourage recently acceded WTO Members to become Signatories pursuant to their respective protocols of accession, and will continue to encourage current Committee observers and other WTO Members to become Signatories to the Aircraft Agreement.

2. Committee on Government Procurement

Status

Membership

The WTO Agreement on Government Procurement (GPA) is a “plurilateral” agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO’s single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to it.

Forty-seven WTO Members are parties to the GPA: Armenia; Canada; the EU and its 28 Member States (Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom); Hong Kong; Iceland; Israel; Japan; South Korea; Liechtenstein; Moldova; Montenegro; the Netherlands with respect to Aruba; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei; Ukraine; and the United States (collectively the GPA Parties).

As of the end of 2017, ten Members were in the process of acceding to the GPA: Albania; Australia; China; Georgia; Jordan; Kyrgyz Republic; Oman; Russia; Tajikistan; and former Yugoslav Republic of Macedonia. Five additional Members have provisions in their respective Protocols of Accession to the WTO regarding accession to the GPA: Afghanistan, Kazakhstan, Mongolia, Saudi Arabia and Seychelles.

Australia

Australia applied for accession to the GPA in June 2015 and submitted its initial market access offer on September 8, 2015. Australia submitted a revised offer on September 20, 2016. In March 2017, the United States tabled its request for improvements to Australia revised offer. Australia circulated its second revised market access offer in June 2017 that addressed all of the issues flagged in the U.S. request for improvements. In October 2017, Australia confirmed that GPA accession remained a priority and that it hoped to table a final offer in the coming months.

China

When China joined the WTO in 2001, it committed to commence negotiations to join the GPA “as soon as possible.” China submitted its application for accession to the GPA and its Initial Appendix I Offer on December 28, 2007. The United States submitted its Initial Request for improvements in China’s Initial Offer in May 2008. China submitted its first revised offer in July 2010. The United States submitted its second request for improvements in China’s revised offer in September 2010. China also submitted its responses to the Checklist of Issues for Provision of Information Relating to Accession in September 2008.

In April 2010, the United States submitted questions to China on its responses to the Checklist of Issues. China replied to U.S. questions in October 2010. On November 30, 2011, China submitted its second Revised Offer, which included several sub-central entities. On July 3, 2012, the United States submitted its third request for improvements in China’s offer. On November 29, 2012, China submitted its third revised offer. On December 30, 2013, China submitted its fourth revised offer, which included lower thresholds, increased coverage of sub-central entities, and improvements in other areas.

On December 22, 2014, China submitted its fifth revised offer. The offer was not commensurate with the coverage provided by the United States and other GPA Parties. In 2017, the United States and China held bilateral discussions on China’s accession, but China had submitted no new offer as of December 2017.

Kyrgyz Republic

The Kyrgyz Republic’s accession to the GPA, which had been inactive since 2003, moved forward in 2009 when it submitted updated responses to the Checklist of Issues. In January 2016, the Kyrgyz Republic circulated its newly revised Law on Public Procurement and submitted a “revised initial offer.” The Kyrgyz Republic followed up with its second revised offer on May 26, 2016. The United States submitted comments on the Kyrgyz Republic’s revised offer and comments on the Kyrgyz revised Law on Public Procurement in June 2016. The Kyrgyz Republic tabled its third revised offer in October 2016 that addressed most GPA Parties’ requests for improvements. The United States provided comments on the third revised offer in February 2017. The United States continues to engage with the Kyrgyz Republic on the remaining outstanding issues and will continue to review the Kyrgyz Republic’s procurement procedures to ensure consistency with WTO GPA obligations.

Russia

In its WTO Protocol, Russia committed to request observer status in the GPA and to begin negotiations to join the GPA within four years of its WTO accession. Russia became a GPA observer on May 29, 2013, and informed the GPA Parties on August 19, 2016, of its intent to initiate negotiations to join the GPA. Russia submitted its initial market access offer on June 7, 2017. As of November 2017, Russia had not circulated its replies to the Checklist of Issues.

Tajikistan

Consistent with Tajikistan’s commitment to initiate GPA accession negotiations, made in the course of its accession to the WTO in March 2013, Tajikistan applied for accession to the GPA and submitted its initial offer in February 2015. The United States submitted a request for improvement to Tajikistan’s initial offer in May 2015. In February 2016, Tajikistan submitted its replies to the Checklist of Issues and a revised market access offer. In March 2016, the United States submitted comments on Tajikistan’s revised offer. Tajikistan submitted its second revised offer in June 2016. In August 2016, the United States submitted comments on Tajikistan’s draft public procurement law and replies to the Checklist of Issues. Tajikistan circulated its third revised offer in October 2016. In February 2017, the United States circulated comments

on the third revised offer and Tajikistan circulated its fourth revised offer. In March 2017, the United States circulated comments on the fourth revised offer. The United States continues to engage with Tajikistan on the remaining outstanding issues and will continue to review Tajikistan's procurement procedures to ensure consistency with WTO GPA obligations.

Former Yugoslavia Republic of Macedonia

As part of its 2002 WTO accession, the former Yugoslav Republic of Macedonia committed to initiate GPA negotiations for membership in the GPA by tabling an initial offer. The former Yugoslav Republic of Macedonia applied for GPA accession and submitted its draft procurement law and replies to the Check list of Issues in March 2017. The United States submitted comments on both the draft procurement law and the Check List of Issues in June 2017. As of November 2017, the former Yugoslav Republic of Macedonia had not submitted an initial offer.

Observerships

Thirty-one WTO Members have observer status in the GPA Committee: Afghanistan, Albania, Argentina, Australia, Bahrain, Brazil, Cameroon, Chile, China, Colombia, Costa Rica, Georgia, India, Indonesia, Jordan, Kazakhstan, the Kyrgyz Republic, Malaysia, Mongolia, Oman, Pakistan, Panama, the Russian Federation, Saudi Arabia, Seychelles, Sri Lanka, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Turkey, and Viet Nam. (The observerships of Afghanistan and Brazil were approved in 2017). Four intergovernmental organizations, the IMF, ITC, OECD, and UNCTAD, also have observer status.

Revised GPA

On December 15, 2011, the GPA Parties reached agreement on the conclusion of negotiations, which had been conducted over more than a decade, to revise the GPA. The outcome included a revision of the text of the GPA to streamline and clarify its obligations, to incorporate flexibilities that reflect modern procurement practices, and to facilitate its implementation. The revised GPA also significantly expanded the procurement covered under the GPA.

As part of the GPA package, the GPA parties adopted a set of Future Work Programs to be undertaken by the GPA Committee following the entry into force of the revised GPA. These include programs related to: (i) the treatment of small and medium-sized enterprises; (ii) sustainable procurement; (iii) the collection and dissemination of statistical data; (iv) exclusions and restrictions in GPA Parties' Annexes; and (v) safety standards in international procurement. The GPA Committee has also approved a decision relating to the use of electronic means to fulfill notification requirements under Articles XIX and XXII of the revised GPA.

The revised GPA entered into force on April 6, 2014 after 10 Parties, two-thirds of the Parties⁷¹ to the GPA at that time, deposited their instruments of acceptance. As of November 2017, 14 Parties had deposited their instruments of acceptance. Only Switzerland has yet to deposit its instruments of acceptance. U.S. obligations to Switzerland are defined under the 1994 GPA.

⁷¹ On April 6, 2014 the 15 Parties to the GPA were: Armenia, Canada, the EU (and its 28 Member States -- Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, Switzerland, Chinese Taipei, and the United States.

Major Issues in 2017

During 2017, the GPA Committee held four formal and informal meetings (in February, June, October, and November) focused on accessions and Work Programs. The GPA Committee held further discussions at the informal meetings on the accessions to the GPA of Australia, China, the Kyrgyz Republic, Russia, Tajikistan, former Yugoslavia Republic of Macedonia.

The former Yugoslavia Republic of Macedonia applied for GPA accession in March. Russia tabled its initial offer in June.

The GPA Committee accelerated its implementation of the four (of five) Work Programs that were adopted as part of the revised GPA covering: small and medium enterprises, sustainable procurement, the collection and reporting of statistical data, and exclusions and restrictions in Parties' Annexes. The GPA Committee specifically established three Work Programs to facilitate the implementation of the GPA and inform any future negotiations.

Collection and Dissemination of Statistical Data

As chair for the work program on collection and dissemination of statistical data, United States hosted small group meetings on the margins of the GPA committee meetings in February, June, and October 2017. Statistical issues discussed included classification systems of goods and services, tracking country of origin of goods and services, procurements exclude from GPA coverage, multi-year contracts, and sub-central statistics.

Treatment of Small and Medium sized Enterprises

In 2017 Parties continued work aimed at identifying practices that promote and facilitate the participation of SMEs in government procurement.

Sustainable Procurement

In February 2017, Canada and the WTO Secretariat hosted a Symposium on Sustainable Procurement. The symposium brought in sustainable procurement experts from NGOs and governments to discuss what is sustainable procurement and what are its main objectives; what are the key practices of sustainable procurement and how can sustainability be incorporated into the different stages of procurement; and how are sustainability measures in procurement processes practiced in a manner consistent with both the principle of "best-value for money" and with international trade obligations. Parties continue to work towards identifying measures and policies that are considered to be sustainable procurement practiced in a manner consistent both with the principle of "best value for money" and with the Parties' international trade obligations

Prospects for 2018

The United Kingdom is currently subject to the GPA obligations as a Member State of the EU. The United Kingdom is scheduled to withdraw from the EU at the end of March 2019. In 2018, the United States anticipates that the United Kingdom will undertake accessions discussions to join the GPA as a standalone party.

The GPA Committee will continue to work to advance GPA accessions, in particular, of Australia, China, the Kyrgyz Republic, Russia, Tajikistan, and former Yugoslav Republic of Macedonia. The GPA Committee will continue its work on implementing the Work Programs.

3. The Information Technology Agreement and the Expansion of Trade in Information Technology Products

Status

The ITA⁷² is a plurilateral agreement to eliminate tariffs on certain information and communications technology (ICT) products. The ITA covers a wide range of ICT products, including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments. To date, 82 WTO Members are ITA participants. Among these 82 ITA participants, however, Morocco has yet to submit the formal documentation to implement its ITA commitments, and El Salvador has indicated that implementation would begin after the completion of domestic legal procedural requirements.

In 2012, a subset of ITA participants launched negotiations to expand significantly the product coverage of the ITA. Those negotiations were concluded in 2015, and participants began implementation of their tariff commitments, as elaborated below.

Major Issues in 2017

The Expansion of Trade in Information Technology Products

In 2017, the Parties continued to implement ITA Expansion.⁷³ Under the agreement, each Party agreed to implement its initial tariff reductions for covered products beginning on July 1, 2016, subject to completion of its domestic procedural requirements, with a second set of reductions taking place on July 1, 2017. The majority of Parties, including key U.S. export markets, such as China, Korea, and the EU, have completed implementation of their initial tariff reductions and have put in place procedures to make subsequent reductions as called for in ITA Expansion. In addition, the majority of Parties have submitted, in accordance with the relevant WTO procedures,⁷⁴ modifications to their WTO tariff schedules of concessions, which will incorporate these duty-free tariff commitments into their overall WTO tariff commitments.

The WTO estimates that ITA Expansion will eliminate tariffs on roughly \$1.3 trillion in annual global trade of ICT products, which global industry estimates will increase annual global gross domestic product by an estimated \$190 billion. With implementation of ITA Expansion, over \$180 billion in annual American technology exports will no longer face burdensome tariffs in key markets around the globe.

ITA Committee

The ITA established the Committee of Participants on the Expansion of Trade in Information Technology Products (the ITA Committee) to carry out the provisions of the ITA, among which are to review the current product coverage with a view to incorporate additional products, and consider any divergence among ITA participants in classifying ITA products. The ITA Committee does not cover the ITA Expansion agreement; however, ITA Expansion Parties have met periodically in 2017 and continue to provide regular updates to

⁷² More formally known as the “WTO Ministerial Declaration on Trade in Information Technology Products” (WT/MIN(96)/16).

⁷³ “Declaration on the Expansion of Trade in Information Technology Products” (WT/L/956).

⁷⁴ The relevant procedures are detailed in the “Decision on 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions” (BISD 27S/25).

the ITA Committee on the status of implementation. ITA Expansion contains a clause through which the Parties review ITA Expansion product coverage.

The ITA Committee held two formal meetings in June and November 2017.⁷⁵ In those meetings, the ITA Committee continued its deliberations on the Non-Tariff Measures (NTMs) Work Program. With regard to its work on the Electro-Magnetic Compatibility/Electro-Magnetic Interference (EMC/EMI) Pilot Project, the ITA Committee took note that 33 ITA participants (including the EU as one participant) have provided survey responses to the ITA Committee, and encouraged those that had not provided the information to do so without further delay. In considering ways to advance and expand its work on NTMs beyond EMC/EMI, the ITA Committee continues to discuss the main issues raised by Members, including transparency, standards for recognition of test results, and electronic-labeling.

To mark the 20th anniversary of the ITA, the WTO organized an ITA Symposium on June 27-28, 2017 with the participation of governments and the private sector. During the ITA Symposium, participants gave an overview of the trade liberalization made under the ITA and the evolution of global trade in ICT products over the past two decades. The participants examined the ITA's role in facilitating product diversification, technology upgrades, and innovation, and discussed how the ITA can assist developing countries and SMEs in their efforts to promote connectivity and achieve sustainable development goals. Private sector participants also discussed the evolution of technology in the ICT sector.

The ITA Committee also continued a discussion of classification divergences on certain ITA products. These discussions are aimed at eliminating differences in the way ITA participants classify ITA products in their national tariff schedules. In 2013, the ITA Committee adopted a decision to endorse the classification of 18 ITA Attachment B items in the Harmonized System (HS) 1996 nomenclature. For the 37 remaining items listed in Attachment B, or identified as "for Attachment B" in section 2 of Attachment A, the ITA Committee agreed on a Decision for the HS 2007 classification of 15 additional items.⁷⁶ The WTO Secretariat prepared and circulated a list of these remaining 22 items and their possible classification in HS2007 nomenclature. ITA participants are required to indicate those items for which their classification diverges from the list prepared by the Secretariat; if an ITA participant's classification differs, then it must identify the HS2007 sub-heading (*i.e.* HS 6-digit level) under which it classifies the Attachment B product in question. After receiving responses from ITA participants, the WTO Secretariat compiled and circulated the answers to the ITA Committee.⁷⁷ On that basis, ITA participants are able to assess the next steps to reduce any remaining divergences in the classification of such ITA products.

Prospects for 2018

With respect to implementation of ITA Expansion, the Parties will continue to implement tariff reductions, take the steps necessary to bind these tariff commitments in accordance with WTO procedures, and review ITA Expansion product coverage.

The ITA Committee will continue its on-going work to reduce divergences in the classification of products covered by the ITA as well as continue to examine non-tariff measures that impact the sector. The next meeting of the ITA Committee will be held in the first quarter of 2018.

⁷⁵ The minutes of these Committee meetings are contained in WTO documents G/IT/M/66 and G/ITA/M/67 (not yet released).

⁷⁶ The ITA Committee Decision is contained in WTO document G/IT/29.

⁷⁷ The comments on the additional items are contained in WTO document G/IT/W/40 and its addenda and supplements.

VI. TRADE POLICY DEVELOPMENT

A. Trade Capacity Building

Historically, the United States has provided training and technical assistance to help developing countries integrate into the global trading community. This section reports on these efforts.

1. The Enhanced Integrated Framework

The Enhanced Integrated Framework for Trade-Related Assistance to Least-Developed Countries (EIF) is a multi-organization, multi-donor program that operates as a coordination mechanism for trade-related assistance exclusively to least-developed countries (LDCs), with the overall objective of integrating trade into national development plans and integrating LDCs into the multilateral trading system. Participating organizations include the WTO, World Bank, International Monetary Fund (IMF), United Nations Conference on Trade Development (UNCTAD), United Nations Development Program (UNDP), United Nations Industrial Development Organization (UNIDO), United Nations Office for Project Services (UNOPS), World Tourism Organization, and the International Trade Center. The mechanism incorporates a country-specific diagnostic assessment, called the Diagnostic Trade Integration Study (DTIS), which aims to identify constraints to competitiveness, supply chain weaknesses, and sectors of greatest growth or export potential. The DTIS includes an action plan, consisting of a list of priority reforms identified by the DTIS, which is offered to multilateral and bilateral donors. Project design and implementation can be accomplished through the resources of the EIF Trust Fund or through multilateral or bilateral donor programs in the field (as the United States does through its development assistance programs).

Phase One of the EIF (2009-2015) delivered 141 projects totaling \$140.7 million across 51 countries. Of these projects, 105 supported trade and development capacity while 36 projects aimed to help countries address supply-side constraints and to increase their ability to trade. Phase Two, which began in 2016, is intended to retain the core structure of Phase One while strengthening the EIF's efficiency and effectiveness. Among the key features of the new program are: (1) more tailored support to enhance the sustainability of results; (2) a stronger partnership between LDCs, EIF donors and EIF partner agencies; (3) greater stakeholder communication at all levels; (4) a new focus on leveraging contributions at the country level; and (5) stronger governance and program management.

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

2. U.S. Trade-Related Assistance under the World Trade Organization Framework

International trade can play a major role in the promotion of economic growth and the alleviation of global poverty. Trade Capacity Building (TCB) is intended to facilitate effective integration of developing countries into the international trading system and enable them to benefit further from global trade. The United States has historically promoted trade and economic growth in developing countries through a wide range of TCB activities. The United States also directly supports the WTO's trade-related technical assistance.

Global Trust Fund

The United States has long supported the trade-related assistance activities of the WTO Secretariat through voluntary contributions to the DDA Global Trust Fund (DDAGTF). Overall, the United States has contributed over \$17 million since 2001, with an additional contribution of \$600,000 in October 2017. The United States served on the Steering Committee that evaluated WTO trade-related technical assistance from 2010 to 2015, including assistance funded by the DDAGTF, to assess effectiveness and efficiency.

WTO's Aid for Trade Initiative

The WTO's 2005 Hong Kong Ministerial Declaration created a new WTO framework to discuss and prioritize Aid for Trade. In 2006, the Aid for Trade Task Force was created to operationalize Aid for Trade efforts and offer recommendations to improve the efficacy and efficiency of these efforts among WTO Members and other international organizations. The United States has been an active partner in the Aid for Trade discussion. (*For information on Aid for Trade, see Chapter V.J.2.*)

WTO and Trade Facilitation

The United States has provided substantial assistance over the years in the areas of customs and trade facilitation, and remains committed to continued support in light of the WTO Trade Facilitation Agreement (TFA). Following conclusion of the TFA negotiations in December 2013, U.S. assistance helped prepare a number of countries to understand and implement the TFA. USAID supported over 28 countries in conducting WTO Trade Facilitation Needs assessments. Working with the Southern African Development Community, USAID assisted in creating a comprehensive trade facilitation plan for the regional economic community. Assistance has been provided to a number of the National Trade Facilitation Committees that are required under the TFA, for example in Ghana, Guatemala, Honduras, Serbia, and Vietnam. Direct assistance in support of simplifying customs procedures was also provided in such places as Cote d'Ivoire, Chile, Malaysia, Mozambique, Senegal, Ukraine, Vietnam, and Zambia. Several governments also have received assistance with implementing Single Window customs procedures through ASEAN and throughout Southern Africa.

On December 17, 2015, the Global Alliance for Trade Facilitation was launched during the 10th Ministerial Conference of the WTO as a unique, multi-stakeholder platform that leverages business and development expertise for commercially meaningful reforms. The United States catalyzed the creation of this initiative and is a founding donor, joined by the governments of Australia, Canada, Germany, and the United Kingdom. The Secretariat of the Alliance is hosted by the Center for International Private Enterprise, the International Chamber of Commerce, and the World Economic Forum. The Alliance aims to accelerate ambitious trade facilitation reforms for robust economic growth and poverty reduction. The Alliance's in-country projects leverage the expertise and resources of the private sector to work collaboratively with governments to support effective reforms. In its pilot phase, the Alliance worked in four countries: Colombia, Ghana, Kenya, and Vietnam. In November 2017, USAID announced that the Alliance would be expanded to 20 countries, including Argentina, Brazil, and Sri Lanka.

WTO Accessions

For information on technical assistance during the accession process, see Chapter V.J.6.

3. TCB Initiatives for Africa

Through bilateral and multilateral channels, the United States has invested or obligated more than \$6.7 billion in trade-related projects in sub-Saharan Africa since 2001 to spur economic growth and alleviate poverty.

Assistance to West African Cotton Producers

Since 2005, the United States has mobilized its development agencies, including USAID, USDA, and the U.S. Trade and Development Agency, to help the West African countries of Benin, Burkina Faso, Chad, Mali, and Senegal address obstacles they face in the cotton sector. A key element in U.S. assistance to the cotton sector in West Africa has been USAID's West Africa Cotton Improvement Program (WACIP), which was implemented from December 2006 to November 2013. The program has boosted the productivity and profitability of the cotton sector in these West African countries. WACIP raised smallholder incomes and food security through increased cotton and rotational food crop yields.

With the completion of WACIP, USAID created a successor program, the C-4 Cotton Partnership (C4CP), which also aims to increase food security and incomes for cotton farmers in targeted areas of Benin, Burkina Faso, Chad and Mali (known as the four cotton-producing countries, or "C-4"). These programs were the U.S. Government's direct response to concerns raised by the C-4 at WTO meetings. The C4CP will be implemented from 2014-2018 and will raise the incomes of cotton producers and processors by introducing competitive and sustainable strategies to boost farm productivity and improve post-harvest processes. The project was intended to forge partnerships with a wide array of regional and national actors and stakeholders in the value chains for cotton and its rotational crops in the C-4, to leverage resources and scale up the dissemination of technical packages produced by the project. The project also was intended to address the challenges women face in cotton-producing households, introducing economic and social strategies to benefit these farmers.

The United States also provides complementary support to the cotton sector through other programs, including MCC compacts and USDA programs such as Food for Progress, the Borlaug Programs, and the Cochran Program.

4. Free Trade Agreements

In addition to the WTO programs, the United States has helped U.S. FTA partners implement FTA commitments, and benefit over the long term through TCB working groups and other FTA-related projects. USAID and USDA, in Washington and through their field presence, along with a number of other U.S. Government assistance providers, actively participate in these working groups and committees so that identified TCB needs can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The Committees on TCB also invite non-governmental organizations, representatives from the private sector, and international institutions to join in building the trade capacity of the countries in each region. USTR works closely with USAID, the U.S. Department of State, and other agencies to track and guide the delivery of TCB assistance related to FTA commitments. *(For additional information, please refer to the individual country, region, labor, and environment-specific sections of this report.)*

5. Standards Alliance

In November 2012, the United States launched a new U.S.-sponsored assistance facility called the "Standards Alliance" with the goal of building capacity among developing countries to implement the WTO Agreement on Technical Barriers to Trade (TBT Agreement). The Standards Alliance, initiated as a result

of collaboration between USTR and USAID, provides resources and expertise to enable developing countries to strengthen implementation of the TBT Agreement. The focus of these efforts in developing countries is shaped through an interagency process guided by USTR and USAID, and includes efforts: to improve practices related to notification of technical regulations and conformity assessment procedures to the WTO; to strengthen domestic practices related to adopting relevant international standards; and to clarify and streamline regulatory processes for products. This program aims to reduce the costs and bureaucratic hurdles U.S. exporters face in foreign markets and increase the competitiveness of U.S. products, particularly in developing markets.

In May 2013, USAID entered into a public-private partnership with the American National Standards Institute (ANSI) to make ANSI the implementing partner of the Standards Alliance (ANSI is the official U.S. representative to the International Organization for Standardization (ISO); its membership comprises numerous standards setting organizations and firms). The USAID-ANSI partnership coordinates private sector subject matter experts from ANSI member organizations in the delivery of training and other technical exchange with interested Standards Alliance countries on international standards, and best practices, and other subjects supporting implementation of the TBT Agreement. In coordination with USTR, the USAID-ANSI partnership includes activities in numerous markets representing a variety of geographical regions and levels of economic development. In consultation with TPSC member agencies and private sector experts, ANSI requested and reviewed applications for assistance based on consideration of bilateral trade opportunities, available private sector expertise that may be leveraged, demonstrated commitment and readiness for assistance, and potential development impact. Since 2013, participating countries and regions have included: Central America (CAFTA-DR, Panama), Colombia, the East African Community, Indonesia, Middle East/North Africa, Mexico, Peru, Southern African Development Community (SADC), and developing ASEAN members. In September 2016, ANSI and USAID also finalized an expansion of the Standards Alliance to support TBT-related assistance in five countries—Cote d'Ivoire, Ghana, Mozambique, Senegal, and Zambia—that are part of the U.S. Government's Trade Africa initiative.

The highlights of Standards Alliance programming in 2017 include:

- Peru Workshop on Medical Device Regulation and Standards Phase II: Policy and Technical Aspects (January 2017)
- Regulatory Coherence, Good Regulatory Practices and Capacity Building Project in Latin America, including Best Practices Guide sponsored by Advanced Medical Technology Association (AdvaMed) (January 2017 and ongoing until May 2018)
- Focused training for TBT national enquiry points and notification authorities in Ghana, Côte d'Ivoire, Senegal, Uganda, and Mozambique (January and March 2017)
- Workshop of Key Aspects of Good Regulatory Practice: Tools to Effectively Achieve Policy Goals in Indonesia (March 2017)
- West Africa Roadshow in Côte d'Ivoire, Ghana and Senegal, with workshops that covered standards-related topics relevant to transportation infrastructure, water, and energy (March-April 2017)
- United States-Gulf Conference on Good Regulatory Practice and Regulatory Impact Assessment held in Riyadh, Saudi Arabia (April 2017)
- Workshop on Regulatory Impact Assessment in Zambia (April 2017)
- Food Additives Workshops in Vietnam and Indonesia (July 2017)
- Supporting good regulatory practices in the automotive industry: APEC Automotive Dialogue (May 2017)
- Visit of Vietnamese officials to the United States to study automobile certification and testing (September 2017)

- Orientation visit to Washington, D.C., for West African officials on “A Risk-Based Approach to Consumer Protection” (October 2017)

B. Public Input and Transparency

Reflecting Congressional direction, and to draw advice from the widest array of stakeholders in business, labor, civil society, and other groups, USTR has broadened opportunities for public input and worked to ensure the transparency of trade policy through initiatives carried out by USTR’s Office of Intergovernmental Affairs and Public Engagement (IAPE).

IAPE works with USTR’s Office of Public and Media Affairs, coordinating with the agency’s 13 regional and functional offices, the Office of WTO and Multilateral Affairs, Office of General Counsel, and the Office of Trade Policy and Economics to ensure that timely trade information is available to the public and disseminated widely to stakeholders. This is accomplished in part via USTR’s interactive website; online postings of *Federal Register* Notices soliciting public comment and input and publicizing public hearings held by the Trade Policy Staff Committee (TPSC); offering opportunities for public comment and interaction with negotiators during trade negotiations; managing the agency’s outreach and engagement to a diverse set of all stakeholder sectors including State and local Governments, business and trade associations, small and medium-sized businesses, agriculture groups, environmental organizations, industry groups, labor unions, consumer advocacy groups, non-governmental organizations, academia, think tanks, and others; and participating in discussions of trade policy at major domestic trade events and academic conferences. In addition to public outreach, IAPE is responsible for administering USTR’s statutory advisory committee system, created by the U.S. Congress under the Trade Act of 1974 as amended, as well as facilitating consultations with State and local Governments regarding the President’s trade priorities and the status of current trade negotiations which may impact them. Each of these elements is discussed in turn below.

1. Transparency Guidelines and Chief Transparency Officer

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 set a goal of improving Congressional oversight of negotiations and enforcement, encouraging public participation in policymaking, broadening stakeholder access and input, and ensuring senior-level institutional attention to transparency across the range of USTR work. These included:

- *Chief Transparency Officer:* The Act directed USTR to appoint a senior agency official to serve as Chief Transparency Officer, charged with taking concrete steps to increase transparency in trade negotiations, engage with the public, and consult with Congress on transparency policy. The Obama Administration named the General Counsel as Chief Transparency Officer.

As part of the Trump Administration’s goals for raising the stature and accountability of the position, the USTR has announced its intent to name the Senate confirmed position of Deputy United States Trade Representative for Investment, Services, Labor, Environment, Africa, China, and the Western Hemisphere as Chief Transparency Officer. By elevating the CTO to a presidentially appointed, Senate confirmed post, the Administration is promoting stronger accountability and facilitating closer coordination with Congress. The President nominated a candidate for this position on July 29, 2017. This candidate has yet to be confirmed.

- *Consultation with Congress:* To broaden access to negotiating texts and further encourage Congressional participation, provides access to U.S. text proposals and consolidated text of agreements under negotiation to professional staff of the Committees on Finance and Ways and Means with an

appropriate security clearance, to professional staff from other Committees interested in reviewing text relevant to that Committee's jurisdiction, to personal office staffers with appropriate clearance of a member of the Committees on Finance and Ways and Means, and to personal office staff with appropriate clearance accompanying his or her Member of Congress. Any member of the House or Senate Advisory Group on Negotiations, or any member designated a congressional advisor on trade policy and negotiations by the Speaker of the House or the President *pro tempore* of the Senate (in both cases after consultation with the Chairman and Ranking member of the appropriate committees of jurisdiction) will be accredited to negotiating rounds.

- *Public Engagement:* USTR also provides access for the public and interested stakeholders to policymaking including regular release of information on the schedules of negotiating rounds, publishing summaries of negotiating objectives issued at least 30 days before initiating negotiations for a trade agreement, updating negotiating objectives during negotiations, publication of *Federal Register* Notices for each agreement under consideration, public hearings on negotiations and other trade priorities; regular public events during negotiations in which stakeholders and the public can meet directly with USTR negotiators directly involved in particular agreements; and other means.

2. Public Outreach

Federal Register Notices Seeking Public Input/Comments and Public Hearings

In 2017, USTR published about 40 *Federal Register* notices to solicit public comment on negotiations and policy decisions on a wide range of issues including, potential listings of “Notorious Markets” of pirated and counterfeit goods, NAFTA, China 301, 201 Washers, 201 Solar, KORUS and other topics. Public comments received in response to *Federal Register* Notices are available for inspection online at <http://www.regulations.gov>.

USTR also held public hearings regarding a variety of trade policy initiatives, including unprecedented public hearings on NAFTA, China 301, 201 Washers, 201 Solar, KORUS and other topics. These hearings were web-cast live, and the submissions of all parties posted online.

Open Door Policy

USTR officials, including the U.S. Trade Representative, and line officers from regional, functional, and multilateral offices as well as IAPE, meet frequently with a broad array of stakeholders, including agricultural commodity groups and farm associations, labor unions, environmental organizations, consumer groups, large and small businesses, faith groups, development and poverty relief organizations, other public interest groups, State and local Governments, NGOs, think tanks, and academics to discuss specific trade policy issues, subject to negotiator availability and scheduling.

3. The Trade Advisory Committee System

The trade advisory committee system, established by the U.S. Congress by statute in 1974, was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. Substantially broadened and reformed over the subsequent four decades, the system remains in the 21st century a central means of ensuring that USTR's senior officers and line negotiators receive ideas, input, and critiques from a wide range of public interests. The system now consists of 28 advisory committees, with a total membership of up to approximately 700 advisors. USTR manages the advisory committee system, in collaboration with the U.S. Departments of Agriculture, Commerce, and Labor, to ensure compliance with legal requirements. The advisory committee system includes the

President's Advisory Committee for Trade Policy and Negotiations (ACTPN), 5 policy advisory committees, and 22 technical advisory committees in the areas of industry (ITACs) and agriculture (ATACs).

The trade advisory committees provide information and advice on U.S. negotiating objectives, the operation of trade agreements, and other matters arising in connection with the development, implementation, and administration of U.S. trade policy. Additional information on the advisory committees can be found on the USTR website at <https://ustr.gov/about-us/advisory-committees>.

In cooperation with the other agencies served by the advisory committees, USTR continues to look for ways to broaden the participation on committees to include a more diverse group of stakeholders, represent new interests, and fresh perspectives, and continues exploring ways to expand further representation while ensuring the committees remain effective.

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

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

The ACTPN consists of no more than 45 members who are broadly representative of the key economic sectors of the economy, particularly those most affected by trade. The President appoints ACTPN members to four year terms not to exceed the duration of the charter. The ACTPN is the highest level committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

Members of ACTPN are appointed to represent a broad variety of entities, including non-Federal Governments, environmental organizations, labor unions, agricultural interests, technology, small business, service industries, and retailers. A current roster of ACTPN members and the interests they represent is available on the USTR website.

Policy Advisory Committees

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

Agricultural Policy Advisory Committee (APAC)

The U.S. Secretary of Agriculture and the U.S. Trade Representative appoint members jointly. The APAC is designed to represent a broad spectrum of agricultural interests including the interests of farmers, ranchers, processors, renderers, retailers, and public advocacy from for the range of food and agricultural products grown and produced in the United States. Members serve at the discretion of the U.S. Secretary of Agriculture and the U.S. Trade Representative. The Secretary of Agriculture and the U.S. Trade Representative jointly appoint the maximum of 35 members to four-year terms.

Intergovernmental Policy Advisory Committee on Trade (IGPAC)

The IGPAC consists of not more than 35 members appointed from, and representative of, the various States and other non-Federal Governmental entities within the jurisdiction of the United States. These entities include, but are not limited to, the executive and legislative branches of State, County, and Municipal Governments. Members may hold elective or appointive office. Members are appointed by, and serve at the discretion of, the U.S. Trade Representative.

Labor Advisory Committee (LAC)

The LAC consists of not more than 30 members from the U.S. labor community, appointed by the U.S. Trade Representative and the Secretary of Labor, acting jointly. Members represent unions from all sectors of the economy including steel, automotive, aerospace, farmworkers, teachers, pilots, artists, machinists, service workers, and food and commercial workers. Members are appointed by, and serve at the discretion of, the U.S. Secretary of Labor and the U.S. Trade Representative.

Trade Advisory Committee on Africa (TACA)

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

Trade and Environment Policy Advisory Committee (TEPAC)

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

Technical and Sectoral Committees

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

Agricultural Technical Advisory Committees (ATACs)

There are six ATACs, focusing on the following products: (1) Animals and Animal Products; (2) Fruits and Vegetables; (3) Grains, Feed, Oilseeds, and Planting Seeds; (4) Processed Foods; (5) Sweeteners and Sweetener Products; and, (6) Tobacco, Cotton, and Peanuts. Members of each Committee are appointed by, and serve at the pleasure of, the U.S. Secretary of Agriculture and the U.S. Trade Representative. Members must represent a U.S. entity with an interest in agricultural trade and should have expertise and knowledge of agricultural trade as it relates to policy and commodity-specific products. In appointing members to the committees, balance is achieved and maintained by assuring that the members appointed represent entities across the range of agricultural interests that will be directly affected by the trade policies of concern to the committee (for example, farm producers, farm and commodity organizations, processors, traders, and consumers). Geographical balance on each committee is also sought. A list of all the members of the committees and the diverse interests they represent is available on the U.S. Department of Agriculture website: <http://www.fas.usda.gov/topics/trade-policy/trade-advisory-committees>.

Industry Trade Advisory Committees (ITACs)

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

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

Members of the ITACs are appointed jointly by the U.S. Secretary of Commerce and the U.S. Trade Representative and serve at their discretion. Each of the Committees consists of not more than 50 members representing diverse interests and perspectives including, but not limited to, labor unions, manufacturers, exporters, importers, service providers, producers, and representatives of small and large business. Committee members should have knowledge and experience in their industry or interest area, and represent a U.S. entity that has an interest in trade matters related to the sectors or subject matters of concern to the individual committees. In appointing members to the Committees, balance is achieved and maintained by assuring that the members appointed represent private businesses, labor unions, and other U.S. entities across the range of interests as provided in law in a particular sector, commodity group, or functional area that will be directly affected by the trade policies of concern to the Committee. A list of all the members of the Committees and the diverse interests the Committees and their respective memberships represent is available on the U.S. Department of Commerce website: <http://ita.doc.gov/itac/>.

4. State and Local Government Relations

USTR has historically maintained consultative relationships between federal trade officials and State and local Governments. USTR the states, on an ongoing basis, of trade-related matters that directly relate to or may indirectly affect them. This is accomplished through a number of mechanisms, detailed below.

State Point of Contact System and IGPAC

State Points of Contact

For day-to-day communications, USTR has operated a State Single Point of Contact (SPOC) system to disseminate information received from USTR to relevant state and local offices and assist in relaying specific information and advice from states and localities to USTR on trade-related matters. USTR has worked with this point of contact, as well as the Governor's representative in Washington, D.C., and state organizations and associations, to update state and local offices through formalized briefings, calls and other forms of communication. Governors' staff receive USTR press releases, *Federal Register* Notices, and other pertinent information.

Intergovernmental Policy Advisory Committee on Trade

IGPAC makes recommendations to USTR and the Administration on trade policy matters from the perspective of State and local Governments. In 2016, IGPAC was briefed and consulted on trade priorities of interest to states and localities.

Meetings of State and Local Associations

USTR officials participate in meetings of State and local Government associations to apprise them of relevant trade policy issues and solicit their views. USTR senior officials have met with the National Governors' Association and other state commissions and organizations. Additionally, USTR officials have addressed gatherings of state and local officials around the country.

Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and other U.S. trade agreements and frequently responds to requests for information from State and local Governments.

C. Policy Coordination and Freedom of Information Act

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

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 100 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through *Federal Register* Notices and public hearings. In 2017, the TPSC held public hearings regarding the North American Free Trade Agreement (June 2017), China's Compliance with its WTO Commitments (October 2017), and Russia's Implementation of the WTO Commitments (October 2017).

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred to the TPRG (Deputy USTR/Under Secretary level).

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

USTR is subject to the Freedom of Information Act (FOIA), a law that provides the public with a right of access to federal agency records except to the extent those records are protected from disclosure under particular FOIA exemptions or exceptions. Detailed information about the USTR FOIA program is available on the USTR website at <https://ustr.gov/about-us/reading-room/foia>. In FY2017, USTR received and processed more FOIA requests than in any prior year. USTR had 32 pending and 140 new FOIA requests, and processed 156 FOIA requests. The USTR FOIA Office demonstrated its ongoing commitment to transparency by, among other things, significantly reducing the backlog of requests while also improving greatly the timeliness of responses.

ANNEX I

U.S. TRADE IN 2017

I. 2017 Overview

U.S. trade (exports and imports of goods and services) increased by 6.2 percent in 2017,⁷⁸ after two consecutive years of nominal decreases (figure 1). U.S. exports of goods and services increased by 5.5 percent while U.S. imports of goods and services increased by 6.7 percent. As a percent of GDP, total trade (exports plus imports) increased as well, representing 26.9 percent in 2017, up from 26.4 percent in 2016, but still down from the high of 30.9 percent in 2011 (figure 2). Exports represented 12.0 percent of GDP in 2017, up from 11.9 percent in 2016, but down from the high of 13.7 percent in 2013. Imports represented for 14.9 percent in 2017, up from 14.6 percent in 2016, but down from the high of 17.3 percent in 2008.⁷⁹



Source: U.S. Department of Commerce

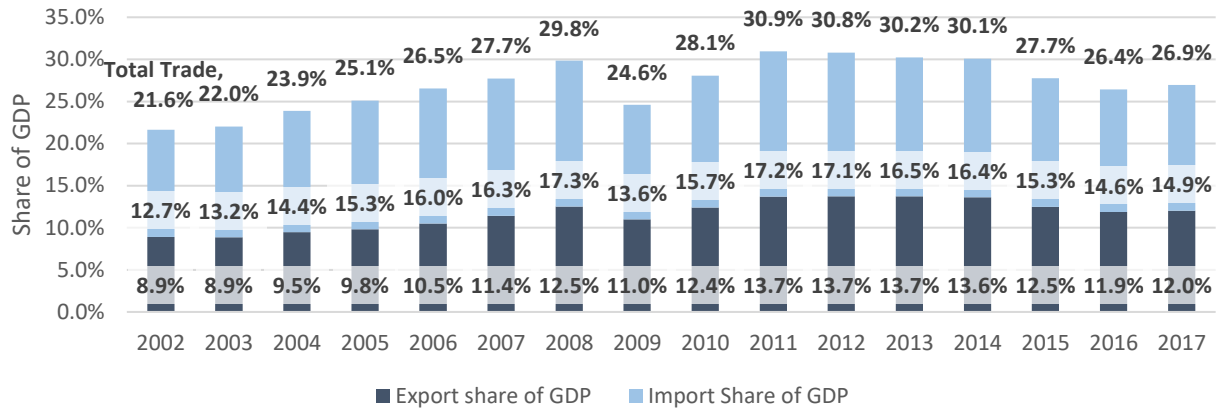
In real terms trade was up by 3.7 percent (adjusting for price fluctuations), an increase from the 0.6 percent growth rate in 2017.⁸⁰ Real exports of goods and services were up 3.4 percent (up from 0.3 percent decline in 2016), while real imports of goods and services were up 3.9 percent (up from 1.3 percent growth in 2016). Exports contributed 0.4 percentage points of the 2.3 percent growth of the economy.

⁷⁸ On a balance of payments (BOP) basis.

⁷⁹ The broadest measure of commercial trade is from the Current Account and includes goods and services as well as earnings/payments on foreign investment (but not transfer payments). Earnings are considered trade because they are the payment made/received to foreign/U.S. residents for the service rendered by the use of foreign/U.S. capital. Based on the Current Account, trade increased by 7.1 percent in 2017 and representing 37.4 percent of GDP, up from 36.3 percent in 2016, but down from the high of 42.1 percent in 2008. Data are annualized based on the first 3 quarters of 2017.

⁸⁰ On a National Income Products Account basis.

Figure 2 - Goods and Services Trade as a Share of GDP, Exports, Imports and Total Trade



Source: U.S. Department of Commerce

The deficit in goods and services trade increased by \$61.2 billion (12.1 percent) in 2017 to \$566.0 billion. Although this was the fourth consecutive year of the deficit increasing, it was still 20.1 percent lower than its pre-recession level of \$708.7 billion in 2008 and 25.7 percent lower than the 2006 high of \$761.7 billion. As a share of GDP, the deficit increased from 2.7 percent of GDP in 2016 to 2.9 percent of GDP in 2017, but is down from its high of 5.5 percent in 2006.

The U.S. deficit in goods trade alone increased by \$57.5 billion (7.6 percent) from \$752.5 billion in 2016 to \$810.0 billion in 2017, while the services trade surplus decreased by \$3.7 billion (1.5 percent), from \$247.7 billion in 2016 to \$244.0 billion in 2017. As a share of GDP, the goods deficit increased from 4.0 percent to 4.2 percent, and the services surplus declined from 1.33 percent in 2016 to 1.26 percent in 2017.

II. Export Growth

U.S. exports of goods and services were up by 5.5 percent in 2017 (and up 5.0 percent since 2012), to \$2.3 trillion (table 2). Goods exports were up 6.6 percent (\$95.7 billion) to \$1.6 trillion, while services exports were up 3.4 percent (\$25.5 billion) to \$777.9 billion (table 1).

Table 1 - U.S. Exports					
	Value (\$Billions)			% Change	
	2012	2016	2017	12-17	16-17
Total Goods and Services	2,219.0	2,208.1	2,329.3	5.0%	5.5%
Goods on a BOP Basis	1,562.6	1,455.7	1,551.4	-0.7%	6.6%
Foods, Feeds, Beverages	133.0	130.6	133.0	-0.1%	1.8%
Industrial Supplies	501.2	396.4	462.8	-7.6%	16.8%
Capital Goods	527.2	519.6	532.8	1.1%	2.5%
Automotive Vehicles	146.2	150.3	157.6	7.8%	4.8%
Consumer Goods	181.7	193.8	197.8	8.9%	2.0%
Other Goods	56.6	60.3	62.8	11.0%	4.1%
Petroleum (Addendum)	123.5	88.7	124.3	0.7%	40.2%
Manufacturing (Addendum)	1,341.4	1,263.6	1,322.5	-1.4%	4.7%
Agriculture (Addendum)	145.6	139.2	143.1	-1.7%	2.8%
Services	656.4	752.4	777.9	18.5%	3.4%
Maintenance and repair services	17.2	25.6	27.2	58.3%	6.2%
Transport	83.9	84.3	86.0	2.4%	2.0%
Travel	161.6	205.9	205.1	26.9%	-0.4%
Insurance services	16.8	16.3	17.3	3.1%	5.9%
Financial services	76.7	98.2	104.2	35.8%	6.1%
Charges for the use of intellectual property	124.4	124.5	124.3	-0.1%	-0.1%
Telecom, computer, and information services	32.5	36.5	38.6	18.8%	6.0%
Other business services	120.4	142.2	155.5	29.2%	9.4%
Government goods and services	22.8	18.8	19.6	-14.0%	4.4%

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

A. Goods Exports

Goods exports increased in 2017, by 6.6 percent to \$1.55 trillion (*table 1*). Manufacturing exports, which accounted for 85.5 percent of total goods exports, were up 4.7 percent in 2017. Agricultural exports, which accounted for 9.3 percent of total goods exports, were up 2.8 percent in 2017. U.S. goods exports increased for all of the major end-use categories in 2017, with the largest increases in industrial supplies, up 16.8 percent (\$66.4 billion). U.S. petroleum exports, a subset of industrial supplies, were up 40.2 percent (\$35.7 billion), mainly due to the increase in oil prices. Industrial supplies was followed by increases in capital goods, up 2.5 percent (\$13.2 billion), automotive vehicles and parts, up 4.8 percent (\$7.2 billion), consumer goods, up 2.0 percent (\$4.0 billion), and foods, feeds, and beverages, up 1.8 percent (\$2.4 billion).

Over the last 5 years, between 2012 and 2017, U.S. goods exports have decreased by 0.7 percent (\$11.1 billion). U.S. agricultural exports decreased by 1.7 percent (\$2.5 billion) and manufacturing exports decreased by 1.4 percent (\$18.9 billion), over the same time period. Of the major end-use categories, industrial supplies and materials had the largest decrease, down \$38.3 billion (7.6 percent). U.S. petroleum exports, a subset of industrial supplies and materials, increased by 0.7 percent (\$880 million) from 2012 to 2017. The largest increases occurred in consumer goods (up \$16.1 billion, or 8.9 percent), followed by automotive vehicles and parts, up \$11.4 billion (7.8 percent).

	Value (\$Billions)			% Change	
	2012	2016	2017	12-17	16-17
Canada	292.7	266.8	282.4	-3.5%	5.8%
Mexico	215.9	229.7	243.0	12.6%	5.8%
China	110.5	115.6	130.4	18.0%	12.8%
Japan	70.0	63.2	67.7	-3.3%	7.1%
European Union (28)	265.7	269.6	283.5	6.7%	5.2%
Latin America (excluding Mexico)	183.2	136.0	150.2	-18.0%	10.5%
Pacific Rim (excluding Japan and China)	198.8	183.1	201.2	1.2%	9.9%
FTA Countries (Addendum)	717.8	675.8	720.5	0.4%	6.6%
Advanced Economies (Addendum)	917.0	873.1	938.7	2.4%	7.5%
Emerging Markets and Developing Economies (Addendum)	628.8	577.9	608.0	-3.3%	5.2%

Source: U.S. Department of Commerce, Census basis

Advanced Economies and Emerging Markets as defined by the IMF

Note: The shipment of goods through multiple countries can make standard measures of bilateral trade potentially misleading. (For a more thorough discussion of this issue, refer to footnote 3 under Chapter II.A.1.)

In 2017, U.S. goods exports increased to the top 4 export markets: Canada (up 5.8 percent), Mexico (5.8 percent), China (12.8 percent), and Japan (7.1 percent) (table 2). In addition, U.S. goods exports to our 20 FTA partners increased by 6.6 percent⁸¹. U.S. goods exports to advanced economies, accounting for 60.7 percent of U.S. total goods exports, increased by 7.5 percent, while goods exports to emerging markets and developing economies increased by 5.2 percent.

B. Services Exports

U.S. exports of services increased by 3.4 percent to a record \$777.9 billion in 2017 (table 1). U.S. services exports accounted for 33.4 percent of the level of U.S. goods and services exports in 2017.

The increase in U.S. services exports was led by other business services (e.g. professional and management consulting services, and research and development services) (up 9.4 percent, \$13.3 billion), financial services (up 6.1 percent, \$6.0 billion), and telecommunication, computer and information services (up 6.0 percent, \$2.2 billion). The top decrease was in travel services (down 0.4 percent, \$862 million).

U.S. services exports have increased by 18.5 percent over the past 5 years. Of the \$121.5 billion increase in U.S. services exports between 2012 and 2017, travel services accounted for 35.8 percent (\$43.4 billion) of the increase, while other business services and financial services accounted for 28.9 percent (\$35.2 billion) and 22.6 percent (27.5 billion), respectively.

Detailed services exports to countries/regions are available through 2016. The United Kingdom was the largest purchaser of U.S. services exports in 2016, accounting for 8.7 percent (\$65.7 billion) of total U.S. services exports. The next 5 largest purchasers of services exports in 2016 were: China (\$54.2 billion), Canada (\$54.0 billion), Ireland (\$46.6 billion), Japan (\$44.2 billion), and Switzerland (\$32.6 billion). Regionally, in 2016, the United States exported \$231.2 billion in services to the EU, \$224.6 billion to the

⁸¹ The 20 FTA countries currently entered into force accounted for 46.7 percent of total goods exports in 2017.

Asia/Pacific region (\$126.3 billion excluding Japan and China), \$86.0 billion to the NAFTA countries, and \$65.7 billion to South and Central America (excluding Mexico).

III. Imports

U.S. imports of goods and services were up by 6.7 percent in 2017, to a record \$2.9 trillion. Goods imports were up 6.9 percent (\$153.2 billion) to \$2.4 trillion, and services imports are up 5.8 percent (\$29.2 billion) to a record \$533.9 billion (*table 3*).

Table 3 - U.S. Imports					
	Value (\$Billions)			% Change	
	2012	2016	2017	12-17	16-17
Total Goods and Services	2,755.8	2,712.9	2,895.3	5.1%	6.7%
Goods on a BOP Basis	2,303.7	2,208.2	2,361.5	2.5%	6.9%
Foods, Feeds, Beverages	110.3	130.0	137.8	25.0%	6.0%
Industrial Supplies	730.6	443.3	507.6	-30.5%	14.5%
Capital Goods	548.7	590.0	640.6	16.8%	8.6%
Automotive Vehicles	297.8	350.1	359.0	20.6%	2.5%
Consumer Goods	516.9	583.6	602.2	16.5%	3.2%
Other Goods	72.0	90.8	95.6	32.9%	5.3%
Petroleum (Addendum)	415.2	146.6	186.1	-55.2%	27.0%
Manufacturing (Addendum)	1,809.1	1,912.3	2,022.2	11.8%	5.7%
Agriculture (Addendum)	103.2	114.4	121.0	17.2%	5.8%
Services	452.0	504.7	533.9	18.1%	5.8%
Maintenance and repair services	8.0	8.8	9.0	12.1%	2.0%
Transport	85.0	96.8	100.9	18.7%	4.2%
Travel	100.3	123.6	135.3	34.9%	9.5%
Insurance services	55.5	48.1	48.9	-11.9%	1.7%
Financial services	16.7	25.6	27.6	65.1%	7.6%
Charges for the use of intellectual property	38.7	44.4	49.3	27.6%	11.1%
Telecom, computer, and information services	32.8	36.9	39.9	21.7%	8.3%
Other business services	87.2	98.9	100.9	15.8%	2.0%
Government goods and services	27.9	21.5	22.1	-20.6%	2.8%

Source: U.S. Department of Commerce, Balance of Payments basis, Census basis for goods sectors.

A. Goods Imports

U.S. goods imports increased by 6.9 percent in 2017 to \$2.4 trillion, accounting for 81.6% of total imports (*table 3*). U.S. manufacturing imports, which accounted for 86.3 percent of total goods imports, increased by 5.7 percent in 2017. Agriculture imports, accounting for 5.2 percent of total goods imports, increased by 5.8 percent.

All broad end-use categories increased, led by industrial supplies and materials which increased (up 14.5 percent, \$64.3 billion). Petroleum imports, a subset of industrial goods imports, increased by 27.0 percent (\$39.5 billion); 92 percent of this decrease in petroleum imports was driven by price. After industrial supplies and materials, the next largest increases were in capital goods (up 8.6 percent, \$50.7 billion), consumer goods (up 3.2 percent, \$18.6 billion), automotive vehicles and parts (up 2.5 percent, \$8.9 billion), and food feeds and beverages (up 6.0 percent, \$7.8 billion).

U.S. goods imports have increased by 2.5 percent since 2012. Over this same time period imports of agriculture and manufactured goods have increased by 17.2 percent and 11.8 percent, respectively. For the major end-use categories increases were led by capital goods (up 16.8 percent, \$91.9 billion), consumer goods (up 16.5 percent, \$85.3 billion), and automotive vehicles and parts (up 20.6 percent, \$61.2 billion). The only decline was in industrial supplies and materials (down 30.5 percent, \$223.0 billion); petroleum products, a subset of this category, decreased by 55.2 percent (\$229.0 billion).

	Value (\$Billions)			% Change	
	2012	2016	2017	12-17	16-17
China	425.6	462.6	505.6	18.8%	9.3%
Mexico	277.6	294.1	314.0	13.1%	6.8%
Canada	324.3	277.8	300.0	-7.5%	8.0%
Japan	146.4	132.0	136.5	-6.8%	3.4%
European Union (28)	382.2	416.4	434.9	13.8%	4.5%
Latin America (excluding Mexico)	171.8	107.7	116.0	-32.5%	7.7%
Pacific Rim (excluding Japan and China)	190.3	214.0	224.3	17.9%	4.8%
FTA Countries (Addendum)	788.7	748.3	797.0	1.1%	6.5%
Advanced Economies (Addendum)	1,442.0	1,468.8	1,564.8	8.5%	6.5%
Emerging Markets and Developing Economies (Addendum)	834.3	719.0	778.1	-6.7%	8.2%

Source: U.S. Department of Commerce, Census basis

Advanced Economies and Emerging Markets as defined by the IMF

Note: The shipment of goods through multiple countries can make standard measures of bilateral trade potentially misleading. (For a more thorough discussion of this issue, refer to footnote 3 under Chapter II.A.1.)

In 2017, U.S. goods imports increased from all of our top 4 import suppliers: China (up 9.3%), Mexico (up 6.8%), Canada (up 8.0%) and Japan (up 3.4%) (table 4). U.S. goods imports from our 20 FTA partners increased by 6.5 percent in 2017.⁸² U.S. goods imports from advanced economies, accounting for 66.8% of U.S. total goods imports, increased by 6.5 percent, while goods imports from emerging markets and developing economies increased by 8.2 percent.

B. Services Imports

U.S. services imports increased by 5.8 percent (\$29.2 billion) to \$533.9 billion in 2017 (table 3). All major categories of services imports increased, led by travel services (up 9.5 percent, \$11.7 billion), intellectual property (up 11.1 percent, \$4.9 billion), transport services (up 4.2 percent, \$4.0 billion) and telecommunications, computer, and information services (up 8.3 percent, \$3.0 billion).

U.S. services imports increased by 18.1 percent over the past 5 years. Of the \$81.9 billion increase in U.S. services imports between 2012 and 2017, travel services accounted for 42.7 percent (\$35.0 billion) of the increase, while transport services and other business services (e.g. professional and management consulting services, and research and development services) accounted for 19.4 percent (\$15.9 billion) and 16.8 percent (\$13.7 billion), respectively.

⁸² The 20 FTA countries currently entered into force accounted for 34.0 percent of total goods imports in 2017.

As with exports, services imports from countries/regions are available only through 2016. The United Kingdom remained our largest supplier of services, accounting for 10.2 percent (\$51.7 billion) of total U.S. services imports in 2016. The next 5 largest suppliers of U.S. services imports in 2016 were: Germany (\$33.4 billion), Japan (\$31.0 billion), Canada (\$30.0 billion), India (\$25.8 billion), and Bermuda (\$24.6 billion). Regionally, the United States imported \$176.5 billion of services from the European Union in 2016, \$135.3 billion from the Asia/Pacific region (\$88.1 billion, excluding Japan and China), \$54.5 billion from NAFTA, and \$26.6 billion from South and Central America (excluding Mexico).

IV. The U.S. Trade Balance

The total deficit in goods and services trade⁸³ increased by \$61.2 billion in 2017 to \$566.0 billion. The deficit was 20.1 percent lower than its pre-recession level of \$708.7 billion in 2008 and 25.7 percent lower than the 2006 high of \$761.7 billion. As a share of GDP the deficit increased from 2.7 percent of GDP in 2016 to 2.9 percent of GDP in 2017; however, this is still substantially lower than its high of 5.5 percent in 2006.

The U.S. deficit in goods trade alone increased by \$57.5 billion from \$752.5 billion in 2016 (4.0 percent of GDP) to \$810.0 billion in 2017 (4.2 percent of GDP), while the services trade surplus decreased by \$3.7 billion, from \$247.7 billion in 2016 (1.33 percent of GDP) to \$244.0 billion in 2017 (1.26 percent of GDP).

Table 5 - U.S. Trade Balances						
	2012	2013	2014	2015	2016	2017
U.S. Trade Balances as a share of GDP						
Goods and Services	-3.3%	-2.8%	-2.8%	-2.8%	-2.7%	-2.9%
Goods	-4.6%	-4.2%	-4.3%	-4.2%	-4.0%	-4.2%
Services	1.3%	1.4%	1.5%	1.4%	1.3%	1.3%
U.S. Trade Balances with the World (\$Billions)						
Goods and Services	-536.8	-461.9	-490.3	-500.4	-504.8	-566.0
Goods	-741.2	-702.2	-751.5	-761.9	-752.5	-810.0
Services	204.4	240.4	261.2	261.4	247.7	244.0

Source: U.S. Department of Commerce

In 2017, the increase in the overall deficit was due to an increase in the nonpetroleum goods deficit (up \$55.5 billion, 8.2 percent), a decrease in the services surplus, (down \$3.7 billion, 1.5 percent), and an increase in the petroleum deficit (up \$3.8 billion, 6.6 percent). The U.S. deficit in petroleum accounted for 10.9 percent of the overall goods and services trade deficit in 2017, down from 11.5 percent, in 2016.

⁸³ On a balance of payments basis.

ANNEX II

BACKGROUND INFORMATION ON THE WTO

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION
As of 31 December, 2017 (164 Members)

Government	Entry Into Force/Membership	Government	Entry Into Force/Membership
Afghanistan	July 29, 2016	Cambodia	October 12, 2004
Albania	September 8, 2000	Cameroon	December 13, 1995
Angola	November 23, 1996	Canada	January 1, 1995
Antigua and Barbuda	January 1, 1995	Cape Verde	July 23, 2008
Argentina	January 1, 1995	Central African Republic	May 31, 1995
Armenia	February 5, 2003	Chad	October 19, 1996
Australia	January 1, 1995	Chile	January 1, 1995
Austria	January 1, 1995	China	December 11, 2001
Bahrain	January 1, 1995	Colombia	April 30, 1995
Bangladesh	January 1, 1995	Congo	March 27, 1997
Barbados	January 1, 1995	Costa Rica	January 1, 1995
Belgium	January 1, 1995	Côte d'Ivoire	January 1, 1995
Belize	January 1, 1995	Croatia	November 30, 2000
Benin	February 22, 1996	Cuba	April 20, 1995
Bolivia	September 12, 1995	Cyprus	July 30, 1995
Botswana	May 31, 1995	Czech Republic	January 1, 1995
Brazil	January 1, 1995	Democratic Republic of Congo	January 1, 1997
Brunei Darussalam	January 1, 1995	Denmark	January 1, 1995
Bulgaria	December 1, 1996	Djibouti	May 31, 1995
Burkina Faso	June 3, 1995	Dominica	January 1, 1995
Burundi	July 23, 1995	Dominican Republic	March 9, 1995
Ecuador	January 21, 1996	Ireland	January 1, 1995
Egypt	June 30, 1995	Israel	April 21, 1995

El Salvador	May 7, 1995	Italy	January 1, 1995
Estonia	November 13, 1999	Jamaica	March 9, 1995
European Union	January 1, 1995	Japan	January 1, 1995
Fiji	January 14, 1996	Jordan	April 11, 2000
Finland	January 1, 1995	Kazakhstan	November 30, 2015
France	January 1, 1995	Kenya	January 1, 1995
Gabon	January 1, 1995	Korea, Republic of	January 1, 1995
Georgia	June 14, 2000	Kuwait	January 1, 1995
Germany	January 1, 1995	Kyrgyz Republic	December 20, 1998
Ghana	January 1, 1995	Latvia	February 10, 1999
Greece	January 1, 1995	Lao People's Democratic Republic	February 2, 2013
Grenada	February 22, 1996	Lesotho	May 31, 1995
Guatemala	July 21, 1995	Liberia	July 14, 2016
Guinea	October 25, 1995	Luxembourg	January 1, 1995
Guinea Bissau	May 31, 1995	Macao, China	January 1, 1995
Guyana	January 1, 1995	Republic of Macedonia	April 4, 2003
Haiti	January 30, 1996	Madagascar	November 17, 1995
Honduras	January 1, 1995	Malawi	May 31, 1995
Hong Kong, China	January 1, 1995	Malaysia	January 1, 1995
Hungary	January 1, 1995	Maldives	May 31, 1995
Iceland	January 1, 1995	Mali	May 31, 1995
India	January 1, 1995	Malta	January 1, 1995
Indonesia	January 1, 1995	Mauritania	May 31, 1995
Mauritius	January 1, 1995	Portugal	January 1, 1995
Mexico	January 1, 1995	Qatar	January 13, 1996
Moldova	July 26, 2001	Romania	January 1, 1995

Mongolia	January 29, 1997	Russian Federation	August 22, 2012
Montenegro	April 29, 2012	Rwanda	May 22, 1996
Morocco	January 1, 1995	Saint Kitts and Nevis	February 21, 1996
Mozambique	August 26, 1995	Saint Lucia	January 1, 1995
Myanmar	January 1, 1995	Saint Vincent and the Grenadines	January 1, 1995
Namibia	January 1, 1995	Samoa	May 10, 2012
Nepal	April 23, 2004	Saudi Arabia	December 11, 2005
Netherlands (for the Kingdom in Europe and Netherlands Antilles)	January 1, 1995	Senegal	January 1, 1995
New Zealand	January 1, 1995	Seychelles	April 26, 2015
Nicaragua	September 3, 1995	Sierra Leone	July 23, 1995
Niger	December 13, 1996	Singapore	January 1, 1995
Nigeria	January 1, 1995	Slovak Republic	January 1, 1995
Norway	January 1, 1995	Slovenia	July 30, 1995
Oman	November 9, 2000	Solomon Islands	July 26, 1996
Pakistan	January 1, 1995	South Africa	January 1, 1995
Panama	September 6, 1997	Spain	January 1, 1995
Papua New Guinea	June 9, 1996	Sri Lanka	January 1, 1995
Paraguay	January 1, 1995	Suriname	January 1, 1995
Peru	January 1, 1995	Swaziland	January 1, 1995
Philippines	January 1, 1995	Sweden	January 1, 1995
Poland	July 1, 1995	Switzerland	July 1, 1995
Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002	Ukraine	May 16, 2008
Tajikistan	March 2, 2013	United Arab Emirates	April 10, 1996
Tanzania	January 1, 1995	United Kingdom	January 1, 1995
Thailand	January 1, 1995	United States of America	January 1, 1995

The Gambia	October 23, 1996	Uruguay	January 1, 1995
Togo	May 31, 1995	Vanuatu	August 24, 2012
Tonga	July 27, 2007	Venezuela	January 1, 1995
Trinidad and Tobago	March 1, 1995	Vietnam	January 11, 2007
Tunisia	March 29, 1995	Yemen	June 26, 2014
Turkey	March 26, 1995	Zambia	January 1, 1995
Uganda	January 1, 1995	Zimbabwe	March 5, 1995

**Consolidated 2017 Budget for the WTO Secretariat
and the Appellate Body and its Secretariat**
(in thousand Swiss francs)

Part	Section	Line	2016	2017	Inc/ Dec 2017	
A. Staffing Resources	1. Staff Expenditure	i) Staff Remuneration	90,482	90,482	0	
		ii) Staff Pension & Post-Employment Benefits	22,110	22,110	0	
		iii) Staff Health & Invalidation Insurance	5,944	5,944	0	
		iv) Staff Family & International Benefits	11,069	11,069	0	
		v) Other Staff Expenditure	1,810	1,810	0	
		1. Staff Expenditure Total		131,415	131,415	0
	2. Temporary Assistance		i) Short-Term Staff	9,013	9,013	0
			ii) Consulting	6,770	6,770	0
			iii) Panelists & Appellate Body Members Fees	1,506	1,506	0
			2. Temporary Assistance Total		17,289	17,289
	A. Staffing Resources Total			148,705	148,705	0
	B. Other Resources	3. General Services	i) Telecommunication & Post	831	831	0
			ii) Contractual Services & Maintenance	10,681	10,681	0
			iii) Energy & Supplies	2,251	2,251	0
iv) Documentation & Publication			1,479	1,479	0	
v) Other / Miscellaneous			89	89	0	
3. General Services Total			15,331	15,331	0	
4. Travel & Hospitality			i) Travel	7,135	7,135	0
			ii) Hospitality	216	216	0
4. Travel & Hospitality Total			7,351	7,351	0	
5. Implementing Partners		i) Implementing Partners	213	213	0	
5. Implementing Partners Total			213	213	0	
6. Capital Expenditure			i) Procurement of Fixed Assets	1,430	1,430	0
			ii) Rental & Leasing of Equipment	920	920	0
6. Capital Expenditure Total			2,350	2,350	0	
7. Financial Expenditure		i) Bank & Interest Charges	80	80	0	
		ii) Building Loan Reimbursement	1,200	1,200	0	
		7. Financial Expenditure Total		1,280	1,280	0
B. Other Resources Total			26,524	26,524	0	
C. Operating Funds and ITC	8. Contributions to ITC & Special Reserves	i) Contribution to ITC	18,775	18,775	0	
		ii) Appellate Body Operating Fund	2,000	2,000	0	
		iii) Ministerial Conference Operating Fund	600	600	0	
		iv) Building Renovation Fund	600	600	0	
	8. Contributions to ITC & Special Reserves Total		21,975	21,975	0	
C. Operating Funds and ITC Total			21,975	21,975	0	
Grand Total			197,204	197,204	0	

2017 Budget for the WTO Secretariat
(in thousand Swiss francs)

Part	Section	Line	2016	2017	Inc/ Dec 2017	
A. Staffing Resources	1. Staff Expenditure	i) Staff Remuneration	87,221	87,157	-65	
		ii) Staff Pension & Post-Employment Benefits	21,400	21,380	-20	
		iii) Staff Health & Invalidity Insurance	5,770	5,765	-5	
		iv) Staff Family & International Benefits	10,773	10,773	0	
		v) Other Staff Expenditure	1,767	1,767	0	
	1. Staff Expenditure Total			126,931	126,842	-89
	2. Temporary Assistance	i) Short-Term Staff	8,958	8,958	0	
		ii) Consulting	6,745	6,745	0	
		iii) Panellists	715	715	0	
	2. Temporary Assistance Total			16,418	16,418	0
A. Staffing Resources Total			143,349	143,260	-89	
B. Other Resources	3. General Services	i) Telecommunication & Post	822	822	0	
		ii) Contractual Services & Maintenance	10,663	10,663	0	
		iii) Energy & Supplies	2,231	2,231	0	
		iv) Documentation & Publication	1,469	1,469	0	
		v) Other / Miscellaneous	87	87	0	
	3. General Services Total			15,271	15,271	0
	4. Travel & Hospitality	i) Travel	7,085	7,085	0	
		ii) Hospitality	215	215	0	
	4. Travel & Hospitality Total			7,300	7,300	0
	5. Implementing Partners	i) Implementing Partners	213	213	0	
	5. Implementing Partners Total			213	213	0
	6. Capital Expenditure	i) Procurement of Fixed Assets	1,405	1,405	0	
		ii) Rental & Leasing of Equipment	920	920	0	
6. Capital Expenditure Total			2,325	2,325	0	
7. Financial Expenditure	i) Bank & Interest Charges	80	80	0		
	ii) Building Loan Reimbursement	1,200	1,200	0		
7. Financial Expenditure Total			1,280	1,280	0	
B. Other Resources Total			26,388	26,388	0	
C. Operating Funds and ITC	8. Contributions to ITC & Special Reserves	i) Contribution to ITC	18,775	18,775	0	
		iii) Ministerial Conference Operating Fund	600	600	0	
		iv) Building Renovation Fund	600	600	0	
	8. Contributions to ITC & Special Reserves Total			19,975	19,975	0
C. Operating Funds and ITC Total			19,975	19,975	0	
Grand Total			189,713	189,624	-89	

2017 Budget for the Appellate Body and Its Secretariat
(in thousand Swiss francs)

Part	Section	Line	2016	2017	Inc/ Dec 2017
A. Staffing Resources	1. Staff Expenditure	i) Staff Remuneration	3,261	3,326	65
		ii) Staff Pension & Post-Employment Benefits	710	730	20
		iii) Staff Health & Invalidity Insurance	174	179	5
		iv) Staff Family & International Benefits	296	296	0
		v) Other Staff Expenditure	43	43	0
		1. Staff Expenditure Total	4,484	4,573	89
	2. Temporary Assistance	i) Short-Term Staff	55	55	0
		ii) Consulting	25	25	0
		iii) Appellate Body Member Fees	791	791	0
		2. Temporary Assistance Total	871	871	0
	A. Staffing Resources Total			5,355	5,444
B. Other Resources	3. General Services	i) Telecommunication & Post	10	10	0
		ii) Contractual Services & Maintenance	18	18	0
		iii) Energy & Supplies	20	20	0
		iv) Documentation & Publication	10	10	0
		v) Other / Miscellaneous	2	2	0
		3. General Services Total	60	60	0
	4. Travel & Hospitality	i) Travel	50	50	0
		ii) Hospitality	1	1	0
		4. Travel & Hospitality Total	51	51	0
	6. Capital Expenditure	i) Procurement of Fixed Assets	25	25	0
ii) Rental & Leasing of Equipment		0	0	0	
	6. Capital Expenditure Total	25	25	0	
B. Other Resources Total			136	136	0
C. Operating Funds and ITC	8. Contributions to ITC & Special Reserves	ii) Appellate Body Operating Fund	2,000	2,000	0
		8. Contributions to ITC & Special Reserves Total	2,000	2,000	0
C. Operating Funds and ITC Total			2,000	2,000	0
Grand Total			7,491	7,580	89

Scale of Contributions for 2017

Member	2016 Contribution CHF	2016 Contribution %	2017 Contribution CHF	2017 ⁸⁴ Contribution %
Afghanistan	-	-	48,875	0.025%
Albania	48,875	0.025%	44,965	0.023%
Angola	504,390	0.258%	496,570	0.254%
Antigua and Barbuda	29,325	0.015%	29,325	0.015%
Argentina	805,460	0.412%	780,045	0.399%
Armenia	33,235	0.017%	35,190	0.018%
Australia	2,772,190	1.418%	2,754,595	1.409%
Austria	2,046,885	1.047%	1,978,460	1.012%
Bahrain, Kingdom of	170,085	0.087%	168,130	0.086%
Bangladesh	287,385	0.147%	297,160	0.152%
Barbados	29,325	0.015%	29,325	0.015%
Belgium	3,884,585	1.987%	3,800,520	1.944%
Belize	29,325	0.015%	29,325	0.015%
Benin	29,325	0.015%	29,325	0.015%
Bolivia, Plurinational State of	86,020	0.044%	93,840	0.048%
Botswana	64,515	0.033%	72,335	0.037%
Brazil	2,568,870	1.314%	2,586,465	1.323%
Brunei Darussalam	72,335	0.037%	80,155	0.041%
Bulgaria	318,665	0.163%	316,710	0.162%
Burkina Faso	29,325	0.015%	31,280	0.016%
Burundi	29,325	0.015%	29,325	0.015%
Cabo Verde	29,325	0.015%	29,325	0.015%
Cambodia	82,110	0.042%	86,020	0.044%
Cameroon	70,380	0.036%	64,515	0.033%
Canada	5,069,315	2.593%	5,022,395	2.569%
Central African Republic	29,325	0.015%	29,325	0.015%
Chad	48,875	0.025%	44,965	0.023%
Chile	791,775	0.405%	787,865	0.403%
China	17,927,350	9.170%	18,756,270	9.594%
Colombia	561,085	0.287%	576,725	0.295%
Congo	89,930	0.046%	91,885	0.047%
Costa Rica	132,940	0.068%	142,715	0.073%
Côte d'Ivoire	101,660	0.052%	105,570	0.054%
Croatia	240,465	0.123%	224,825	0.115%
Cuba	148,580	0.076%	146,625	0.075%
Cyprus	107,525	0.055%	119,255	0.061%
Czech Republic	1,407,600	0.720%	1,397,825	0.715%
Democratic Republic of the Congo	93,840	0.048%	103,615	0.053%
Denmark	1,567,910	0.802%	1,515,125	0.775%
Djibouti	29,325	0.015%	29,325	0.015%
Dominica	29,325	0.015%	29,325	0.015%
Dominican Republic	156,400	0.080%	154,445	0.079%
Ecuador	234,600	0.120%	240,465	0.123%
Egypt	541,535	0.277%	510,255	0.261%

⁸⁴ Due to the fact that the WTO banks introduced negative interest rates in 2015, no interest was earned in 2015. Therefore, no adjustments are made to the 2017 contributions due from any Member.

Member	2016 Contribution CHF	2016 Contribution %	2017 Contribution CHF	2017 ⁸⁴ Contribution %
El Salvador	76,245	0.039%	74,290	0.038%
Estonia	175,950	0.090%	179,860	0.092%
European Union ⁸⁵	0	0.000%	0	0.000%
Fiji	29,325	0.015%	29,325	0.015%
Finland	983,365	0.503%	944,265	0.483%
France	7,606,905	3.891%	7,470,055	3.821%
Gabon	64,515	0.033%	68,425	0.035%
The Gambia	29,325	0.015%	29,325	0.015%
Georgia	62,560	0.032%	64,515	0.033%
Germany	14,805,215	7.573%	14,294,960	7.312%
Ghana	148,580	0.076%	152,490	0.078%
Greece	692,070	0.354%	672,520	0.344%
Grenada	29,325	0.015%	29,325	0.015%
Guatemala	138,805	0.071%	140,760	0.072%
Guinea	29,325	0.015%	29,325	0.015%
Guinea-Bissau	29,325	0.015%	29,325	0.015%
Guyana	29,325	0.015%	29,325	0.015%
Haiti	29,325	0.015%	29,325	0.015%
Honduras	78,200	0.040%	76,245	0.039%
Hong Kong, China	5,126,010	2.622%	5,157,290	2.638%
Hungary	1,067,430	0.546%	1,030,285	0.527%
Iceland	60,605	0.031%	60,605	0.031%
India	4,371,380	2.236%	4,463,265	2.283%
Indonesia	1,788,825	0.915%	1,800,555	0.921%
Ireland	1,955,000	1.000%	1,955,000	1.000%
Israel	832,830	0.426%	832,830	0.426%
Italy	5,677,320	2.904%	5,436,855	2.781%
Jamaica	56,695	0.029%	52,785	0.027%
Japan	8,476,880	4.336%	8,345,895	4.269%
Jordan	164,220	0.084%	164,220	0.084%
Kazakhstan	631,465	0.323%	639,285	0.327%
Kenya	111,435	0.057%	121,210	0.062%
Korea, Republic of	5,890,415	3.013%	5,947,110	3.042%
Kuwait, the State of	682,295	0.349%	694,025	0.355%
Kyrgyz Republic	37,145	0.019%	39,100	0.020%
Lao People's Democratic Republic	29,325	0.015%	29,325	0.015%
Latvia	152,490	0.078%	156,400	0.080%
Lesotho	29,325	0.015%	29,325	0.015%
Liberia	-	-	29,325	0.015%
Liechtenstein	60,605	0.031%	62,560	0.032%
Lithuania	301,070	0.154%	310,845	0.159%
Luxembourg	789,820	0.404%	848,470	0.434%
Macao, China	277,610	0.142%	303,025	0.155%
Madagascar	31,280	0.016%	29,325	0.015%
Malawi	29,325	0.015%	29,325	0.015%
Malaysia	2,191,555	1.121%	2,084,030	1.066%
Maldives	29,325	0.015%	29,325	0.015%
Mali	31,280	0.016%	29,325	0.015%

⁸⁵ The European Union is not subject to contributions. However, its 28 members are assessed individually. The total share of members of the European Union represents 34.04 percent of the total assessed contributions for 2017.

Member	2016 Contribution CHF	2016 Contribution %	2017 Contribution CHF	2017 ⁸⁴ Contribution %
Malta	103,615	0.053%	125,120	0.064%
Mauritania	29,325	0.015%	29,325	0.015%
Mauritius	60,605	0.031%	58,650	0.030%
Mexico	3,436,890	1.758%	3,503,360	1.792%
Moldova, Republic of	37,145	0.019%	37,145	0.019%
Mongolia	50,830	0.026%	54,740	0.028%
Montenegro	29,325	0.015%	29,325	0.015%
Morocco	355,810	0.182%	351,900	0.180%
Mozambique	58,650	0.030%	62,560	0.032%
Myanmar	82,110	0.042%	91,885	0.047%
Namibia	56,695	0.029%	56,695	0.029%
Nepal	39,100	0.020%	41,055	0.021%
Netherlands	5,671,455	2.901%	5,821,990	2.978%
New Zealand	443,785	0.227%	451,605	0.231%
Nicaragua	48,875	0.025%	48,875	0.025%
Niger	29,325	0.015%	29,325	0.015%
Nigeria	752,675	0.385%	785,910	0.402%
Norway	1,569,865	0.803%	1,530,765	0.783%
Oman	377,315	0.193%	391,000	0.200%
Pakistan	344,080	0.176%	340,170	0.174%
Panama	236,555	0.121%	254,150	0.130%
Papua New Guinea	54,740	0.028%	64,515	0.033%
Paraguay	111,435	0.057%	113,390	0.058%
Peru	412,505	0.211%	416,415	0.213%
Philippines	652,970	0.334%	660,790	0.338%
Poland	2,103,580	1.076%	2,107,490	1.078%
Portugal	823,055	0.421%	793,730	0.406%
Qatar	735,080	0.376%	791,775	0.405%
Romania	660,790	0.338%	666,655	0.341%
Russian Federation	4,379,200	2.240%	4,418,300	2.260%
Rwanda	29,325	0.015%	29,325	0.015%
Saint Kitts and Nevis	29,325	0.015%	29,325	0.015%
Saint Lucia	29,325	0.015%	29,325	0.015%
Saint Vincent and the Grenadines	29,325	0.015%	29,325	0.015%
Samoa	29,325	0.015%	29,325	0.015%
Saudi Arabia, Kingdom of	2,449,615	1.253%	2,490,670	1.274%
Senegal	44,965	0.023%	43,010	0.022%
Seychelles	29,325	0.015%	29,325	0.015%
Sierra Leone	29,325	0.015%	29,325	0.015%
Singapore	4,703,730	2.406%	4,723,280	2.416%
Slovak Republic	778,090	0.398%	764,405	0.391%
Slovenia	318,665	0.163%	308,890	0.158%
Solomon Islands	29,325	0.015%	29,325	0.015%
South Africa	1,069,385	0.547%	1,051,790	0.538%
Spain	4,078,130	2.086%	3,800,520	1.944%
Sri Lanka	152,490	0.078%	158,355	0.081%
Suriname	29,325	0.015%	29,325	0.015%
Swaziland	29,325	0.015%	29,325	0.015%
Sweden	2,183,735	1.117%	2,142,680	1.096%
Switzerland	3,460,350	1.770%	3,554,190	1.818%
Chinese Taipei	2,991,150	1.530%	3,000,925	1.535%

Member	2016 Contribution CHF	2016 Contribution %	2017 Contribution CHF	2017 ⁸⁴ Contribution %
Tajikistan	29,325	0.015%	29,325	0.015%
Tanzania	89,930	0.046%	91,885	0.047%
Thailand	2,359,685	1.207%	2,367,505	1.211%
The former Yugoslav Republic of Macedonia	52,785	0.027%	52,785	0.027%
Togo	29,325	0.015%	29,325	0.015%
Tonga	29,325	0.015%	29,325	0.015%
Trinidad and Tobago	121,210	0.062%	115,345	0.059%
Tunisia	226,780	0.116%	217,005	0.111%
Turkey	1,968,685	1.007%	1,998,010	1.022%
Uganda	54,740	0.028%	54,740	0.028%
Ukraine	782,000	0.400%	746,810	0.382%
United Arab Emirates	2,699,855	1.381%	2,774,145	1.419%
United Kingdom	7,446,595	3.809%	7,366,440	3.768%
United States of America	21,974,200	11.240%	21,968,335	11.237%
Uruguay	117,300	0.060%	119,255	0.061%
Vanuatu	29,325	0.015%	29,325	0.015%
Venezuela, Bolivarian Republic of	711,620	0.364%	705,755	0.361%
Viet Nam	1,024,420	0.524%	1,114,350	0.570%
Yemen	101,660	0.052%	99,705	0.051%
Zambia	78,200	0.040%	86,020	0.044%
Zimbabwe	50,830	0.026%	48,875	0.025%
TOTAL	195,500,000	100.000%	195,500,000	100.000%

Number of WTO Staff Members by Nationality
(as per information available on January 1, 2018)

Country	Senior Management⁸⁶	Professional	Support	Total
American	1	28	7	36
Argentine		3	5	8
Australian		7	1	8
Austrian		4		4
Bangladeshi		1		1
Barbadian		1		1
Belgian		1	3	4
Beninese		2		2
Bolivian		2		2
Botswana		1		1
Brazilian	1	10	3	14
British		22	34	56
Bulgarian		5		5
Burundian		1		1
Cameroonian		1		1
Canadian		14		14
Chadian		1		1
Chilean		1	1	2
Chinese	1	14	1	16
Colombian		6	2	8
Congolese, RDC		1	2	3
Costa Rican		2		2
Croatian		1		1
Cuban			1	1
Czech		1		1
Danish		2	1	3
Dutch		5	1	6
Ecuadorian		3		3
Egyptian		4		4
Estonian		1		1
Finnish		3	2	5
French		57	114	171
Gambian		1		1
German	1	20	2	23
Ghanaian		2		2
Greek		3	2	5
Guatemalan		1	1	2
Guinean		2		2

⁸⁶ Senior management includes the Director-General and Deputies Director-General.

Honduran			2	2
Hungarian		2	1	3
Indian		13	2	15
Irish		5	9	14
Italian		20	4	24
Jamaican		1		1
Japanese		5		5
Jordanian		1		1
Kenyan		1		1
Lithuanian		1		1
Malawian		1		1
Malaysian		2		2
Mauritian		1	1	2
Mexican		8	1	9
Moroccan		3	1	4
Nepalese		2		2
New Zealand		1		1
Nigerian	1			1
Norwegian		1	1	2
Pakistani		4	1	5
Paraguayan			1	1
Peruvian		5	5	10
Philippine		11	4	15
Polish		3	1	4
Portuguese		2	3	5
Republic of Korea		4		4
Romanian		1	1	2
Russian		4		4
Rwandan		1		1
Senegalese		1	1	2
Seychelles		1		1
Sierra Leonean		1		1
South African		2	1	3
Spanish		28	18	46
Sri Lankan			2	2
Swedish		3		3
Swiss		8	6	14
Tanzanian		1	1	2
Trinidad and Tobago		1		1
Tunisian		3	1	4
Turkish		4		4
Ugandan		4		4
Ukrainian		3		3
Uruguayan		2	1	3

Venezuelan		3	1	4
Vietnamese		1		1
Zambian		1		1
Zimbabwean		2		2
Grand Total	5	406	253	664

WAIVERS CURRENTLY IN FORCE
(as of December 31, 2017)

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2017 ¹³
Granted in 2017				
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions ¹⁴	WT/L/1026	30 November 2017	31 December 2018	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions ¹⁵	WT/L/1027	30 November 2017	31 December 2018	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions ¹⁶	WT/L/1028	30 November 2017	31 December 2018	-
Introduction of Harmonized System 2017 Changes into WTO Schedules of Tariff Concessions ¹⁷	WT/L/1029	30 November 2017	31 December 2018	-

¹³ Applicable if so stipulated in the corresponding waiver Decision.

¹⁴ The Members which have requested to be covered under this waiver are: Argentina and China.

¹⁵ The Members which have requested to be covered under this waiver are: Argentina; Brazil; China; Dominican Republic; European Union; Malaysia; Philippines; Switzerland; and Thailand.

¹⁶ The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Colombia; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Kazakhstan; Korea, Republic of; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Philippines; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States.

¹⁷ The Members which have requested to be covered under this waiver are: Argentina; Brazil; Canada; China; Colombia; Costa Rica; Dominican Republic (WT/L/1029/Add.2); El Salvador; European Union; Guatemala; Honduras (WT/L/1029/Add.1); Hong Kong, China; India; Israel; Kazakhstan; Korea, Republic of; Macao, China; Montenegro; New Zealand; Norway; Pakistan; Paraguay; Russian Federation; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; United States; and Uruguay.

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2017 ¹⁸
Previously granted – in force in 2017				
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions ¹⁹	WT/L/996	7 December 2016	31 December 2017	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions ²⁰	WT/L/997	7 December 2016	31 December 2017	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions ²¹	WT/L/998	7 December 2016	31 December 2017	-
Introduction of Harmonized System 2017 Changes into WTO Schedules of Tariff Concessions ²²	WT/L/999	7 December 2016	31 December 2017	-
United States – Former Trust Territory of the Pacific Islands	WT/L/1000	7 December 2016	31 December 2026	WT/L/1018
United States – Trade Preferences granted to Nepal	WT/L/1001	7 December 2016	31 December 2025	WT/L/1021
European Union – Application of Autonomous Preferential Treatment to the Western Balkans	WT/L/1002	7 December 2016	31 December 2021	WT/L/1019
Cuba – Article XV:6 – Extension of waiver	WT/L/1003	7 December 2016	31 December 2021	WT/L/1023

¹⁸ Applicable if so stipulated in the corresponding waiver Decision.

¹⁹ The Members which have requested to be covered under this waiver are: Argentina; China; and European Union.

²⁰ The Members which have requested to be covered under this waiver are: Argentina; Brazil; China; Dominican Republic; European Union; Israel; Malaysia; Mexico; New Zealand; Philippines; Switzerland; and Thailand.

²¹ The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Colombia; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Kazakhstan (WT/L/998/Add.1); Korea, Republic of; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Philippines; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States.

²² The Members which have requested to be covered under this waiver are: Argentina; Brazil; Canada; China; Colombia; Costa Rica; El Salvador; European Union; Guatemala (WT/L/999/Add.3); Hong Kong, China; India (WT/L/999/Add.8); Israel (WT/L/999/Add.4); Kazakhstan (WT/L/999/Add.7); Korea, Republic of; Macao, China (WT/L/999/Add.1); Montenegro (WT/L/999/Add.5); New Zealand; Norway; Pakistan (WT/L/999/Add.6); Paraguay; Russian Federation; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand (WT/L/999/Add.2); United States; and Uruguay.

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2017 ²³
Previously granted – in force in 2017				
Implementation of Preferential Treatment in favour of Services and Service Suppliers of LDCs and Increasing LDC Participation in Services Trade ²⁴	WT/L/982 WT/MIN(15)/48	19 December 2015	31 December 2030 ²⁵	-
United States – African Growth and Opportunity Act	WT/L/970	30 November 2015	30 September 2025	WT/L/1006, WT/L/1017
Least-Developed country Members – Obligations under Article 70.8 and Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products	WT/L/971	30 November 2015	1 January 2033	-
Canada - CARIBCAN	WT/L/958	28 July 2015	31 December 2023	WT/L/1013
United States – Caribbean Basin Economic Recovery Act	WT/L/950	5 May 2015	31 December 2019	WT/L/1012
Philippines – Special Treatment for Rice	WT/L/932	24 July 2014	30 June 2017	-
Operationalization of the Waiver concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries ²⁶	WT/MIN(13)/43 WT/L/918	7 December 2013	-	-
Kimberly Process Certification Scheme for Rough Diamonds - Extension of Waiver ²⁷	WT/L/876	11 December 2012	31 December 2018	-

²³ Applicable if so stipulated in the corresponding waiver Decision.

²⁴ This Ministerial Decision was adopted in furtherance of the waiver on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries adopted in 2011 (WT/L/847) and of the subsequent Decision on the Operationalization of the Waiver concerning Preferential Treatment to Services and Service Suppliers of Least-developed countries adopted in 2013 (WT/MIN(13)/43 - WT/L/918). See also page 5, below.

²⁵ At the Nairobi Ministerial Conference, Ministers decided to extend the 2011 waiver on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/L/847). See also page 5, below.

²⁶ This Ministerial Decision was adopted in furtherance of the waiver on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries adopted in 2011 (WT/L/847). It does not represent a new waiver. See also page 5 and the decision in WT/L/847, below.

²⁷ Annex: Australia, Botswana, Brazil, Canada, Croatia, European Union, India, Israel, Japan, Korea, Mexico, New Zealand, Norway, Philippines, Russian Federation, Singapore, Chinese Taipei, Thailand, Turkey, United States, and Bolivarian Republic of Venezuela.

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2017 ²⁸
Previously granted – in force in 2017				
Preferential Treatment to Services and Service Suppliers of Least-developed countries ²⁹	WT/L/847	17 December 2011	15 years from the date of its adoption ³⁰	-
Preferential Tariff Treatment for Least-Developed Countries – Decision on Extension of waiver	WT/L/759	27 May 2009	30 June 2019	-
Implementation of Para. 6 of the Doha Declaration on the TRIPS Agreement and Public Health ³¹	WT/L/540 and WT/L/540/Corr.1	30 August 2003	See WT/L/540 and WT/L/540/Corr.1	-

²⁸ Applicable if so stipulated in the corresponding waiver Decision.

²⁹ Two decisions were subsequently adopted by the Ministerial Conference in furtherance of this waiver: in 2013 (WT/MIN(13)/43 – WT/L/918) and in 2015 (WT/MIN(15)/48– WT/L/982). See also page 4 and the decision in WT/MIN(13)/43 – WT/L/918, above.

³⁰ At the Nairobi Ministerial Conference, Ministers decided to extend the waiver until 31 December 2030 (WT/MIN(15)/48 – WT/L/982) - see also page 4, above.

³¹ Pursuant to the General Council Decision of 30 August 2003 (WT/L/540 and Corr.1), a Protocol Amending the TRIPS Agreement was adopted by the General Council on 6 December 2005 (WT/L/641) and submitted to Members for acceptance. In accordance with Article X:3 of the WTO Agreement, the Protocol entered into force on 23 January 2017. Since then, the amended TRIPS Agreement applies to those Members who have accepted it. For each other Member, the Protocol will take effect upon acceptance by it. In the meantime, the 2003 Decision continues to apply to those Members. For the purposes of the 2003 Decision, the Annual Review of the Special Compulsory Licensing System is deemed to fulfil the review requirements of Article IX:4 of the WTO Agreement.

WT/DSB/44/Rev.41

29 November 2017

**INDICATIVE LIST OF GOVERNMENTAL AND
NON-GOVERNMENTAL PANELISTS**

Revision

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.
2. The attached is a revised consolidated list of governmental and non-governmental panelists.⁸⁷ The list is based on the previous indicative list issued on 8 November 2017 (WT/DSB/44/Rev.40). It includes additional names approved by the DSB at its meeting on 22 November 2017⁸⁸ and reflects deletions from the previous list, as requested by the Member concerned. Any future modifications or additions to this list submitted by Members will be circulated in periodic revisions of this list.
3. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

⁸⁷ Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (Council and TNC Division).

⁸⁸ See document WT/DSB/W/608.

MEMBER	NAME	SECTORAL EXPERIENCE
ARGENTINA	BARDONESCHI, Mr. Rodrigo C.	Trade in Goods and Services; TRIPS
	BÉRAUD, Mr. Alan Claudio	Trade in Goods
	BERTONI, Mr. Ramiro	Trade in Goods
	CHIARADIA, Mr. Alfredo Vicente	Trade in Goods; TRIPS
	CIMA, Mr. Marcelo	Trade in Goods and Services
	CURI, Mr. Alfredo Esteban	Trade in Goods
	DUMONT, Mr. Alberto Juan	Trade in Goods
	LAVOPA, Mr. Federico	Trade in Goods and Services
	LUNAZZI, Mr. Gustavo Nerio	Trade in Goods
	MAKUC, Mr. Adrián Jorge	Trade in Goods
	MALVAREZ, Mr. Martín	Trade in Goods
	MÉNDEZ, Mr. Gustavo Héctor	Trade in Goods and Services
	MONNER SANS, Mr. Alejo	Trade in Goods
	NEGUELOAETCHEVERRY, Mr. Pedro	Trade in Goods
	NISCOVOLOS, Mr. Luis Pablo	Trade in Goods and Services
	RAITERI, Ms. María Valeria	Trade in Goods
	SERRA, Mr. Adrián	Trade in Goods and Services
	TABOADA, Mr. Gabriel Gaspar	Trade in Goods
	TEMPONE, Mr. Eduardo	Trade in Goods; TRIPS
	VICIEN-MILBURN, Ms. Rosa María	Trade in Goods and Services; TRIPS
AUSTRALIA	BENNETT, Ms. Annabelle	Trade in Goods and Services
	CHURCHE, Mr. Milton	Trade in Goods
	FARBENBLOOM, Mr. Simon	Trade in Goods and Services
	GALLAGHER, Mr. Peter	Trade in Goods; TRIPS
	GOSPER, Mr. Bruce	Trade in Goods
	HOLMES, Ms. Patricia Ann	Trade in Goods
	JENNINGS, Mr. Mark	Trade in Goods; TRIPS
	MITCHELL, Mr. Andrew	Trade in Goods and Services; TRIPS
	MORETTA, Mr. Remo	Trade in Goods and Services
	MULGREW, Mr. Michael	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	MYLER, Mr. Paul	Trade in Goods and Services
	O'CONNOR, Mr. Paul Richard	Trade in Goods
	RAPER, Ms. Cathy	Trade in Goods and Services
	SIN FAR LEE, Ms. Stephanie	Trade in Goods
	STOLER, Mr. Andrew	Trade in Goods and Services
	VOON, Ms. Tania Su Lien	Trade in Goods and Services; TRIPS
	WITBREUK, Ms. Trudy	Trade in Goods and Services
	YOUNG, Ms. Elizabeth	Trade in Goods
BOLIVARIAN REPUBLIC OF VENEZUELA		
	ESCOBAR, Mr. José Benjamín	Trade in Services
	MARQUEZ, Mr. Guillermo	Trade in Services
	ROJAS PENSO, Mr. Juan Francisco	Trade in Goods and Services
BOLIVIA, PLURINATIONAL STATE OF		
	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
BRAZIL		
	ABREU, Mr. Marcelo de Paiva	Trade in Goods and Services
	BARRAL, Mr. Welber Oliveira	Trade in Goods
	BARTHEL-ROSA, Mr. Paulo	Trade in Goods
	BASSO, Ms. Maristela	Trade in Goods; TRIPS
	LEMME, Ms. Marta Calmon	Trade in Goods
	MAGALHÃES, Mr. José Carlos	Trade in Goods
	MARCONINI, Mr. Mario	Trade in Services
	MOURA ROCHA, Mr. Bolívar	Trade in Services
	NAIDIN, Ms. Leane Cornet	Trade in Goods
	RIOS, Ms. Sandra Polônia	Trade in Goods
	THORSTENSEN, Ms. Vera Helena	Trade in Goods
CAMEROON		
	NGANGJOH HODU, Mr. Yenkong	Trade in Goods and Services; TRIPS
CANADA		
	BERNIER, Mr. Ivan	Trade in Goods and Services
	BRADFORD, Mr. Meriel V. M.	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	BROWN, Ms. Catherine Anne	Trade in Goods and Services; TRIPS
	CLARK, Mr. Peter James	Trade in Goods and Services
	CLOSE, Ms. Patricia Margaret	Trade in Goods
	DE MESTRAL, Mr. Armand	Trade in Goods
	EYTON, Mr. Anthony T.	Trade in Goods
	GHERSON, Mr. Randolph	Trade in Goods
	GOODWIN, Ms. Kirsten M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. Anthony L.	Trade in Goods and Services
	HERMAN, Mr. Lawrence L.	Trade in Goods
	HINES, Mr. Wilfred Roy	Trade in Goods
	MacMILLAN, Ms. Kathleen E.	Trade in Goods
	McRAE, Mr. Donald Malcolm	Trade in Goods
	OSTRY, Ms. Sylvia	Trade in Goods
	RITCHIE, Mr. Gordon	Trade in Goods
	THOMAS, Mr. Christopher	Trade in Goods and Services
	WINHAM, Mr. Gilbert R.	Trade in Goods
CHILE		
	BIGGS, Mr. Gonzalo	Trade in Goods
	ERNST, Mr. Felipe	Trade in Goods and Services
	ESCUDERO, Mr. Sergio	TRIPS
	ESPINOZA, Mr. Alvaro	Trade in Goods
	MATUS, Mr. Mario	Trade in Goods
	MLADINIC, Mr. Carlos	Trade in Goods
	PEÑA, Ms. Gloria	Trade in Goods
	SAEZ, Mr. Sebastián	Trade in Goods and Services
	SATELER, Mr. Ricardo	TRIPS
	SOSA, Ms. Luz	Trade in Goods and Services
	TIRONI, Mr. Ernesto	Trade in Goods
CHINA		
	CHEN, Mr. Yusong	Trade in Goods and Services; TRIPS
	DONG, Mr. Shizhong	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
	E, Mr. Defeng	Trade in Goods
	GONG, Mr. Baihua	Trade in Goods and Services; TRIPS
	HAN, Mr. Liyu	Trade in Goods; TRIPS
	HONG, Mr. Xiaodong	Trade in Services
	HUANG, Mr. Dongli	Trade in Goods; TRIPS
	LI, Mr. Enheng	Trade in Goods and Services
	LI, Ms. Yongjie	Trade in Goods and Services
	LI, Mr. Zhongzhou	Trade in Goods
	SHI, Ms. Xiaoli	Trade in Goods
	SUO, Mr. Bicheng	Trade in Goods
	YANG, Mr. Guohua	Trade in Goods; TRIPS
	ZHANG, Ms. Liping	Trade in Goods and Services
	ZHANG, Mr. Naigen	TRIPS
	ZHANG, Mr. Xiangchen	Trade in Goods and Services; TRIPS
	ZHANG, Mr. Yuqing	Trade in Goods and Services; TRIPS
	ZHU, Ms. Lanye	Trade in Services; TRIPS
COLOMBIA	IBARRA PARDO, Mr. Gabriel	Trade in Goods
	JARAMILLO, Mr. Felipe	Trade in Goods and Services
	LOZANO FERRO, Ms. Olga Lucia	Trade in Goods; TRIPS
	OROZCO GOMEZ, Ms. Angela María	Trade in Goods
	OROZCO, Ms. Claudia	Trade in Goods
	PRIETO, Mr. Diego	Trade in Goods and Services
	ROJAS ARROYO, Mr. Santiago	Trade in Goods; TRIPS
	TANGARIFE, Mr. Marcel	Trade in Goods; TRIPS
CÔTE D'IVOIRE	GOSSET, Ms. Marie	Trade in Goods; TRIPS
CUBA	COBO ROURA, Mr. Narciso A.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	LABORA RODRÍGUEZ, Ms. Celia M.	Trade in Goods and Services
	VÁZQUEZ De ALVARÉ, Ms. Dánice	TRIPS
DJIBOUTI		
	PIQUEMAL, Mr. Alain	Trade in Goods and Services; TRIPS
DOMINICAN REPUBLIC		
	DE LOS SANTOS DE PIANTINI, Ms. Roxana	Trade in Goods; TRIPS
	NAUT, Ms. Katrina	Trade in Goods and Services; TRIPS
ECUADOR		
	ESPINOSA CAÑIZARES, Mr. Cristian	Trade in Goods and Services; TRIPS
	MONTAÑO HUERTA, Mr. César	Trade in Goods and Services; TRIPS
EGYPT		
	EL-SEGINY, Mr. Ibrahim	Trade in Goods
	FARAHAT, Mr. Magdi Ahmed	Trade in Goods
	FAWZY, Mr. Abdelrahman	Trade in Goods and Services
	HATEM, Mr. Samy Affify	Trade in Goods
	RIAD, Mr. Tarek Fouad	Trade in Goods and Services; TRIPS
	SHAHIN, Ms. Magda	Trade in Goods and Services; TRIPS
	SHARAF ELDIN, Mr. Ahmed	Trade in Goods; TRIPS
	ZHRAN, Mr. Mohamed Mounir	Trade in Goods and Services; TRIPS
EUROPEAN UNION		
AUSTRIA	BENEDEK, Mr. Wolfgang	Trade in Goods
	REITERER, Mr. Michael G. K.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. Franz	Trade in Goods
BELGIUM		
	DIDIER, Mr. Pierre	Trade in Goods
	PAUWELYN, Mr. Joost	Trade in Goods and Services; TRIPS
	VAN CALSTER, Mr. Geert	Trade in Goods
	VAN DER BORGHT, Mr. Kim	Trade in Goods
	VANDER SCHUEREN, Ms. Paulette	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	WOUTERS, Mr. Jan	Trade in Goods and Services
	ZONNEKEYN, Mr. Geert A.	Trade in Goods
CZECH REPUBLIC	PALEČKA, Mr. Peter	Trade in Goods and Services
DENMARK	NIELSEN, Ms. Laura	Trade in Goods and Services
	OLSEN, Ms. Birgitte Egelund	Trade in Goods
	SMIDT, Mr. Steffen	Trade in Goods and Services
	WEGENER, Mr. Christian	Trade in Goods and Services; TRIPS
EUROPEAN UNION	BRAKELAND, Mr. Jean-François	Trade in Goods and Services
	CARL, Mr. Mogens Peter	Trade in Goods and Services; TRIPS
	KUIJPER, Mr. Pieter Jan	Trade in Goods and Services; TRIPS
	WHITE, Mr. Eric	Trade in Goods and Services; TRIPS
FINLAND	HIMANEN, Mr. Vesa	Trade in Goods
	LUOTONEN, Mr. Yrjö Kim David	Trade in Goods
	PYYSALO, Mr. Tapio	Trade in Goods
FRANCE	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS
	BOISSON DE CHAZOURNES, Mrs. Laurence	Trade in Goods and Services
	JENNY, Mr. Frédéric Yves	Trade in Goods and Services; TRIPS
	METZGER, Mr. Jean-Marie	Trade in Goods
	MONNIER, Mr. Pierre	Trade in Goods and Services; TRIPS
	RIEGERT, Mr. François	Trade in Goods
	RUIZ-FABRI, Ms. Hélène	Trade in Goods and Services
	STERN, Ms. Brigitte	Trade in Goods
GERMANY	DELBRÜCK, Mr. Kilian	Trade in Goods
	HERRMANN, Mr. Christoph Walter	Trade in Goods; TRIPS
	HILF, Mr. Meinhard	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	MENG, Mr. Werner	Trade in Goods, TRIPS
	PETERSMANN, Mr. Ernst-Ulrich	Trade in Goods and Services; TRIPS
	STEINBACH, Mr. Armin	Trade in Goods and Services
	TANGERMANN, Mr. Stefan	Trade in Goods
GREECE		
	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS
HUNGARY		
	HALGAND DANI, Ms. Virág	Trade in Goods and Services; TRIPS
	LAKATOS, Mr. Andrés	Trade in Goods and Services
IRELAND		
	MATTHEWS, Mr. Alan Henry	Trade in Goods
ITALY		
	GIARDINA, Mr. Andrea	Trade in Goods and Services
	MALAGUTI, Ms. Maria Chiara	Trade in Goods and Services; TRIPS
	MENSI, Mr. Maurizio	Trade in Goods
LITHUANIA		
	ALISAUSKAS, Mr. Raimondas	Trade in Goods and Services
MALTA		
	BONELLO, Mr. Michael C.	Trade in Services
NETHERLANDS		
	BRONCKERS, Mr. Marco	Trade in Goods and Services; TRIPS
	GENEE, Mr. Otto	Trade in Goods; TRIPS
	HOEKMAN, Mr. Bernard Marco	Trade in Goods and Services; TRIPS
POLAND		
	PIETRAS, Mr. Jaroslaw	Trade in Services
PORTUGAL		
	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS
ROMANIA		
	BERINDE, Mr. Mihai	Trade in Goods
	CAMPEANU, Ms. Victoria	Trade in Goods
	FRATITA, Ms. Carmen Florina	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
SPAIN	DÍAZ MIER, Mr. Miguel Ángel	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ, Mr. Juan Pablo	Trade in Goods and Services
	PÉREZ SANCHEZ, Mr. José Luis	Trade in Goods and Services; TRIPS
	RIGO, Mr. Andrés	Trade in Services
SWEDEN	AHNLID, Mr. Anders Gustav Ragnar	Trade in Goods and Services; TRIPS
	ANELL, Mr. Lars	Trade in Goods; TRIPS
	KLEEN, Mr. Peter	Trade in Goods
	TAURIAINEN, Mr. Teppo Markus	Trade in Goods and Services; TRIPS
UNITED KINGDOM	BETHLEHEM, Mr. Daniel	Trade in Goods and Services; TRIPS
	JOHNSON, Mr. Michael David Clarke	Trade in Goods
	MUIR, Mr. Tom	Trade in Goods and Services; TRIPS
	PLENDER, Mr. Richard	Trade in Goods
	QURESHI, Mr. Asif Hasan	Trade in Goods
	ROBERTS, Mr. Christopher William	Trade in Goods and Services
	ROBERTS, Mr. David F.	Trade in Goods
	SAROOSHI, Mr. Dan	Trade in Services
	TOULMIN, Mr. John Kelvin	Trade in Services
GHANA	NIMAKO-BOATENG, Ms. Gertrude	Trade in Goods and Services
	OPOKU AWUKU, Mr. Emmanuel	Trade in Goods and Services; TRIPS
HONG KONG, CHINA	CARTLAND, Mr. Michael David	Trade in Goods and Services
	CHEUNG, Mr. Peter Kam Fai	TRIPS
	LEUNG, Ms. Ada Ka Lai	TRIPS
	LITTLE, Mr. David	Trade in Goods and Services
	MILLER, Mr. Tony J.A.	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
ICELAND	BJÓRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
INDIA		
	AGARWAL, Mr. Vinod Kumar	Trade in Goods; TRIPS
	AGRAWAL, Mr. Rameshwar Pal	Trade in Goods and Services; TRIPS
	BHANSALI, Mr. Sharad	Trade in Goods
	BHATNAGAR, Mr. Mukesh	Trade in Goods
	BHATTACHARYA, Mr. G. C.	Trade in Goods
	CHANDRASEKHAR, Mr. Kesava Menon	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. Sumanta	Trade in Goods and Services; TRIPS
	DAS, Mr. Abhijit	Trade in Goods
	DAS, Mr. Bhagirath Lal	Trade in Goods
	DASGUPTA, Mr. Jayant	Trade in Goods
	GOPALAN, Mr. Rajarangamani	Trade in Goods
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KHER, Mr. Rajeev	Trade in Goods and Services; TRIPS
	KHULLAR, Mr. Rahul	Trade in Goods and Services; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services
	MOHANTY, Mr. Prasant Kumar	Trade in Goods
	MUKERJI, Mr. Asoke Kumar	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. Srinivasan	Trade in Goods; TRIPS
	PARTHASARATHY, Mr. R.	Trade in Goods; TRIPS
	PRABHU, Mr. Pandurang Palimar	Trade in Goods; TRIPS
	PRASAD, Ms. Anjali	Trade in Goods and Services; TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. Pemmaraju Sreenivasa	Trade in Goods
	REGE, Mr. Narayan Vinod	Trade in Goods
	SABHARWAL, Mr. Narendra	TRIPS
	SAJJANHAR, Mr. Ashok	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	SESHADRI, Mr. V.S.	Trade in Goods
	SHARMA, Mr. Lalit	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. Krishnan	Trade in Goods; TRIPS
	YADAV, Mr. Amit	Trade in Services
	ZUTSHI, Mr. B. K.	Trade in Goods and Services; TRIPS
ISRAEL		
	ALTUVIA, Mr. Magen	Trade in Goods
	BROUDE, Mr. Tomer	Trade in Goods and Services; TRIPS
	FRID DE VRIES, Ms. Rachel	Trade in Goods and Services; TRIPS
	GABAY, Mr. Mayer	TRIPS
	HARAN, Mr. Ephraim F.	Trade in Services
	HARPAZ, Mr. Guy	Trade in Goods and Services; TRIPS
	HOROVITZ, Mr. Dan	Trade in Goods and Services
	POLINER, Mr. Howard Zvi	TRIPS
	REICH, Mr. Arie	Trade in Goods and Services; TRIPS
	RIVAS, Mr. Rodolfo C.	Trade in Goods; TRIPS
	SEMADAR, Mr. Moshe	Trade in Goods
	SHATON, Mr. Michael Marcel	Trade in Goods and Services
	TALBAR, Mr. Michael Adin	Trade in Goods
	WEILER, Mr. Joseph H.H.	Trade in Goods
JAMAICA		
	ROBINSON, Mr. Patrick L.	Trade in Goods and Services; TRIPS
JAPAN		
	ARAKI, Mr. Ichiro	Trade in Goods and Services; TRIPS
	ASAKAI, Mr. Kazuo	Trade in Goods
	ASAKURA, Mr. Hironori	Trade in Goods
	HASEBE, Mr. Masamichi	Trade in Goods and Services
	ISHIGE, Mr. Hiroyuki	Trade in Goods
	ISHIGURO, Mr. Kazunori	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Yuji	Trade in Goods
	KANDA, Mr. Hideki	Trade in Services

MEMBER	NAME	SECTORAL EXPERIENCE
	KAZEKI, Mr. Jun	Trade in Goods and Services
	KEMMOCHI, Mr. Nobuaki	Trade in Goods and Services
	KOMETANI, Mr. Kazumochi	Trade in Goods and Services; TRIPS
	OHARA, Mr. Yoshio	Trade in Goods; TRIPS
	SAITO, Mr. Koji	Trade in Goods
JAPAN (cont'd)	SANO, Mr. Tadakatsu	Trade in Goods
	SHIMIZU, Mr. Akio	Trade in Goods
	SUZUKI, Mr. Masabumi	Trade in Goods; TRIPS
	TAKAHASHI, Ms. Misako	Trade in Services
	TSURUOKA, Mr. Koji	Trade in Services
	YAMANE, Ms. Hiroko	Trade in Goods; TRIPS
KENYA	GATHII, Mr. James T.	Trade in Goods and Services; TRIPS
KOREA	AHN, Mr. Dukgeun	Trade in Goods
	AHN, Mr. Ho-Young	Trade in Goods
	BARK, Mr. Taeho	Trade in Goods
	CHO, Mr. Tae-Yul	Trade in Goods
	CHOI, Mr. Byung-il	Trade in Services
	CHOI, Mr. Seung-Hwan	Trade in Goods
	CHOI, Mr. Won-Mog	Trade in Goods and Services; TRIPS
	CHUNG, Mr. Chan-Mo	Trade in Goods
	KIM, Mr. Jong Bum	Trade in Goods
	KANG, Mr. Junha	Trade in Goods
	KIM, Mr. Doo-Sik	Trade in Goods
	KIM, Mr. Youngjae	Trade in Goods
	LEE, Mr. Jaehyoung	Trade in Goods
	LEE, Mr. Jaemin	Trade in Goods
	WANG, Mr. Sanghan	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
LIECHTENSTEIN	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS
MADAGASCAR	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
MALAYSIA	HARUN, Mrs. Hiswani	Trade in Goods
	KASIMIR, Mr. Merlyn	Trade in Goods and Services
	YACOB, Mr. Muhammad Noor	Trade in Goods
MAURITIUS	BEEKARRY, Mr. Navin	Trade in Goods and Services
	BHUGLAH, Mr. Achad	Trade in Goods and Services
MEXICO	AGUILAR ÁLVAREZ, Mr. Guillermo	Trade in Goods and Services; TRIPS
	DE LA PEÑA, Mr. Alejandro	Trade in Goods and Services; TRIPS
	DE MATEO VENTURINI, Mr. Fernando	Trade in Goods and Services; TRIPS
	DE ROSENZWEIG, Mr. Francisco	Trade in Goods and Services; TRIPS
	FERRARI, Mr. Bruno	Trade in Goods and Services; TRIPS
	JASSO TORRES, Mr. Humberto	Trade in Goods
	LEYCEGUI, Ms. Beatriz	Trade in Goods and Services; TRIPS
	MALPICA SOTO, Mr. Guillermo	Trade in Services
	PEREZCANO DÍAZ, Mr. Hugo Manuel	Trade in Goods and Services; TRIPS
	PÉREZ GÁRATE, Mr. Orlando	Trade in Goods and Services; TRIPS
	POBLANO, Mr. José F.	Trade in Services; TRIPS
	REYES, Ms. Luz Elena	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo	Trade in Goods and Services; TRIPS
	VÉJAR, Mr. Carlos	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS
MOLDOVA	FOLTEA, Ms. Marina	Trade in Goods; TRIPS
NEPAL	PANDEY, Mr. Posh Raj	Trade in Goods and Services
	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
NEW ZEALAND	ARMSTRONG, Mr. Wade Mowatt Valentine	Trade in Goods; TRIPS
	CARSON, Mr. Christopher Barr	Trade in Goods
	FALCONER, Mr. Crawford Dunlop	Trade in Goods
	FALCONER, Mr. William John	Trade in Goods and Services; TRIPS
	GROSER, Mr. Tim	Trade in Goods
	HARVEY, Mr. Martin Wilfred	Trade in Goods
	HIGGIE, Ms. Dell Clark	Trade in Goods
	KENNEDY, Mr. Peter Douglas	Trade in Goods
	MACEY, Mr. Adrian	Trade in Goods; TRIPS
	McPHAIL, Mr. Alexander Hugh	Trade in Goods
	NOTTAGE, Mr. Richard Frederick	Trade in Goods
	SLADE, Ms. Michelle	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. Mark Julian	Trade in Goods; TRIPS
	WALKER, Mr. David John	Trade in Goods and Services
	WOODFIELD, Mr. Edward A.	Trade in Goods
NIGER	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
NIGERIA	AGAH, Mr. Yonov Frederick	Trade in Goods and Services; TRIPS
	NNONA, Mr. George C.	Trade in Goods and Services; TRIPS
NORWAY	BRYN, Mr. Kåre	Trade in Goods and Services; TRIPS
	GLENNE, Mr. Eirik	Trade in Goods and Services
	HOLTEN, Ms. Inger	Trade in Goods; TRIPS
	LILLERUD, Mr. Kjell	Trade in Goods and Services
	SELAND, Mr. Helge A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. Didrik	Trade in Goods and Services; TRIPS
PAKISTAN	ARIF, Mr. Muhammad Ikram	Trade in Goods
	BASHIR, Mr. Shahid	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	HAMID ALI, Mr. Muhammad	Trade in Goods; TRIPS
	HUSAIN, Mr. Ishrat	Trade in Services
	KHAN, Mr. Mujeeb Ahmed	Trade in Goods; TRIPS
	MALIK, Mr. Riaz Ahmad	Trade in Goods
	MUKHTAR, Mr. Ahmad	Trade in Goods and Services; TRIPS
PANAMA		
	ALVAREZ DE SOTO, Mr. Francisco	Trade in Goods and Services; TRIPS
	FERRER, Mr. Alejandro	Trade in Goods and Services
	FRANCIS LANUZA, Ms. Yavel Mireya	Trade in Goods and Services
	GONZALEZ, Mr. Carlos Ernesto	Trade in Goods and Services
	HARRIS ROTKIN, Mr. Norman	Trade in Goods and Services
	SALAZAR FONG, Ms. Diana Alejandrina	Trade in Goods
	SHEFFER MONTES, Mr. Leroy Jhon	Trade in Goods and Services
PERU		
	BELAÚNDE G., Mr. Victor Andres	TRIPS
	DE LA PUENTE LEON, Mr. Jose A.	Trade in Goods and Services
	DIEZ LIZARDO, Mr. Juan	Trade in Goods
	LEÓN-THORNE, Mr. Raúl	Trade in Goods and Services
PHILIPPINES		
	CONEJOS, Mr. Esteban B.	Trade in Goods
QATAR		
	AL-ADBA, Mr. Nasser M.	Trade in Goods and Services
	MAKKI, Mr. Fadi	Trade in Goods and Services
SINGAPORE		
	GAFOOR, Mr. Burhan	TRIPS
	GOVINDASAMY, Mr. Peter Mari	Trade in Goods and Services
	KWOK, Mr. Fook Seng	Trade in Goods
	NG, Ms. Bee Kim	Trade in Goods
	ONG, Mr. Chin Heng	Trade in Goods and Services
SRI LANKA		
	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
SWITZERLAND	ADDOR, Mr. Felix	TRIPS
	CHAMBOVEY, Mr. Didier	Trade in Goods
	COTTIER, Mr. Thomas	Trade in Goods and Services; TRIPS
	HÄBERLI, Mr. Christian	Trade in Goods
	HOLZER, Mr. Patrick Edgar	Trade in Goods; TRIPS
	INEICHEN-FLEISCH, Ms. Marie-Gabrielle	Trade in Goods and Services
	KAUFMANN, Ms. Christine	Trade in Services
	LEGLER, Mr. Thomas	TRIPS
	MÄCHLER, Ms. Monica	Trade in Goods and Services; TRIPS
	MEYER, Mr. Matthias	Trade in Goods and Services; TRIPS
	PANNATIER, Mr. Serge Nicolas	Trade in Goods
	SCHMID, Mr. Michael	Trade in Goods and Services
	TSCHÄENI, Mr. Hanspeter	Trade in Goods
	WASESCHA, Mr. Luzius	Trade in Goods and Services; TRIPS
	WEBER, Mr. Rolf H.	Trade in Services
	ZULAUF, Mr. Daniel	Trade in Goods and Services; TRIPS
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	CHANG, Ms. Yie-Yun	TRIPS
	KAO, Mr. Pei-Huan	Trade in Goods and Services; TRIPS
	LI, Ms. Catherine	Trade in Goods
	LIN, Ms. Tsai-Yu	Trade in Goods
	LO, Mr. Chang-Fa	Trade in Goods and Services
	NI, Mr. Kuei-Jung	Trade in Goods; TRIPS
	PENG, Ms. Shin-Yi	Trade in Goods and Services
	YANG, Ms. Guang-Hwa	Trade in Goods and Services
	YANG, Ms. Jen-Ni	Trade in Goods and Services
TURKEY	DILEMRE, Mr. Hüsni	Trade in Goods
	GÜRAKAN, Ms. Tülü	Trade in Goods
	KABAALIOĞLU, Mr. A. Haluk	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	KAÇAR, Mr. Bayram	Trade in Goods
	MOLLASALIHOĞLU, Mr. Yavuz	Trade in Goods
	YAMAN, Mr. Şahin	Trade in Goods
	YAPICI, Mr. Murat	Trade in Goods
TURKEY (cont'd)	YENAL, Mr. Aytaç	Trade in Goods
UNITED STATES		
	BROWN-WEISS, Ms. Edith	Trade in Goods and Services
	CONNELLY, Mr. Warren	Trade in Goods
	GANTZ, Mr. David A.	Trade in Goods
	GORDON, Mr. Michael Wallace	Trade in Goods
	HODGSON, Ms. Mélida	Trade in Goods and Services
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	KHO, Mr. Stephen	Trade in Goods and Services; TRIPS
	LAYTON, Mr. Duane	Trade in Goods
	LICHTENSTEIN, Ms. Cynthia Crawford	Trade in Services
	McGINNIS, Mr. John Oldham	Trade in Goods; TRIPS
	PARTAN, Mr. Daniel G.	Trade in Goods
	POWELL, Mr. Stephen J.	Trade in Goods
	SANDSTROM, Mr. Mark R.	Trade in Goods and Services
	THOMPSON, Mr. George W.	Trade in Goods
	TROSSEVIN, Ms. Marguerite	Trade in Goods
	VERRILL, Jr. Mr. Charles Owen	Trade in Goods
URUGUAY		
	AMORÍN, Mr. Carlos	Trade in Goods; TRIPS
	CAYRÚS, Mr. Hugo	Trade in Goods and Services
	EHLERS, Mr. William	Trade in Goods
	ROSSELLI, Mr. Elbio	Trade in Goods
	VANERIO, Mr. Gustavo	Trade in Goods and Services

ANNEX

Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements". The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also,

if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns". It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council". A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU". The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached.

**SUMMARY CURRICULUM VITAE
FOR PERSONS PROPOSED FOR THE INDICATIVE LIST⁸⁹**

- | | | |
|-----------|---|---|
| 1. | Name: | full name |
| 2. | Sectoral Experience
List here any particular sectors of expertise:
(e.g. technical barriers, dumping, financial services, intellectual property, etc.) | |
| 3. | Nationality(ies) | all citizenships |
| 4. | Nominating Member: | the nominating Member |
| 5. | Date of birth: | full date of birth |
| 6. | Current occupations: | year beginning, employer, title, responsibilities |
| 7. | Post-secondary education | year, degree, name of institution |
| 8. | Professional qualifications | year, title |
| 9. | Trade-related experience in Geneva in the WTO/GATT system | |
| | a. Served as a panelist | year, dispute name, role as chairperson/member |
| | b. Presented a case to a panel | year, dispute name, representing which party |
| | c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof | year, body, role |
| | d. Worked for the WTO or GATT Secretariat | year, title, activity |

⁸⁹ Members putting forward an individual for inclusion on the indicative list are requested to provide full contact details for this individual separately. The Summary Curriculum Vitae and the contact details should be sent electronically to the Secretariat.

10. Other trade-related experience

a. Government trade work year, employer, activity

b. Private sector trade work year, employer, activity

11. Teaching and publications

a. Teaching in trade law and policy year, institution, course title

b. Publications in trade law and policy year, title, name of periodical/book,
author/editor (if book)

12. Language capabilities

ability to work as a panelist in WTO-official languages and any other language capability

a. English

b. French

c. Spanish

d. Other language(s)

MEMBERSHIP OF THE WTO APPELLATE BODY
As of December 31, 2017

In a December 13, 2017, communication, the Appellate Body informed Members that, pursuant to Rule 5.1 of the *Working Procedures for Appellate Review*, the Members of the Appellate Body re-elected Mr. Ujal Singh Bhatia to serve as Chair of the Appellate Body, from January 1 through December 31, 2018.

From January 1, 2017 to June 30, 2017, the membership of the WTO Appellate Body was as follows (in alphabetical order): Mr. Ujal Singh Bhatia (India), Mr. Thomas Graham (United States), Mr. Hyun Chong Kim (Korea), Mr. Ricardo Ramírez-Hernández (Mexico), Mr. Shree Baboo Chekitan Servansing (Mauritius), Mr. Peter Van den Bossche (Belgium), and Ms. Hong Zhao (China).

From July 1, 2017 to August 1, 2017, the membership of the WTO Appellate Body was as follows (in alphabetical order): Mr. Ujal Singh Bhatia (India), Mr. Thomas Graham (United States), Mr. Hyun Chong Kim (Korea), Mr. Shree Baboo Chekitan Servansing (Mauritius), Mr. Peter Van den Bossche (Belgium), and Ms. Hong Zhao (China).

From August 2, 2017 to December 11, 2017, the membership of the WTO Appellate Body was as follows (in alphabetical order): Mr. Ujal Singh Bhatia (India), Mr. Thomas Graham (United States), Mr. Shree Baboo Chekitan Servansing (Mauritius), Mr. Peter Van den Bossche (Belgium), and Ms. Hong Zhao (China).

From December 12, 2017 to December 31, 2017, the membership of the WTO Appellate Body was as follows (in alphabetical order): Mr. Ujal Singh Bhatia (India), Mr. Thomas Graham (United States), Mr. Shree Baboo Chekitan Servansing (Mauritius), and Ms. Hong Zhao (China).

BIOGRAPHICAL NOTES

Ujal Singh Bhatia

Born in India on April 15, 1950, Ujal Singh Bhatia is currently an independent consultant and academic engaged in developing a policy framework for Indian agricultural investments overseas, while at the same time working with the Commonwealth Secretariat on multilateral trade issues.

From 2004 to 2010, Mr. Bhatia was India's Permanent Representative to the WTO. During his tenure as Permanent Representative, he was an active participant in the dispute settlement process, representing India in a number of dispute settlement cases both as a complainant and respondent in disputes relating to antidumping, as well as taxation and import duty issues. He also has adjudicatory experience having served as a WTO dispute settlement panelist.

Mr. Bhatia previously served as Joint Secretary in the Indian Ministry of Commerce, where he focused on the legal aspects of international trade. During this period, he was also a Member of the Appellate Committee under the Foreign Trade (Development and Regulation) Act. The

Committee heard appeals of exporters and importers against the orders of the Director General Foreign Trade. Mr. Bhatia was also Joint Secretary of the Ministry of Information and Broadcasting and held various positions in the public and private sectors of the Indian state of Orissa.

Mr. Bhatia's legal and adjudicatory experience spans three decades. He has focused on addressing domestic and international legal/jurisprudence issues, negotiating trade agreements and policy issues at the bilateral, regional and multilateral levels, and formulating and implementing trade and development policies for a range of agriculture, industry and service sector activities.

Mr. Bhatia is a frequent lecturer on international trade issues, and has published numerous papers and articles in Indian and foreign journals on a wide range of trade and economic issues.

Mr. Bhatia holds an M.A. in Economics from the University of Manchester and from Delhi University, as well as a B.A. (Hons.) in Economics, also from Delhi University.

Thomas R. Graham

Born in the United States on November 23, 1942, Tom Graham is the former head of the international trade practice at a large international law firm and the founder of the international trade practice at another large international law firm. He was one of the first U.S. lawyers to represent respondents in trade remedy cases in various countries around the world, and he was among the first to bring economists, accountants, and other non-lawyer professionals into the international trade practices of private law firms. Most recently, Mr. Graham also headed his international trade practice group's committee on long-term planning and development.

In private law practice, Mr. Graham has participated in trade remedy proceedings, often collaborating with local counsel and national authorities in various countries to develop legal interpretations of laws and regulations consistent with GATT/WTO agreements, and negotiating the resolution of international trade disputes.

Mr. Graham served as Deputy General Counsel in the Office of the U.S. Trade Representative where he was instrumental in the negotiation of the Tokyo Round Agreement on Technical Barriers to Trade and where he represented the U.S. Government in dispute settlement proceedings under the GATT.

Earlier in his career, Mr. Graham served for three years in Geneva as a Legal Officer at the United Nations Conference on Trade and Development (UNCTAD).

Mr. Graham was the first chairman of the American Society of International Law's Committee on International Economic Law and the chair of the American Bar Association's Subcommittee on Exports. He has been a visiting professor at the University of North Carolina Law School and an adjunct professor at the Georgetown Law Center and the American University Washington College of Law. He has edited books on international trade policy, and international trade and environment, and he has written many articles and monographs on international trade law and

policy as a Guest Scholar at the Brookings Institution and as a Senior Associate at the Carnegie Endowment for International Peace.

Mr. Graham holds a BA in International Relations and Economics from Indiana University and a J.D. from Harvard Law School.

Hyun Chong Kim

Mr. Kim received his Degrees of Bachelor, Masters and Juris Doctor from Columbia University in New York. He served as Trade Minister for Korea from 2004 to 2007, during which time Korea negotiated free trade agreements with more than 40 countries, including Korea's biggest trading partners. As minister, Mr. Kim was appointed Facilitator for the services negotiations at the WTO's December 2005 [Hong Kong Ministerial Conference](#) and helped Korea host the November 2005 Asia-Pacific Economic Cooperation (APEC) Leaders' Summit in Busan. He served as Korea's Ambassador to the United Nations from 2007 to 2008 and was elected Vice President of the UN Economic and Social Council in 2008, where he worked towards achievement of the Millennium Development Goals.

Between 1999 and 2003, Mr. Kim was a senior lawyer in the WTO's Appellate Body Secretariat and Legal Affairs Division, where he worked on cases related to IPR, services, TRIMs, safeguards, and subsidies/countervailing measures, among others. More recently, Mr. Kim oversaw patent and anti-trust litigation with a major Korean corporation and is currently a professor at Hankuk University of Foreign Studies in Seoul, where he focuses on trade law and trade policies.

Ricardo Ramírez-Hernández

Born in Mexico on October 17, 1968, Ricardo Ramírez-Hernández holds the Chair of International Trade Law at the Mexican National University (UNAM) in Mexico City. He was Head of the International Trade Practice for Latin America of an international law firm in Mexico City. His practice focused on issues related to NAFTA and trade across Latin America, including international trade dispute resolution.

Prior to practicing with a law firm, Mr. Ramírez-Hernández was Deputy General Counsel for Trade Negotiations of the Ministry of Economy in Mexico for more than a decade. In this capacity, he provided advice on trade and competition policy matters related to 11 free trade agreements signed by Mexico, as well as with respect to multilateral agreements, including those related to the WTO, the Free Trade Area of the Americas (FTAA), and the Latin American Integration Association (ALADI).

Mr. Ramírez-Hernández also represented Mexico in complex international trade litigation and investment arbitration proceedings. He acted as lead counsel to the Mexican government in several WTO disputes. He has also served on NAFTA panels and International Centre for Settlements of Investment Disputes (ICSID) arbitral tribunals.

Mr. Ramírez-Hernández holds an LL.M. degree in International Business Law from American University Washington College of Law, and a law degree from the Universidad Autónoma Metropolitana.

Shree Baboo Chekitan Servansing

Born in Mauritius on April 22, 1955, Shree Baboo Chekitan Servansing enjoyed a long and distinguished career with the Mauritian civil service. From 2004 to 2012, Mr. Servansing was Mauritius' Ambassador and Permanent Representative to the United Nations Office and other International Organizations in Geneva, including the WTO. During his tenure as Permanent Representative, he served on various Committees at the WTO, and chaired the Committees on Trade and Environment, and Trade and Development. He also chaired the Work Programme on Small Economies, the dedicated session on Aid-for-Trade, and the African Group, and was coordinator of the African Caribbean Pacific (ACP) Group.

Mr. Servansing previously worked, in various capacities, for the Mauritius Ministry of Foreign Affairs in Mauritius, India and Belgium. During his tenure at the Mauritius Embassy in Belgium, he was intensively involved in the ACP-EU negotiations leading to the Cotonou Agreement and subsequently in the Economic Partnership Agreement (EPA) negotiations. Mr. Servansing also served as the personal representative of the Prime Minister of Mauritius on the Steering Committee of the New Partnership for Africa's Development (NEPAD). In this capacity he was engaged in the strategic formulation of Africa's flagship development framework.

Upon retiring from civil service, Mr. Servansing served as the head of the ACP-EU Programme on Technical Barriers to Trade in Brussels from 2012 to 2014. In this position, he was responsible for facilitating the building of capacity among ACP countries in order to enhance their export competitiveness, and improve their Quality Infrastructure to comply with technical regulations.

Mr. Servansing's experience in trade policy, trade negotiations, and the multilateral trading system spans three decades. He has frequently spoken on international trade issues, and has published numerous papers and articles in Mauritian and foreign journals on a variety of trade-related issues.

Mr. Servansing holds an M.A. from the University of Sussex, a Postgraduate Diploma in Foreign Affairs and International Trade from Australian National University, and a B.A. (Hons.) from the University of Mauritius.

Peter Van den Bossche

Born in Belgium on March 31, 1959, Peter Van den Bossche is Professor of International Economic Law at Maastricht University, the Netherlands, and Visiting Professor at the College of Europe in Bruges, Belgium. Mr. Van den Bossche is a member of the Board of Editors of the *Journal of International Economic Law*.

Mr. Van den Bossche holds a Doctorate in Law from the European University Institute, Florence, an LL.M. from the University of Michigan Law School, and a Licentiate in de Rechten *magna cum laude* from the University of Antwerp. From 1990 to 1992, he served as a référendaire of

Advocate General W. van Gerven at the European Court of Justice in Luxembourg. From 1997 to 2001, Mr. Van den Bossche was Counsellor and subsequently Acting Director of the WTO Appellate Body Secretariat. In 2001, he returned to academia, and from 2002 to 2009 frequently acted as a consultant to international organizations and developing countries on issues of international economic law. He also served and serves on the faculty of the World Trade Institute in Berne, Switzerland; the China-EU School of Law (CESL) at the China University of Political Science and Law (CUPL) in Beijing, China; the IELPO Programme of the University of Barcelona, Spain; the Trade Policy Training Centre in Africa (trapca) in Arusha, Tanzania; the IEEM Academy of International Trade and Investment Law in Macau, China; and the Koç University School in Istanbul, Turkey.

Mr. Van den Bossche has published extensively in the field of international economic law. The third edition of his textbook, *The Law and Policy of the World Trade Organization*, was published by Cambridge University Press in 2013.

Hong Zhao

Ms. Zhao received her Degrees of Bachelor, Masters and PhD in Law from the Law School of Peking University in China. She currently serves as Vice President of the Chinese Academy of International Trade and Economic Cooperation. Previously she served as Minister Counsellor in charge of legal affairs at China's mission to the WTO, during which time she served as Chair of the WTO's Committee on Trade-Related Investment Measures (TRIMs). Ms. Zhao then served as Commissioner for Trade Negotiations at the Chinese Ministry of Commerce's Department for WTO Affairs, where she participated in a number of important negotiations on international trade, including the Trade Facilitation Agreement negotiations, and negotiations on expansion of the Information Technology Agreement.

Domestically, Ms. Zhao helped formulate many important Chinese legislative acts on economic and trade areas adopted since the 1990s and has experience in China's judiciary system, serving as Juror at the Economic Tribunal of the Second Intermediate Court of Beijing between 1999 and 2004. She has also taught and supervised law students on international economic Law, WTO law and intellectual property rights (IPR) at various universities in China.

Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following websites:

The USTR home page: <http://www.ustr.gov>

The WTO home page: <http://www.wto.org>

U.S. submissions are available electronically on the WTO website using Documents Online, which can retrieve an electronic copy by the document symbol. Electronic copies of U.S. submissions are also available at the USTR website.

Examples of Information Available on the WTO Home Page

- WTO Organizational Chart
- Biographic backgrounds
- Budgets for the WTO
- WTO Budget Contributions
- Membership
- General Council activities
- WTO Secretariat Statistics

WTO News, such as:

- Status of dispute settlement cases
- Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others
- Trade Policy Review Mechanism reports on individual Members' trade practices
- Schedules of future WTO meetings

Resources including Official Documents, such as:

- Notifications required by the Uruguay Round Agreements
- Working Procedures for Appellate Review
- Special Studies on key WTO issues
- On-line document database where one can find and download official documents
- Legal Texts of the WTO agreements
- WTO Annual Reports

Community and other Fora, such as:

- Media and NGOs
- General public news and chat rooms
- Facebook, YouTube, Twitter, Flickr, Google+, and Pinterest

Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, and other topics
- Disputes and Dispute Reports

Ordering WTO Publications

1. The World Trade Organization
Publications Services
Centre William Rappard
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Tel: +41(22) 739 51 05
Fax: +41 (22) 739 57 92
publications@wto.org

2. Bernan
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Tel: +1 301 459-2255
Toll free: + 1 800 865-3457
Fax: +1 800 865-3450
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See also for more information about WTO publications:
http://www.wto.org/english/res_e/publications_e/publications_e.htm

3. The Brookings Institution
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Washington, DC 20036-2103
Toll free: +1 800 537 5487
Tel: +1 410 516 6956
hfscustserv@press.jhu.edu
<http://www.brookings.edu/about/press>

ANNEX III

U.S. TRADE-RELATED AGREEMENTS AND DECLARATIONS

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral and Plurilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (WTO) (signed April 15, 1994), the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993, and subsequent WTO agreements.
 - a. Multilateral Agreements on Trade in Goods
 - i. General Agreement on Tariffs and Trade 1994
 - ii. Agreement on Agriculture
 - iii. Agreement on the Application of Sanitary and Phyto-sanitary Measures
 - iv. Agreement on Technical Barriers to Trade
 - v. Agreement on Trade-Related Investment Measures
 - vi. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
 - vii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
 - viii. Agreement on Preshipment Inspection
 - ix. Agreement on Rules of Origin
 - x. Agreement on Import Licensing Procedures
 - xi. Agreement on Subsidies and Countervailing Measures
 - xii. Agreement on Safeguards
 - xiii. Agreement on Trade Facilitation (entered into force on February 22, 2017 for those Members that had accepted it by then (two-thirds of the WTO Members); thereafter to take effect for other Members upon acceptance)
 - b. General Agreement on Trade in Services (GATS)
 - i. Fourth Protocol to the GATS (Basic Telecommunication Services) (February 5, 1998)
 - ii. Fifth Protocol to the GATS (Financial Services) (March 1, 1999)
 - c. Agreement on Trade-Related Aspects of Intellectual Property Rights (amended in 2017)
 - d. Plurilateral Trade Agreements
 - i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended in 1986)
 - ii. Agreement on Government Procurement (April 15, 1994; amended in 2014)

- WTO Ministerial Declaration on Trade in Information Technology Products (Information Technology Agreement (ITA)) (March 26, 1997)
- Declaration on the Expansion of Trade in Information Technology Products (July 28, 2015)
- International Tropical Timber Agreement (successor to the 1994 International Tropical Timber Agreement, December 7, 2011)
- International Coffee Agreement 2007 (successor to the 2001 International Coffee Agreement; entered into force February 2, 2011)
- North American Free Trade Agreement (January 1, 1994)
 - i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)
 - ii. Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)
 - iii. Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)
 - iv. Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)
 - v. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (November 27, 2002)
 - vi. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 8, 2004)
 - vii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (March 8, 2006)
 - viii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 11, 2008)
 - ix. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 9, 2009)
- North American Agreement on Environmental Cooperation (January 1, 1994)
- North American Agreement on Labor Cooperation (January 1, 1994)
- Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea (June 10, 1999)
- Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)
- The Dominican Republic-Central America-United States Free Trade Agreement (Costa Rica (January 1, 2009); the Dominican Republic (March 1, 2007); El Salvador (March 1, 2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006))
 - i. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Article 22.5 (March 29, 2006)
 - ii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Textiles Matters (August 15, 2008)
 - iii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Guatemala Tariffs on Beer (February 4, 2009)
 - iv. Decision Regarding the Rules of Origin for Textile and Apparel Goods (Feb. 23, 2011)
 - v. Decision Regarding Appendix 4.1-B (Feb. 23, 2011)

- vi. Decision Regarding Annex 9.1.2(b)(i) (Feb. 23, 2011)
 - vii. Decision Regarding Common Guidelines for the Interpretation, Application and Administration of Chapter Four (October 27, 2012)
 - viii. Decision Regarding the Specific Rules of Origin of Annex 4.1 (March 26, 2015)
 - ix. Decision Regarding the Special Rules of Origin of Appendix 3.3.6 (March 26, 2015)
 - x. Decision Regarding The Tariff Elimination for Lines 15071000, 15121100 and 15152100 of Annex 3.3 (Tariff Schedule of Costa Rica) (March 26, 2015)
 - xi. Decision Concerning the Tariff Elimination for Tariff Lines 0207 13 99B and 0207 14 99B (Tariff Schedule of Guatemala to Annex 3.3) (April 11, 2017)
 - xii. Decision Regarding the Specific Rules of Origin of Annex 4.1 (July 7, 2017)
 - xiii. Decision Regarding The Determination Of The Chicken Tariff Rate Quota Volumes For Years 13 To 17 As Provided For In Appendix I Of The General Notes To The Tariff Schedule To Annex 3.3 Of El Salvador, Honduras And Nicaragua (September 17, 2017)
 - xiv. Exchange of Letters between the United States and Guatemala Regarding Tariff Elimination for Tariff Lines 0207 13 99B and 0207 14 99B (Tariff Schedule of Guatemala) (January 1, 2018)
 - xv. Exchange of Letters between the United States and Nicaragua Regarding Tariff Rate Quotas for Tariff Lines 0207139920, 0207149920 and 16023200A (Tariff Schedule of Nicaragua to Annex 3.3) (January 1, 2018)
 - xvi. Exchange of Letters between the United States and Honduras Regarding Tariff Rate Quotas for Tariff Lines 02071399B, 02071499B and 16023200A (Tariff Schedule of Honduras to Annex 3.3) (January 1, 2018)
 - xvii. Exchange of Letters between the United States and El Salvador Regarding Tariff Rate Quotas for Tariff Lines 02071399B, 02071499B and 16023200A (Tariff Schedule of El Salvador to Annex 3.3) (January 1, 2018)
- Agreement Establishing a Secretariat for Environmental Matters Under the Dominican Republic-Central America-United States Free Trade Agreement (August 25, 2006)
 - Agreement on Duty-Free Treatment of Multi-Chips Integrated Circuits (MCPs) (January 18, 2006) (Korea, Taiwan, Japan, European Union, and the United States)
 - Agreement on Requirements for Wine Labeling (January 23, 2007) (Australia, Argentina, Canada, Chile, New Zealand, and the United States)

Bilateral Agreements

Albania

- Agreement on Bilateral Trade Relations (May 14, 1992)
- Bilateral Investment Treaty (January 4, 1998)

Argentina

- Private Courier Mail Agreement (May 25, 1989)
- Bilateral Investment Treaty (October 20, 1994)

Armenia

- Agreement on Bilateral Trade Relations (April 7, 1992)
- Bilateral Investment Treaty (March 29, 1996)

Australia

- Settlement on Leather Products Trade (November 25, 1996)
- Understanding on Automotive Leather Subsidies (June 20, 2000)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 19, 2002)
- United States-Australia Free Trade Agreement (January 1, 2005)

Azerbaijan

- Agreement on Bilateral Trade Relations (April 21, 1995)
- Bilateral Investment Treaty (August 2, 2001)

Bahrain

- Bilateral Investment Treaty (May 30, 2001)
- United States-Bahrain Free Trade Agreement (August 1, 2006)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)

Bolivia

- Bilateral Investment Treaty (June 6, 2001) (Bolivia terminated the treaty in June 2012; investments established or acquired before the termination will continue to be protected under the treaty for 10 years following the date of termination).

Brazil

- Memorandum of Understanding Between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)
- Exchange of Letters between the United States and Brazil Regarding Certain Distinctive Products (April 9, 2012)
- Memorandum of Understanding Between the Government of the United States and the Government of the Federative Republic of Brazil Related to the Cotton Dispute (WT/DS267) (October 1, 2014)

Bulgaria

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994; amended January 1, 2007)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- Agreement between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)

Cameroon

- Bilateral Investment Treaty (April 6, 1989)

Canada

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)

- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 17, 2002)
- Agreement to Implement Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 28, 2003)
- United States-Canada Understanding on Implementation of the Decision of the WTO General Council of August 30, 2003, on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" as Interpreted by the Accompanying Statement of the Chairman of the General Council of the Same Date (July 16, 2004)
- Technical Arrangement between the United States and Canada concerning Trade in Potatoes (November 1, 2007)
- Agreement Between the Government of the United States and the Government of Canada on Government Procurement (February 16, 2010)
- United States-Canada Exchange of Letters on Milk Equivalence (February 4, 2016)

Chile

- United States-Chile Free Trade Agreement (January 1, 2004)
- United States-Chile Agreement on Accelerated Tariff Elimination (November 14, 2008)
- United States-Chile Agreement on Trade in Table Grapes (November 21, 2008)
- United States-Chile Agreement on Beef Grade Labeling (March 26, 2009)
- United States-Chile Exchange of Letters on Chapter 17 of United States-Chile Free Trade Agreement (March 17, 2011)
- United States-Chile Exchange of Letters on Salmonid Eggs (February 4, 2016)

China

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Agreement on Trade Relations between the United States of America and the People's Republic of China (February 1, 1980)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)

- Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- Bilateral Agriculture Agreement (April 10, 1999)
- Memorandum of Understanding between China and the United States Regarding China's Value-Added Tax on Integrated Circuits (July 14, 2004)
- Memorandum of Understanding between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products (November 8, 2005)
- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Granting Refunds, Reductions, or Exemptions from Taxes or Other Payments (November 29, 2007)
- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Affecting Foreign Suppliers of Financial Information Services (November 13, 2008)
- Memorandum of Understanding between the People's Republic of China and the United States of America Regarding Films for Theatrical Release (April 25, 2012)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)
- Exchange of Letters between the United States and Colombia on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (February 27, 2006)
- Exchange of Letters between the United States and Colombia on Beef Sanitary and Phyto-sanitary Issues (August 21, 2006)
- Exchange of Letters between United States and Colombia on Control Measures on Avian Influenza (April 15, 2012)
- Exchange of Letters between United States and Colombia on Control Measures on Salmonella in Poultry and Poultry Products (April 15, 2012)
- Exchange of Letters between United States and Colombia on Phyto-sanitary Measures for Paddy Rice (April 15, 2012)
- Exchange of Letters between United States and Colombia related to Constitutional Court Review of Certain IPR Treaties (April 15, 2012)
- United States-Colombia Trade Promotion Agreement (May 15, 2012)
 - i. Decision of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement Regarding Clarification of the Definition of Poultry in the Context of Appendix I, Paragraph 6, of Colombia's Tariff Schedule (September 25, 2012)

- ii. Decision No. 2 of Free Trade Commission of the United States – Colombia Trade Promotion Agreement by which ECOPETROL Qualifies as a Special Covered Entity Under Section D of Annex 9.1 (November 19, 2012)
 - iii. Decision No. 3 of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement; Decision on Tariff-Rate Quotas Covering Yellow Corn (November 2017)
 - iv. Decision No. 4 of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement; Decision on Tariff-Rate Quotas Covering Variety Meats (December 2017)
- Exchange of Letters between the United States and Colombia Establishing the Committee of Sanitary and Phyto-Sanitary (SPS) and SPS Committee Terms of Reference (June 14, 2012)
 - Exchange of Letters between the United States and Colombia Rescinding the 2012 SPS Letter Exchange on Paddy Rice (August 2017)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)
- Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Dominican Republic

- Exchange of Letters on Trade in Textile and Apparel Goods (October 21, 2006)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993) (Ecuador notified the United States on January 19, 2017 of its intent to withdraw from this treaty).
- Bilateral Investment Treaty (May 11, 1997) (Ecuador has notified the United States that it will terminate the treaty effective May 18, 2018; investments established or acquired before the termination will continue to be protected under the treaty for 10 years following the date of termination).

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997; amended May 1, 2004)

European Economic Area – European Free Trade Association (EEA EFTA States – Norway, Iceland, and Liechtenstein)

- Agreement on Mutual Recognition between the United States of America and the EEA EFTA States Regarding Telecommunications Equipment, Electromagnetic Compatibility and Recreational Craft (March 1, 2006)
- Agreement between the United States of America and the EEA EFTA States on the Mutual Recognition of Certificates of Conformity for Marine Equipment (March 1, 2006)

European Union

- Wine Accord (July 1983)
- Agreement for the Conclusion of Negotiations between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whiskey as Distinctive U.S. Products (March 28, 1994)
- Memorandum of Understanding on Government Procurement (April 15, 1994)
- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)

- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)
- Agreement on Mutual Recognition between the United States of America and the European Community (December 1, 1998) and United States – European Union Amended Sectoral Annex for Pharmaceutical Good Manufacturing Practices (March 1, 2017)
- Agreement between the United States and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- Understanding on Bananas (April 11, 2001)
- Agreement between the United States of America and the European Community on the Mutual Recognition of Certificates of Conformity for Marine Equipment (July 1, 2004)
- Agreement in the Form of an Exchange of Letters between the United States and the European Community Relating to the Method of Calculation of Applied Duties for Husked Rice (June 30, 2005; retroactively effective March 1, 2005)
- Agreement between the United States and European Community on Trade in Wine (March 10, 2006)
- Agreement in the Form of an Exchange of Letters between the United States and the European Union pursuant to Article XXIV:6 and Article XXVIII of the GATT 1994 Relating to the Modification of Concessions in the Schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the Course of their Accession to the European Union (March 22, 2006)
- Joint Letter from the United States and the European Communities on implementation of GATS Article XXI procedures relating to the accession to the European Communities of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, the Slovak Republic, Finland, and Sweden (August 7, 2006)
- Memorandum of Understanding Between the United States and European Commission Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied to Certain Products of the European Communities (May 13, 2009)
- Agreement on Trade in Bananas Between the United States of America and the European Union (January 24, 2013)
- Agreement in the Form of an Exchange of Letters Between the United States of America and the European Union Pursuant to Articles XXIV:6 and XXVIII of the GATT 1994 (July 1, 2013)
- Bilateral Agreement Between the European Union and the United States of America on Prudential Measures Regarding Insurance and Reinsurance (signed September 22, 2017; provisional application from November 7, 2017)

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Haiti

- Exchange of Letters on Trade in Textile and Apparel Goods (September 18, 2008)

Hong Kong

- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)
- Memorandum of Understanding between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)
- Bilateral Investment Treaty (July 11, 2001)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- Agreement on Intellectual Property Rights Protections (March 1993)
- Agreement on Import Restrictions (December 28, 1999)
- Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- Conditions for Market Access for Films and Videos into Indonesia (April 19, 1992)
- Memorandum of Understanding with Indonesia Concerning Cooperation in Trade in Textile and Apparel Goods (September 26, 2006)

Israel

- United States-Israel Free Trade Agreement (August 19, 1985)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 10, 2008; December 6, 2009; December 12, 2010; December 6, 2011; November 19, 2012; November 26, 2013, December 8, 2014)
- Mutual Recognition Agreement between the Government of the United States of America and the Government of the State of Israel for Conformity Assessment of Telecommunications Equipment (December 12, 2013)

Jamaica

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

Japan

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Foreign Lawyers Agreement (February 27, 1987)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)
- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- United States-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)
- United States-Japan Framework for a New Economic Partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)

- United States-Japan Public Works Agreement (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)
- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Interim Understanding for the Continuation of Japan-United States Insurance Talks (September 30, 1996)
- United States-Japan Insurance Agreement (December 24, 1996)
- Japan's Recognition of United States-Grade marked Lumber (January 13, 1997)
- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- United States-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)
- United States-Japan Agreement on Distilled Spirits (December 17, 1997)
- First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- United States-Japan Joint Report on Investment (April 28, 1999)
- Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- United States-Japan Agreement on NTT Procurement Procedures (July 1, 1999)
- Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)

- Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- United States-Japan Economic Partnership for Growth (June 30, 2001)
- First Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)
- Second Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (May 23, 2003)
- Third Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (June 8, 2004)
- Fourth Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (November 2, 2005)
- Fifth Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (June 29, 2006)
- Sixth Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (June 6, 2007)
- Agreement on Mutual Recognition of Results of Conformity Assessment Procedures between the United States of America and Japan (United States-Japan Telecom MRA) (January 1, 2008)
- Seventh Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (July 5, 2008)
- Eighth Report to the Leaders on the United States-Japan Regulatory Reform and Competition Policy Initiative (July 6, 2009)
- Memorandum Between the Relevant Authorities of the United States and the Ministry of Health, Labour and Welfare of Japan Concerning Enforcement of Japan's Pesticide Maximum Residue Levels (July 28, 2009)
- Record of Discussion, United States-Japan Economic Harmonization Initiative (January 27, 2012)
- United States-Japan Exchange of Letters on certain distilled spirits and wine (February 4, 2016)

Jordan

- Agreement between the United States and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- Bilateral Investment Treaty (June 12, 2003)

Kazakhstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)

- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)
- Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- Exchange of Letters on Data Protection (March 12, 2002)
- Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)
- Agreed Minutes on Fuel Economy and Greenhouse Gas Emissions Regulations (February 10, 2011)
- Agreed Minutes on Visa Validity Period (February 10, 2011)
- Exchange of Letters between the United States and Korea related to the United States-Korea Free Trade Agreement (February 10, 2011)
- United States-Korea Free Trade Agreement (March 15, 2012)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (May 8, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Latvia

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (November 26, 1996; amended May 1, 2004)
- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)

Lithuania

- Bilateral Investment Treaty (November 22, 2001; amended May 1, 2004)

Laos

- Bilateral Trade Agreement (February 4, 2005)

Macao

- Memorandum of Understanding with Macao Concerning Cooperation in Trade in Textile and Apparel Goods (August 8, 2005)

Marshall Islands

- Compact of Free Association Agreement Between the United States of America and the Marshall Islands (June 25, 1983)

Mexico

- Agreement with Mexico on Tire Certification (March 8, 1996)
- Memorandum of Understanding between the United States and Mexico Regarding Areas of Food and Agriculture Trade (April 4, 2002)
- United States-Mexico Exchange of Letters Regarding Mexico's NAFTA Safeguard on Certain Poultry Products (July 24-25, 2003)
- Understanding Regarding the Implementation of the WTO Decision on Mexico's Telecommunications Services (June 1, 2004)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Tequila (January 17, 2006)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Cement (April 3, 2006)
- United States-Mexico Exchange of Letters Regarding Trade in Sweetener Goods (July 27, 2006)
- Bilateral Agreement on Customs Cooperation regarding Claims of Origin Under FTA Cumulation Provisions (January 26, 2007)
- Customs Cooperation Agreement with Mexico relating to Textiles Matters (August 15, 2008)
- Mutual Recognition Agreement between the Government of the United States of America and the Government of the United Mexican States for Conformity Assessment of Telecommunications Equipment (June 10, 2011)

Micronesia

- Compact of Free Association with the Federated States of Micronesia (November 3, 1986)

Moldova

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

Mongolia

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)
- Agreement on Transparency in Matters Related to International Trade and Investment between the United States of America and Mongolia (March 20, 2017)

Morocco

- Bilateral Investment Treaty (May 29, 1991)
- United States-Morocco Free Trade Agreement (January 1, 2006)
- Agreement between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Customs Administration and Trade Facilitation (November 21, 2013)

Mozambique

- Bilateral Investment Treaty (March 2, 2005)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- Exchange of Letters on Trade in Textile and Apparel Goods (March 24, 2006)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Oman

- United States-Oman Free Trade Agreement (January 1, 2009)

Palau

- Compact of Free Association with the Republic of Palau (October 1, 1994)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)
- Agreement on Cooperation in Agricultural Trade (December 20, 2006)
- Agreement regarding Certain Sanitary and Phyto-sanitary Measures and Technical Standards Affecting Agricultural Products (December 20, 2006)
- Exchange of Letters Regarding Autos (June 28, 2007)
- Confirmation Letter Regarding Ship Repairs (June 28, 2007)
- Confirmation Letter Regarding Panama Joining the ITA (June 28, 2007)
- Exchange of Letters Regarding Free Trade Zones (June 28, 2007)
- Exchange of Letters Regarding Article 9.15 (June 28, 2007)
- Exchange of Letters Regarding Investment in Specified Sectors (June 28, 2007)
- Exchange of Letters Regarding Retail Sales (June 28, 2007)

- Exchange of Letters Regarding Cross Border Financial Service (June 28, 2007)
- Exchange of Letters Regarding Insurance (June 28, 2007)
- Exchange of Letters Regarding Pensions (June 28, 2007)
- Exchange of Letters Regarding Traditional Knowledge (June 28, 2007)
- Exchange of Letters Regarding Taxation (June 28, 2007)
- United States-Panama Trade Promotion Agreement (October 31, 2012)
 - i. Decision of the Free Trade Commission Regarding Article 3.20 and Article 6.3 (March 19, 2013)
 - ii. Decision No. 2 of the Free Trade Commission Establishing a Code of Conduct (May 28, 2014)
 - iii. Decision No. 3 of the Free Trade Commission to Establish the Remuneration of Panelists, Assistants, and Experts, and the Payment of Expenses in Dispute Settlement Proceedings under Chapter 20 (Dispute Settlement) (May 28, 2014)
 - iv. Decision No. 4 of the Free Trade Commission Establishing Model Rules of Procedure (May 28, 2014)
 - v. Decision No. 5 of the Free Trade Commission to Amend Annex 4.1 (December 6, 2016)
- Exchange of Letters Regarding Multiple Services Businesses (October 31, 2012)
- Exchange of Letters Regarding Beef and Beef Product Imports (March 27, 2013)
- Exchange of Letters on Free Trade Zones (October 2, 2013)
- Exchange of Letters Regarding Pet Food Containing Animal Origin Ingredients Imports (June 24, 2014)
- Agreement Establishing a Secretariat for Environmental Enforcement Matters Under the United States – Panama Trade Promotion Agreement (December 21, 2015)

Paraguay

- Memorandum of Understanding on Intellectual Property Rights Between the Government of the Republic of Paraguay and the Government of the United States of America (June 18, 2015)

Peru

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)
- Exchange of Letters on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (January 5, 2006)
- Additional Letter Exchange on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (April 10, 2006)
- United States-Peru Trade Promotion Agreement (February 1, 2009)
- Understanding for Implementing Article 18.8 of the United States-Peru Trade Promotion Agreement (March 20, 2016)

- Memorandum of Understanding (MOU) between the Government of the United States of America, the Government of the Republic of Peru, and the General Secretariat of the Organization of American States regarding a Secretariat for Submissions on Environmental Enforcement Matters under the United States-Peru Trade Promotion Agreement (March 23, 2016)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)
- Memorandum of Understanding with the Philippines Concerning Cooperation in Trade in Textile and Apparel Goods (August 23, 2006)
- Exchange of Letters on Special Treatment for Rice and Related Agricultural Concessions (June 5, 2014)

Poland

- Business and Economic Relations Treaty (August 6, 1994; amended May 1, 2004)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Bilateral Investment Treaty (January 15, 1994; amended January 1, 2007)

Russia

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- Agreement on Russian Firearms & Ammunition (April 3, 1996; amended 2003)
- Protocol of the Negotiations between the Experts of Russia and the United States of America on the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Certain Types of Poultry, Beef and Pork (June 15, 2005; amended December 29, 2008)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Market Access for Beef and Beef By-Products (November 19, 2006)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Importation of Pork and Pork By-Products into the Russian Federation (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Inspection of Facilities for Exporting Pork and Poultry to the Russian Federation (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Agricultural Biotechnology (November 19, 2006)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Establishment of Import licensing Procedures for Imports of Goods Containing Encryption Technology (November 19, 2006)
- Exchange of Letters between the Government of the United States of America and the Government of the Russian Federation on Tariff Treatment of Certain Aircraft Imported Under Operational Lease (November 19, 2006)
- Exchange of Letters between the Ministry of Economic Development and Trade of the Russian Federation and the Office of the United States Trade Representative on Tariff Treatment of Certain Combine Harvester-Threshers and Self-Propelled Forage Harvesters (November 19, 2006)
- Letter on Market Access between the United States and the Russian Federation for Service Suppliers in Certain Energy Related Sectors (November 19, 2006)
- Letter on Market Access between the United States and the Russian Federation for Certain Insurance Firms (November 19, 2006)
- Bilateral Agreement on Verification of Pathogen Reduction Treatments and Resumption of Trade in Poultry (July 14, 2010)
- Bilateral Agreement on Pre-Notification Requirements Applied to Certain Imports of Meat Products from the United States (applied provisionally as of December 14, 2011)
- Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Parts and Components of Motor Vehicles between the United States of America and the Russian Federation (July 12, 2013)

Rwanda

- Bilateral Investment Treaty (January 1, 2012)

Senegal

- Bilateral Investment Treaty (October 25, 1990)

Singapore

- Agreement on Intellectual Property Rights Protection (April 27, 1987)
- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 8, 2003)

- United States-Singapore Free Trade Agreement (January 1, 2004)

Slovakia

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Sri Lanka

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Bilateral Investment Treaty (May 1, 1993)

Suriname

- Agreement on Bilateral Trade Relations (1993)

Switzerland

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- Agreement on Customs Valuation (August 22, 1986)
- Agreement on Export Performance Requirements (August 1986)
- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)
- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- United States-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Market Access (February 20, 1998)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (March 16, 1999)
- Understanding on Government Procurement (August 23, 2001)
- Protocol of Bovine Spongiform Encephalopathy (BSE)-Related Measures for the Importation of Beef and Beef Products for Human Consumption from the Territory of the Authorities Represented by the American Institute in Taiwan (November 2, 2009)

Tajikistan

- Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)

Trinidad and Tobago

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

Tunisia

- Bilateral Investment Treaty (February 7, 1993)

Turkey

- Bilateral Investment Treaty (May 18, 1990)
- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- Agreement on Bilateral Trade Relations (June 23, 1992)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement between the Government of the United States of America and the Government of the Republic of Ukraine on Sanitary and Phyto-sanitary Measures (February 21, 2007)
- Agreement between the United States and the Ukraine on Export Duties on Ferrous and Non-Ferrous Scrap Metal (February 22, 2007)

Uruguay

- Bilateral Investment Treaty (November 1, 2006)

Uzbekistan

- Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)
- Copyright Agreement (June 27, 1997)

- Exchange of Letters on Equivalence of Food Safety Inspection Systems (May 31, 2006)
- Exchange of Letters on Beef (May 31, 2006)
- Exchange of Letters on Biotechnology (May 31, 2006)
- Exchange of Letters on Energy Services (May 31, 2006)
- Exchange of Letters on Elimination of Prohibited Subsidies to Textile and Garment Sector (May 31, 2006)
- Bilateral Agreement on Export Duties on Ferrous and Nonferrous Scrap Metals (May 31, 2006)
- Exchange of Letters on Shelf Life (May 31, 2006)
- Acceptance of U.S. Certificates for Exports of Poultry Meat and Meat Products (May 31, 2006)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (June 19, 2008)

II. Agreements That Have Been Negotiated, But Have Not Yet Entered Into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- Anti-Counterfeiting Trade Agreement (signed by the United States on October 1, 2011)

Bilateral Agreements

Belarus

- Bilateral Investment Treaty (signed January 15, 1994)

El Salvador

- Bilateral Investment Treaty (signed March 10, 1999)

Estonia

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Israel

- Decision of the Joint Committee of the Agreement on the Establishment of a Free Trade Area Between the Government of Israel and the Government of the United States of America on Annex III (Rules of Origin) (signed May 10, 2017)

Kazakhstan

- Exchange of Letters on Sanitary and Phyto-sanitary Measures of Kazakhstan (signed July 2, 2015)

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995)

Paraguay

- United States–Paraguay Trade and Investment Framework Agreement (January 13, 2017)

Russia

- Bilateral Investment Treaty (signed June 17, 1992)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994)

III. Other Trade-Related Agreements, Understandings and Declarations

Following is a list of other trade-related agreements, understandings and declarations negotiated by the Office of the United States Trade Representative from January 1993. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property, and other issues among the signatories.

Multilateral Agreements and Declarations

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Asia Pacific Economic Cooperation
 - 1st Joint Ministerial Statement (November 6-7, 1989)
 - 2nd Joint Ministerial Statement (July 29-31, 1990)
 - 3rd Joint Ministerial Statement (November 12-14, 1991)
 - 4th Joint Ministerial Statement (September 10-11, 1992)
 - 5th Joint Ministerial Statement (November 17-19, 1993)
 - Leaders' Economic Vision Statement (November 20, 1993)
 - Ministers Responsible for Trade Statement (October 6, 1994)
 - 6th Joint Ministerial Statement (November 11-12, 1994)
 - Leaders' Declaration of Common Resolve (November 15, 1994)
 - 7th Joint Ministerial Statement (November 16-17, 1995)
 - Leaders' Declaration for Action (November 19, 1995)
 - Ministers Responsible for Trade Statement (July 15-16, 1996)
 - 8th Joint Ministerial Statement (November 22-23, 1996)
 - Leaders' Declaration: From Vision to Action (November 25, 1996)
 - Ministers Responsible for Trade Statement (May 8-10, 1997)
 - 9th Joint Ministerial Statement (November 21-22, 1997)

- Leaders' Declaration on Connecting the APEC Community (November 25, 1997)
- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- Ministers Responsible for Trade Statement (June 22-23, 1998)
- 10th Joint Ministerial Statement (November 14-15, 1998)
- Leaders' Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Ministers Responsible for Trade Statement (June 29-30, 1999)
- 11th Joint Ministerial Statement (September 9-10, 1999)
- Leaders' Declaration: The Auckland Challenge (September 13, 1999)
- Ministers Responsible for Trade Statement (June 6-7, 2000)
- 12th Joint Ministerial Statement (November 12-13, 2000)
- Leaders' Declaration: Delivering to the Community (November 16, 2000)
- Ministers Responsible for Trade Statement (June 6-7, 2001)
- 13th Joint Ministerial Statement (October 17-18, 2001)
- Leaders' Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- Ministers Responsible for Trade Statement (May 29-30, 2002)
- 14th Joint Ministerial Statement (October 23-24, 2002)
- Leaders' Declaration: Expanding the Benefits of Cooperation for Economic Growth and Development-Implementing the Vision (October 27, 2002)
- Ministers Responsible for Trade Statement (June 2-3, 2003)
- 15th Joint Ministerial Statement (October 17-18, 2003)
- Declaration: A World of Differences-Partnership for the Future (October 21, 2003)
- Ministers Responsible for Trade Statement (June 4-5, 2004)
- 16th Joint Ministerial Statement (November 17-18, 2004)
- Leaders' Declaration: One Community, Our Future (November 20-21, 2004)
- Ministers Responsible for Trade Statement (June 2-3, 2005)
- 17th Joint Ministerial Statement (November 15-16, 2005)

- Leaders' Declaration: Towards One Community: Meet the Challenge, Make the Change (November 18-19, 2005)
- Ministers Responsible for Trade Statement (June 1-2, 2006)
- 18th Joint Ministerial Statement (November 15-16, 2006)
- Leaders' Declaration: Towards a Dynamic Community for Sustainable Development and Prosperity (November 18-19, 2006)
- Ministers Responsible for Trade Statement (July 5-6, 2007)
- 19th Joint Ministerial Statement (September 5-6, 2007)
- Leaders' Declaration: Strengthening our Community, Building a Sustainable Future (September 9, 2007)
- Ministers Responsible for Trade Statement (May 31-June 1, 2008)
- 20th Joint Ministerial Statement (November 19-20, 2008)
- Leaders' Declaration: A New Commitment to Asia-Pacific Development (November 22-23, 2008)
- Ministers Responsible for Trade Statement (July 21-22, 2009)
- 21st Joint Ministerial Statement (November 11-12, 2009)
- Leaders' Declaration: Sustaining Growth, Connecting The Region (November 14-15, 2009)
- Ministers Responsible for Trade Statement (June 5-6, 2010)
- 22nd Joint Ministerial Statement (November 10-11, 2010)
- Leaders' Declaration: The Yokohama Vision-Bogor and Beyond (November 13-14, 2010)
- Ministers' Responsible for Trade Statement (May 19-20, 2011)
- 23rd Joint Ministerial Statement (November 11, 2011)
- Leaders' Declaration: Toward a Seamless Regional Economy (November 12-13, 2011)
- Ministers' Responsible for Trade Statement (June 4-5, 2012)
- 24th Joint Ministerial Statement (September 5-6, 2012)
- Leaders' Declaration: Integrate to Grow, Innovate to Prosper (September 8-9, 2012)
- Ministers' Responsible for Trade Statement (April 20-21, 2013)
- 25th Joint Ministerial Statement (October 5, 2013)

- Leaders' Declaration: Resilient Asia-Pacific, Engine of Global Growth (October 8, 2013)
- Cooperation Agreement Among the Partner States of the East African Community and the United States of America on Trade Facilitation, Sanitary and Phyto-sanitary Measures, and Technical Barriers to Trade (February 26, 2015)
- Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)
- United States-Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)
- World Wine Trade Group Memorandum of Understanding on Certification Requirements (October 20, 2011)

Bilateral Agreements and Declarations

Afghanistan

- United States-Afghanistan Trade and Investment Framework Agreement (September 21, 2004)
- Memorandum of Understanding on Joint Efforts to Enable the Economic Empowerment of Women and to Promote Women's Entrepreneurship (June 16, 2013)

Algeria

- United States-Algeria Trade and Investment Framework Agreement (July 13, 2001)

Angola

- United States-Angola Trade and Investment Framework Agreement (May 19, 2009)

Argentina

- Bilateral Council on Trade and Investment (February 2002)
- United States–Argentina Trade and Investment Framework Agreement (March 23, 2016)

Armenia

- United States-Armenia Trade and Investment Framework Agreement (signed November 13, 2015)

Association of Southeast Asian Nations (ASEAN)

- United States-ASEAN Trade and Investment Framework Arrangement (August 5, 2006)

Bangladesh

- United States-Bangladesh Trade and Investment Cooperation Forum Agreement (signed November 25, 2013)

Bolivia

- Agreement between the Government of the United States of America and the Government of the Republic of Bolivia concerning a United States-Bolivia Council on Trade and Investment (May 8, 1990)

Brazil

- United States-Brazil Agreement on Trade and Economic Cooperation (March 19, 2011)

Brunei Darussalam

- United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

Burma

- United States-Myanmar Trade and Investment Framework Agreement (2013)

Cambodia

- United States-Cambodia Trade and Investment Framework Agreement (July 14, 2006)

Canada

- The Canada-United States Organic Equivalency Arrangement (June 17, 2009)

Caribbean Community (CARICOM)

- United States-CARICOM Trade and Investment Framework Agreement (2013)

Central Asian Economies

- United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

China

- United States-China Joint Commission on Commerce and Trade Agreements (April 21, 2004)
- United States-China Joint Commission on Commerce and Trade Agreements (July 11, 2005)
- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (May 5, 2008)

Common Market for Eastern and Southern Africa

- United States-Common Market for Eastern and Southern Africa Trade and Investment Framework Agreement (October 2001)

East African Community

- United States-East African Community Trade and Investment Framework Agreement (July 16, 2008)

- Cooperation Agreement Among the Partner States of the East African Community and the United States of America on Trade Facilitation, Sanitary and Phyto-sanitary Measures, and Technical Barriers to Trade (February 26, 2015)

Economic Community of West African States

- United States-Economic Community of West African States Trade and Investment Cooperation Forum Agreement (signed August 5, 2014)

Ecuador

- Agreement between the Government of the United States of America and the Government of the Republic of Ecuador concerning a United States-Ecuador Council on Trade and Investment (July 23, 1990)

Egypt

- United States-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- United States-EU Transatlantic Economic Partnership (May 18, 1998)
- United States-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)
- Decision to Establish the United States-EU High Level Working Group on Jobs and Growth, Joint Statement of the United States-EU Summit (November 28, 2010)
- The EU-United States Organic Equivalency Arrangement (February 15, 2012)

Georgia

- United States-Georgia Trade and Investment Framework Agreement (June 20, 2007)
- United States-Georgia Trade Principles for Information and Communication Technology Services (October 30, 2015)

Ghana

- United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Gulf Cooperation Council

- Framework Agreement for Trade, Economic, Investment and Technical Cooperation (signed September 25, 2012)

Iceland

- United States-Iceland Trade and Investment Cooperation Forum Agreement (January 15, 2009)

India

- United States-India Trade Policy Forum, Framework for Cooperation on Trade and Investment (March 17, 2010)

Indonesia

- United States-Indonesia Memorandum of Understanding on the establishment of the Council on Trade and Investment (July 16, 1996)
- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 16, 2006)
- Memorandum of Understanding Between the Government of the United States of American and the Government of the Republic of Indonesia to resolve certain outstanding issues in order to enhance the Parties' bilateral trade relationship (October 3, 2014)

Israel

- Understanding regarding Israel's intellectual property regime for pharmaceutical products (February 18, 2010)

Iraq

- United States-Iraq Trade and Investment Framework Agreement (July 11, 2005)

Japan

- United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)
- Exchange of Letters between the United States and Japan—Letters Regarding Electro-Magnetic Compatibility (EMC) Testing of Unintentional Radiators and Industrial Scientific and Medical (ISM) Equipment (February 26, 2007)
- Requirements for Beef and Beef Products to be Exported to Japan from the United States of America (January 25, 2013)
- United States-Japan Organic Equivalency Arrangement (September 26, 2013)

Korea

- United States-Korea Organic Equivalency Arrangement (June 30, 2014)

Kuwait

- United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

Lebanon

- United States-Lebanon Trade and Investment Framework Agreement (November 30, 2006)

Liberia

- United States-Liberia Trade and Investment Framework Agreement (February 15, 2007)

Libya

- United States-Libya Trade and Investment Framework Agreement (signed December 18, 2013)

Malaysia

- United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (June 28, 2016)

Maldives

- United States-Maldives Trade and Investment Framework Agreement (October 17, 2009)

Mauritius

- United States-Mauritius Trade and Investment Framework Agreement (September 18, 2006)
- United States-Mauritius Trade Principles for Information and Communication Technology Services (June 18, 2012)

Mongolia

- United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

Morocco

- Kingdom of Morocco-United States Trade Principles for Information and Communication Technology Services (December 5, 2012)
- Statement of Principles for International Investment (December 5, 2012)

Mozambique

- United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

Nepal

- United States-Nepal Trade and Investment Framework Agreement (April 15, 2011)

New Zealand

- United States-New Zealand Trade and Investment Framework Agreement (October 2, 1992)

Nigeria

- United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Oman

- United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

Pakistan

- United States-Pakistan Trade and Investment Framework Agreement (June 25, 2003)

Paraguay

- Joint Commission on Trade and Investment (September 26, 2003)

Philippines

- United States-Philippines Trade and Investment Framework Agreement (1989)
- United States-Philippines Trade and Investment Framework Agreement Protocol Concerning Customs Administration and Trade Facilitation (November 13, 2011)

Qatar

- United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

Rwanda

- United States-Rwanda Trade and Investment Framework Agreement (June 7, 2006)

Saudi Arabia

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

South Africa

- United States-South Africa Agreement Concerning the Development of Trade and Investment (June 18, 2012)

Southern Africa Customs Union

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

Sri Lanka

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

Switzerland

- United States-Switzerland Trade and Investment Cooperation Forum Agreement (May 25, 2006)
- United States-Switzerland Organic Equivalency Arrangement (July 10, 2015)

Taiwan

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

Thailand

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

Tunisia

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

Turkey

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

Ukraine

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

United Arab Emirates (UAE)

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

Uruguay

- United States-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)
- Joint Commission on Trade and Investment (January 25, 2007)
- United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)
 - i United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade and Environment Public Participation (October 2, 2008)
 - ii United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade Facilitation (October 2, 2008)

Vietnam

- United States-Vietnam Trade and Investment Framework Agreement (June 21, 2007)

West African Economic and Monetary Union

- United States-West African Economic and Monetary Union Trade and Investment Framework Agreement (April 24, 2002)

Yemen

- United States-Yemen Trade and Investment Framework Agreement (February 6, 2004)